

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1596

H. P. 1367

House of Representatives, April 13, 1977

On motion of Mr. Hobbins of Saco, referred to Committee on Judiciary.
Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Miss Brown of Bethel.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to Irreconcilable Marital Differences as Grounds for Divorce and Mental Illness as an Impediment to Divorce.

Be it enacted by the People of the State of Maine, as follows:

19 MRSA § 691, 1st ¶, as last amended by PL 1973, c. 532, is repealed and the following enacted in its place:

A divorce from the bonds of matrimony may be decreed in the county where either party resides at the commencement of proceedings, for causes of adultery, impotency, extreme cruelty, utter desertion continued for 3 consecutive years next prior to the filing of the complaint, gross and confirmed habits of intoxication from the use of intoxicating liquor, opium or other drugs, cruel and abusive treatment or mental illness requiring confinement in a mental institution for at least 7 consecutive years next prior to the filing of the complaint or the marital differences are irreconcilable and the marriage has broken down or, on the complaint of either spouse, where the other spouse being of sufficient ability or being able to labor and provide for the plaintiff grossly or wantonly and cruelly refuses or neglects to provide a suitable maintenance for the plaintiff, provided the parties were married in this State or cohabitated here after marriage, or if the plaintiff resided here when the cause of divorce accrued, or had resided here in good faith for 6 months prior to the commencement of proceedings, or if the defendant is a resident of this State. When the alleged cause is irreconcilable marital differences, a divorce shall not be granted unless both parties have received counseling by a professional counselor who is qualified in counseling either through educational certification or experience and as approved by the court, and a copy of the counselor's report is made available to the parties and to the court. When the

alleged cause is mental illness, the court shall appoint a guardian ad litem to represent the interests of the defendant. When there is collusion between the parties to procure a divorce, it shall not be granted. Either party may be a witness. Condonation of the parties shall not be an absolute defense to any action for divorce but shall be discretionary with the court. Recrimination shall be a comparative rather than an absolute defense in any divorce action. The Superior Court has jurisdiction of actions for divorce in all counties.

STATEMENT OF FACT

This bill would permit the granting of a divorce on the grounds of mental illness requiring confinement in a mental institution for at least 6 years. In such a case the court would appoint a guardian to represent the defendant's interests. It would also permit either spouse to sue for divorce on the grounds that the other spouse grossly or wantonly and cruelly refused or neglected to provide maintenance for the plaintiff.