

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2119

6
7 H.P. 1504

House of Representatives, March 4, 1986

8 Reported by Representative Paradis for the Commission to Study Family
9 Matters in Court pursuant to Private and Special Law 1985, Chapter 65.

10 Reference to the Joint Standing Committee on Judiciary suggested and
printed ordered under Joint Rule 18.

EDWIN H. PERT, Clerk

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SIX
16

17 AN ACT to Create the Family Division of the
18 District Court and to Establish
19 Full-time, Appointed Probate Judges.
20

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

23 Sec. 1. 4 MRSA §1, last ¶, as enacted by PL
24 1975, c. 408, §1, is further amended to read:

25 The Chief Justice, as the head of the Judicial
26 Department, shall, in accordance with the rules,
27 ~~regulations~~ and orders of the Supreme Judicial Court,
28 be responsible for the efficient operation of the Ju-
29 dicial Department and for the expeditious dispatch of
30 litigation therein and for the proper conduct of
31 business in all courts. The Chief Justice may require
32 reports from all courts in the State and may issue
33 orders and ~~regulations~~ rules necessary for the effi-
34 cient operation of the Judicial Department and the
35 prompt and proper administration of justice. The
36 Chief Justice shall appoint judges to the Family Di-

1 vision of the District Court as provided under sec-
2 tion 152-A, subsection 4.

3 Sec. 2. 4 MRSA §17, sub-§2-A is enacted to read:

4 2-A. Family Division of the District Court. Es-
5 tablish a uniform docket for the Family Division of
6 the District Court as required under section 152-A,
7 subsection 5, and assist with the scheduling of
8 courtrooms for use by the Family Division of the Dis-
9 trict Court as required by section 152-A, subsection
10 6;

11 Sec. 3. 4 MRSA §152, sub-§4, as repealed and re-
12 placed by PL 1983, c. 796, sub-§1, is repealed and
13 the following enacted in its place:

14 4. Exclusive jurisdiction. Original jurisdic-
15 tion, not concurrent with that of the Superior Court
16 or Probate Court, of:

17 A. Actions for divorce or annulment of marriage
18 under Title 19, chapter 14;

19 B. Actions for judicial separation under Title
20 19, chapter 11;

21 C. Actions for parenting and support when par-
22 ents live apart under Title 19, section 214;

23 D. Actions to determine paternity under Title
24 19, chapter 5, subchapter III;

25 E. Actions for support of a spouse or child un-
26 der Title 19, chapter 7, subchapter I;

27 F. Actions under the Uniform Reciprocal Enforce-
28 ment of Support Act, Title 19, chapter 7, sub-
29 chapter II;

30 G. Actions under the Uniform Civil Liability for
31 Support Act, Title 19, chapter 7, subchapter III;

32 H. Actions under the Uniform Child Custody Ju-
33 risdiction Act, Title 19, chapter 16;

- 1 I. Actions for protection from abuse under Title
2 19, chapter 14, except as limited emergency ju-
3 risdiction is given to the Superior Court under
4 Title 19, section 765, subsection 2;
- 5 J. Actions to waive marriage intentions under
6 Title 19, section 61, except as emergency juris-
7 isdiction in other courts is authorized under Title
8 19, section 61;
- 9 K. Actions for consent to the marriage of a mi-
10 nor under Title 19, section 62;
- 11 L. Actions concerning a caution to marriage un-
12 der Title 19, section 92;
- 13 M. Actions for change of name under Title 19,
14 section 781;
- 15 N. Actions to protect children under Title 22,
16 chapter 1071, subchapter IV, except as limited
17 emergency jurisdiction is given to the Superior
18 Court under Title 22, section 4031, subsection 2,
19 paragraph C;
- 20 O. Actions to terminate parental rights under
21 Title 22, chapter 1071, subchapter VI;
- 22 P. Actions for a medical treatment order under
23 Title 22, chapter 1071, subchapter VIII;
- 24 Q. Actions for emancipation of a juvenile under
25 Title 15, section 3506-A;
- 26 R. Adjudications of juvenile crimes under Title
27 15, chapter 501;
- 28 S. Actions for involuntary hospitalization of
29 mentally ill persons under Title 34-B, chapter 3,
30 subchapter IV, article III, except as emergency
31 jurisdiction in other courts is authorized under
32 Title 34-B, section 3863, subsection 3;
- 33 T. Actions for involuntary admissions of mental-
34 ly retarded persons under Title 34-B, chapter 5,
35 subchapter III, article III;

1 U. Actions for sterilizations under Title 34-B,
2 chapter 7; and

3 V. Actions to enforce truancy laws under Title
4 20-A, section 5053.

5 W. Small claims actions under Title 14, chapter
6 738.

7 Sec. 4. 4 MRSA §152, sub-§5, ¶A, as repealed and
8 replaced by PL 1983, c. 796, §1, is repealed.

9 Sec. 5. 4 MRSA §152, 3rd ¶ from the end, as re-
10 repealed and replaced by PL 1983, c. 796, §1, is re-
11 pealed.

12 Sec. 6. 4 MRSA §152-A is enacted to read:

13 §152-A. Family Division of the District Court

14 1. Legislative findings and purpose. The Legis-
15 lature finds that establishment of a Family Division
16 of the District Court will enhance the sensitive han-
17 dling of family matters through insulation of family
18 cases from other civil and criminal court cases, more
19 expeditious resolution of family cases and increased
20 uniformity and continuity in the handling of family
21 disputes and problems. Through establishment of a
22 Family Division of the District Court, the Legisla-
23 ture seeks to encourage nonadversarial resolutions of
24 family disputes, development of judicial expertise in
25 family matters, coordination of services for families
26 and provision of appropriate facilities for the hear-
27 ing of family cases.

28 2. Family division; jurisdiction. There is es-
29 tablished the Family Division of the District Court
30 to have jurisdiction over the following actions:

31 A. Actions for divorce or annulment of marriage
32 under Title 19, chapter 13;

33 B. Actions for judicial separation under Title
34 19, chapter 11;

35 C. Actions for parenting and support when par-
36 ents live apart under Title 19, section 214;

1 D. Actions to determine paternity under Title
2 19, chapter 5, subchapter III;

3 E. Actions for support of a spouse or child un-
4 der Title 19, chapter 7, subchapter I;

5 F. Actions under the Uniform Reciprocal Enforce-
6 ment of Support Act, Title 19, chapter 7, sub-
7 chapter II;

8 G. Actions under the Uniform Civil Liability for
9 Support Act, Title 19, chapter 7, subchapter III;

10 H. Actions under the Uniform Child Custody Ju-
11 risdiction Act, Title 19, chapter 16;

12 I. Actions for protection from abuse under Title
13 19, chapter 14;

14 J. Actions to waive marriage intentions under
15 Title 19, section 61;

16 K. Actions for consent to the marriage of a mi-
17 nor under Title 19, section 62;

18 L. Actions concerning a caution to marriage un-
19 der Title 19, section 92;

20 M. Actions for change of name under Title 19,
21 section 781;

22 N. Actions to protect children under Title 22,
23 chapter 1071, subchapter IV;

24 O. Actions to terminate parental rights under
25 Title 22, chapter 1071, subchapter VI;

26 P. Actions for a medical treatment order under
27 Title 22, chapter 1071, subchapter VIII;

28 Q. Actions for emancipation of a juvenile under
29 Title 15, section 3506-A;

30 R. Adjudications of juvenile crimes under Title
31 15, chapter 501;

1 S. Actions for involuntary hospitalization of
2 mentally ill persons under Title 34-B, chapter 3,
3 subchapter IV, article III;

4 T. Actions for involuntary admissions of mental-
5 ly retarded persons under Title 34-B, chapter 5,
6 subchapter III, article III;

7 U. Actions for sterilizations under Title 34-B,
8 chapter 7; and

9 V. Actions to enforce truancy laws under Title
10 20-A, section 5053.

11 In actions for protection from abuse under Title 19,
12 chapter 14, the Superior Court shall have the limited
13 emergency jurisdiction authorized in Title 19, sec-
14 tion 765, subsection 2. In actions to protect chil-
15 dren under Title 22, chapter 1071, subchapter IV, the
16 Superior Court shall have the limited emergency ju-
17 risdiction authorized in Title 22, section 4031, sub-
18 section 1, paragraph C. In actions to waive marriage
19 intentions under Title 19, section 61, the Supreme
20 Judicial Court, Superior Court and Probate Court
21 shall have the emergency jurisdiction authorized in
22 that section. In actions for involuntary hospital-
23 ization of mentally ill persons under Title 34-B,
24 chapter 3, subchapter IV, article III, the Superior
25 Court and the Probate Court shall have the emergency
26 jurisdiction authorized in Title 34-B, section 3863,
27 subsection 3.

28 3. Deputy Chief Judge of the Family Division of
29 the District Court. The Deputy Chief Judge of the
30 Family Division of the District Court shall present
31 to the Chief Justice of the Supreme Judicial Court
32 recommendations for the assignment of Superior Court
33 Justices, District Court Judges, Probate Court Judges
34 and Administrative Court Judges to the Family Divi-
35 sion of the District Court. The Deputy Chief Judge
36 of the Family Division of the District Court shall
37 consult with the Chief Justice of the Superior Court,
38 the Chief Judge and other Deputy Chief Judge of the
39 District Court, the Chief Judge of the Probate Court
40 and the Administrative Court Judge in the preparation
41 of these recommendations. The Deputy Chief Judge of
42 the Family Division of the District Court shall have

1 the administrative responsibility for the Family Di-
2 vision of the District Court delegated to that judge
3 by section 162 and the Chief Judge of the District
4 Court.

5 4. Family division judges. The Chief Justice of
6 the Supreme Judicial Court shall assign justices and
7 judges of the Superior Court, District Court, Probate
8 Court and Administrative Court as family division
9 judges. The Chief Justice shall assign, as family
10 division judges, those judges having an interest or
11 demonstrated ability in the handling of sensitive
12 family matters.

13 In making these assignments, the Chief Justice shall
14 consider the unique needs of each district of the
15 District Court and the caseloads of all the judges
16 available to serve as family division judges within a
17 district. The Chief Justice shall seek to assign
18 judges to the family division who can devote full
19 time or a majority of their time to hearing cases
20 within that division, though in some districts cer-
21 tain family division judges may need to devote less
22 than 1/2 of the time to hearing cases within that di-
23 vision. Assignment of family division judges shall
24 be done so as to maintain the system of resident Dis-
25 trict Court Judges established by section 157, sub-
26 section 1, paragraph A. Assignment as a family divi-
27 sion judge shall be for a 2-year term with, if re-
28 quested by the judge, at least a 6-month assignment
29 completely outside of the family division after the
30 expiration of the 2-year term.

31 5. Family division docket. The Administrative
32 Office of the Court shall establish a uniform method
33 for docketing all cases filed within the Family Divi-
34 sion of the District Court to be used by all offices
35 of the divisions of the District Court where family
36 division cases are filed. Assistants of the State
37 Court Administrator assigned to the District Court
38 shall assist the District Court with implementation
39 of the family division docket, training of clerks or
40 deputy clerks to handle the family division docket
41 and familiarization of the clerks handling the family
42 division docket with the social service agencies that
43 may be involved in family division cases.

1 6. Courtrooms. The courtrooms of the Superior
2 Court, District Court, Probate Court and Administra-
3 tive Court shall be available for the hearing of
4 cases of the Family Division of the District Court.
5 Assistants of the State Court Administrator assigned
6 to the District Court shall work with the clerks of
7 all courts and the registers of probate to assist
8 with the scheduling of the use of courtrooms by the
9 Family Division of the District Court. The family
10 division shall seek to use courtrooms providing the
11 most privacy possible for the hearing of family
12 cases.

13 7. Mediation. The Family Division of the Dis-
14 trict Court may at any time, in any case under its
15 jurisdiction, refer the parties to mediation on any
16 issues.

17 8. Other services. The family division shall
18 assure that assessments and dispositions of family
19 cases include appropriate social and other services
20 available to families. The family division may ap-
21 point a guardian ad litem or court-appointed special
22 advocate in any family case. When a custody study is
23 necessary in any family case, the family division
24 shall encourage parties who can afford to pay for the
25 study to agree, for the purpose of reducing delay,
26 upon the use of an independent mental health profes-
27 sional, educator, family practice attorney or other
28 qualified professional to conduct the study.

29 9. Continuing education. All judges assigned to
30 the Family Division of the District Court, any other
31 interested judges and all members of the advisory
32 committee established under subsection 10 shall meet
33 annually at a conference sponsored by the Judicial
34 Department to discuss and receive continuing educa-
35 tion in family matters and services available to fam-
36 ilies. Other court personnel, family practice attor-
37 neys, social service providers, mediators and others
38 involved with family cases may be included in the
39 conference.

40 10. Advisory Committee on Family Matters. The
41 Chief Justice of the Supreme Judicial Court shall ap-
42 point the Advisory Committee on Family Matters to ad-
43 vise the Deputy Chief Judge of the Family Division.

1 The Chief Justice shall appoint not less than 10 nor
2 more than 15 members to the committee. Committee
3 membership shall include family practice attorneys,
4 mediators, court personnel, social service providers
5 and others involved with family cases. Committee
6 members shall serve at the pleasure of the Chief Jus-
7 tice or for whatever terms the Chief Justice sets.
8 Committee members shall not receive any compensation
9 for their committee work.

10 The advisory committee shall meet when a meeting is
11 called by the Deputy Chief Judge of the Family Divi-
12 sion of the District Court. The committee shall ad-
13 vice the Deputy Chief Judge on the overall function-
14 ing of the Family Division of the District Court,
15 including the usage of mediation, guardians ad litem,
16 court-appointed special advocates and other nonjudi-
17 cial services.

18 Sec. 7. 4 MRSA §157, sub-§1, ¶A, as amended by
19 PL 1985, c. 434, §2, is further amended to read:

20 A. The Governor, subject to review by the joint
21 standing committee of the Legislature having ju-
22 risdiction over judiciary and to confirmation by
23 the Legislature, shall appoint to the District
24 Court 8 judges at large and 15 judges. At least
25 one judge shall be appointed in each district who
26 shall be a resident of the district, except that
27 in District 3 there shall be 2 judges appointed
28 who shall be residents of the district and in
29 District 9 there shall be 2 judges appointed who
30 shall be residents of the district. Each Dis-
31 trict Court Judge shall have a term of office of
32 7 years.

33 To be eligible for appointment as a District
34 Judge, a person shall be a member of the bar of
35 the State. The term "District Judge" shall in-
36 clude the Chief Judge, Deputy Chief Judge, Judges,
37 the judges appointed from the districts and the
38 judges at large.

39 Sec. 8. 4 MRSA §157, sub-§1, ¶B, as amended by
40 PL 1985, c. 506, Pt. B, §1, is further amended to
41 read:

1 B. The Chief Justice of the Supreme Judicial
2 Court shall designate one of the judges as Chief
3 Judge. The Chief Judge, with the advice and con-
4 sent of the Chief Justice of the Supreme Judicial
5 Court, shall designate one of the District Court
6 Judges as Deputy Chief Judge ~~who shall~~ of the
7 Family Division of the District Court and another
8 of the District Court Judges as Deputy Chief
9 Judge of the remaining division or divisions of
10 the District Court. The Chief Judge, with the
11 advice and consent of the Chief Justice of the
12 Supreme Judicial Court, shall designate one of
13 the Deputy Chief Judges to have all the duties,
14 powers and responsibilities of the Chief Judge
15 when the Chief Judge is unable to perform them
16 because of illness, absence or disability.

17 Sec. 9. 4 MRSA §157, sub-§3, as repealed and re-
18 placed by PL 1983, c. 863, Pt. B, §§7 and 45, is
19 amended to read:

20 3. Deputy Chief Judge; salary. The Deputy Chief
21 Judge Judges of the District Court shall receive a
22 salary salaries equal to 102.5% of the salary of an
23 Associate Judge of the District Court.

24 Sec. 10. 4 MRSA §157-E is enacted to read:

25 §157-E. Judge or Active Retired Judge of the Superi-
26 or Court, Probate Court or Administrative
27 Court to sit in the Family Division of the
28 District Court

29 A Judge or Active Retired Judge of the Probate
30 Court or Administrative Court or a Justice or Active
31 Retired Justice of the Superior Court may be assigned
32 by the Chief Justice of the Supreme Judicial Court to
33 sit in the Family Division of the District Court.
34 When so directed, the judge or justice shall have the
35 authority and jurisdiction therein as if the judge or
36 justice were a regular judge of the District Court.
37 Whenever the Chief Justice of the Supreme Judicial
38 Court so directs, the judge or justice may hear all
39 matters and issue all orders, notices, decrees and
40 judgments that any Judge of the Family Division of
41 the District Court may hear and issue.

1 Sec. 13. 4 MRSA §164, sub-§18 is enacted to
2 read:

3 18. Family Division of the District Court. Del-
4 egate administrative responsibility for the Family
5 Division of the District Court to the Deputy Chief
6 Judge of the Family Division of the District Court as
7 the Chief Judge deems appropriate and as is consist-
8 ent with section 152-A, subsection 3.

9 Sec. 14. 4 MRSA §251 is amended to read:

10 §251. General jurisdiction

11 Each judge may take the probate of wills and
12 grant letters testamentary or of administration on
13 the estates of all deceased persons who, at the time
14 of their death, where inhabitants or residents of his
15 county or who, not being residents of the State, died
16 leaving estate to be administered in his county, or
17 whose estate is afterwards found therein; and has ju-
18 risdiction of all matters relating to the settlement
19 of such estates. He may grant leave to adopt chil-
20 dren; and change the names of persons these children,
21 appoint guardians for minors and others according to
22 law, and has jurisdiction as to persons under guardi-
23 anship, and as to whatever else is conferred on him
24 by law.

25 Sec. 15. 4 MRSA §301, as amended by PL 1981, c.
26 40, §1, is further amended to read:

27 §301. Terms; salary; fees

28 Judges of Probate are elected or appointed as
29 provided in the Constitution. Only attorneys at law
30 admitted to the general practice of law in this State
31 and resident therein may be elected or appointed as
32 Judges of Probate. Their election is effected and de-
33 termined as is provided respecting county commission-
34 ers; and they enter upon the discharge of their du-
35 ties on the first day of January following; but, when
36 appointed to fill vacancies, their terms commence on
37 their appointment.

38 Judges of Probate in the several counties shall
39 receive annual salaries as set forth in section 301-A
40 or Title 30, section 2.

1 The fees to which Judges of Probate are entitled
2 by law in those counties where Judges of Probate are
3 elected officials shall be taxed and collected and
4 paid over by the registers of probate to the county
5 treasurers by the 15th day of every month following
6 the month in which they were collected for the use of
7 their counties with the exception of the fees pro-
8 vided in section 304, which shall be retained by the
9 judge who collects the same in addition to his sala-
10 ry.

11 The fees to which Judges of Probate are entitled
12 by law in those counties for which Judges of Probate
13 are appointed under section 301-A, subsection 2,
14 shall be taxed and collected and paid by the regis-
15 ters of probate to the Treasurer of State by the 15th
16 day of every month following the month in which they
17 were collected. Each register of probate shall pay
18 to the Treasurer of State 90% of the fees collected
19 during the previous month. The remaining 10% shall
20 be retained for the county by the register of probate
21 and accounted for to the county treasurer. The Treas-
22 urer of State shall credit all revenue received un-
23 der this section to the General Fund.

24 Sec. 16. 4 MRSA §301-A is enacted to read:

25 §301-A. Full-time, appointed Probate Court Judges;
26 regions; salaries

27 1. Full-time Probate Judges. There is estab-
28 lished a Probate Court system for the State with
29 full-time, appointed Probate Court Judges. The Pro-
30 bate Court Judges appointed under this section shall
31 be members of the Judicial Department and subject to
32 supervision under section 1.

33 This section effectuates the repeal of the Constitu-
34 tion of Maine, Article VI, Section 6, as provided in
35 Resolves 1967, chapter 77. Elected Judges of Probate
36 whose terms expire on January 1, 1987, and January 1,
37 1989, may complete these terms though Article VI,
38 Section 6, is repealed when this section becomes ef-
39 fective. A vacancy occurring in any of these of-
40 fices, prior to the expiration of the officeholder's
41 term, by death, resignation or otherwise, shall be
42 filled by the Governor by appointment, and the person

1 so appointed shall serve until the expiration of the
2 term of the officeholder replaced.

3 2. Appointment. Probate Court Judges shall be
4 appointed as follows.

5 A. The Governor, subject to review by the joint
6 standing committee of the Legislature having ju-
7 risdiction over judiciary and to confirmation by
8 the Legislature, shall appoint to the Probate
9 Court so that they may begin their terms on Janu-
10 ary 1, 1987, 3 judges, one to serve each of the
11 following regions from January 1, 1987, to Decem-
12 ber 31, 1988:

13 (1) Region 1 consisting of Cumberland Coun-
14 ty and York County;

15 (2) Region 2 consisting of Kennebec County
16 and Androscoggin County; and

17 (3) Region 3 consisting of Franklin County,
18 Penobscot County and Hancock County.

19 B. Beginning on January 1, 1989, and thereafter,
20 the Probate Court Judges appointed under para-
21 graph A shall serve the following regions in the
22 following manner.

23 (1) The judge appointed to serve Region 1
24 in paragraph A shall serve a Region 1 con-
25 sisting of Cumberland County.

26 (2) The judge appointed to serve Region 2
27 in paragraph A shall serve a Region 3 con-
28 sisting of Kennebec County, Androscoggin
29 County and Lincoln County.

30 (3) The judge appointed to serve Region 3
31 in paragraph A shall serve a Region 5 con-
32 sisting of Aroostook County and Penobscot
33 County.

34 C. The Governor, subject to review by the joint
35 standing committee of the Legislature having ju-
36 risdiction over judiciary and to confirmation by
37 the Legislature, shall appoint to the Probate

1 Court after January 7, 1987, so that they may be-
2 gin their terms on January 1, 1989, 3 judges, one
3 to serve each of the following regions:

4 (1) Region 2 consisting of York County and
5 Oxford County;

6 (2) Region 4 consisting of Waldo County,
7 Knox County, Hancock County and Washington
8 County; and

9 (3) Region 6 consisting of Franklin County,
10 Somerset County and Piscataquis County.

11 2. Regions. On and after January 1, 1989, the
12 State is divided into 6 probate regions with one Pro-
13 bate Court Judge serving each region as described in
14 subsection 1:

15 A. Region 1 consisting of Cumberland County and
16 Sagadahoc County;

17 B. Region 2 consisting of York County and Oxford
18 County;

19 C. Region 3 consisting of Kennebec County,
20 Androscoggin County and Lincoln County;

21 D. Region 4 consisting of Waldo County, Knox
22 County, Hancock County and Washington County;

23 E. Region 5 consisting of Aroostook County and
24 Penobscot County; and

25 F. Region 6 consisting of Franklin County,
26 Somerset County and Piscataquis County.

27 3. Chief Judge. After January 1, 1989, the
28 Chief Justice of the Supreme Judicial Court shall
29 designate one of the Probate Court Judges as Chief
30 Judge of the Probate Court. He shall serve at the
31 pleasure and under the supervision of the Chief Jus-
32 tice of the Supreme Judicial Court and shall be re-
33 sponsible for the operation of the Probate Court.
34 The Chief Judge of the Probate Court shall also per-
35 form such additional duties as may be assigned to him
36 from time to time by the Chief Justice of the Supreme
37 Judicial Court.

1 4. Salaries. The Probate Court Judges appointed
2 under this section shall receive salaries equal to
3 those and following the periods for District Court
4 Judges established in section 157, subsection 4. The
5 Chief Judge of the Probate Court shall receive a sal-
6 ary equal to 105% of the salary of a Probate Court
7 Judge. Other than for the purposes of this subsec-
8 tion, the term "Probate Court Judge" includes the
9 Chief Judge of the Probate Court.

10 Sec. 17. 4 MRSA §304 is amended to read:

11 §304. Equity and contested cases; time and place of
12 hearing

13 Elected Judges of Probate may hold hearings for
14 matters in equity and contested cases at such time
15 and place in the county as the elected Judge of Pro-
16 bate may appoint and. Probate Court Judges appointed
17 under section 301-A may hold hearings in equity and
18 contested cases at such time and place in the county
19 as the Chief Judge of the Probate Court may appoint.
20 Judges of Probate may make all necessary orders and
21 decrees relating thereto, and when hearings are held
22 at other places than those fixed for holding the reg-
23 ular terms of court, the elected judge shall be al-
24 lowed, in addition to his regular salary, \$5 per day
25 and actual expenses which shall be paid by the State
26 unless otherwise provided by law.

27 Sec. 18. 4 MRSA §306, as amended by PL 1965, c.
28 513, §5-A, is further amended to read:

29 §306. Interchange of judicial duties; expenses

30 During the sickness, absence from the State or
31 inability of any elected Judge of Probate to hold the
32 regular terms of his court, such terms, at his re-
33 quest or that of the register of the county, may be
34 held by the judge of any other county. The elected
35 judges may interchange service or perform each oth-
36 ers' duties when they find it necessary or conven-
37 ient, and in case of a vacancy in the office of a an
38 elected judge, all necessary terms of the probate
39 court for the county may, at the request of the reg-
40 ister, be held by the judge of another county until
41 the vacancy is filled. The orders, decrees and deci-

1 sions of the judge holding such terms have the same
2 force and validity as if made by the judge of the
3 county in which such terms are held.

4 When any elected Judge of Probate holds court or
5 a hearing in any probate matter, or in equity, in any
6 county other than the one in which he resides, such
7 judge shall be reimbursed by the county in which such
8 court or hearing is held for his expenses actually
9 and reasonably incurred, upon presentation to the
10 county commissioners of said the county of a detailed
11 statement of such expenses.

12 Sec. 19. 4 MRSA §451, as repealed and replaced
13 by PL 1985, c. 506, Pt. A, §1-A, is amended to read:

14 §451. Establishment

15 A Judicial Council, as established by Title 5,
16 section 12004, subsection 10, shall make a continuous
17 study of the organization, rules and methods of pro-
18 cedure and practice of the judicial system of the
19 State, the work accomplished and the results produced
20 by that system and its various parts. The council
21 shall be composed of the Chief Justice of the Supreme
22 Judicial Court, who shall also serve as chairman, the
23 Attorney General, the Chief Justice of the Superior
24 Court, the Chief Judge of the District Court, the
25 Deputy Chief Judge of the Family Division of the Dis-
26 trict Court, the other Deputy Chief Judge of the Dis-
27 trict Court and the Dean of the University of Maine
28 School of Law, each to serve ex officio, and an Ac-
29 tive or Retired Justice of the Supreme Judicial
30 Court, one Justice of the Superior Court, one Judge
31 of the District Court, one elected Judge of a Probate
32 Court, one appointed Judge of the Probate Court after
33 January 1, 1987, to be replaced by the Chief Judge of
34 the Probate Court after January 1, 1989, one clerk of
35 the judicial courts, 2 members of the bar and 6 lay-
36 men, to be appointed by the Governor. The appoint-
37 ments by the Governor shall be for such periods, not
38 exceeding 4 years, as he shall determine.

39 Sec. 20. 5 MRSA §12004, sub-§10, ¶A, sub-¶(46-A)
40 is enacted to read:

41 (46-A) Judiciary: Advisory Com- Not Author- 4 MRSA

1 Family Law mittee on ized §152-A
2 Family Mat-
3 ters

4 Sec. 21. 15 MRSA §3003, sub-§15, as amended by
5 PL 1979, c. 681, §38, is further amended to read:

6 15. Juvenile Court. "Juvenile Court" means the
7 Family Division of the District Court exercising the
8 jurisdiction conferred by section 3101.

9 Sec. 22. 15 MRSA §3101, sub-§1, as amended by PL
10 1979, c. 681, §38, is further amended to read:

11 1. Family Division of the District Court as Ju-
12 venile Court. The Family Division of the District
13 Court shall exercise the jurisdiction conferred by
14 this Part and, when exercising such jurisdiction,
15 shall be known and referred to as the Juvenile Court.

16 Sec. 23. 15 MRSA §3101, sub-§2, ¶E, as enacted
17 by PL 1981, c. 619, §3, is amended to read:

18 E. Juvenile Courts shall have jurisdiction con-
19 current with the Family Division of the District
20 Courts over petitions for emancipation brought
21 under section 3506-A.

22 Sec. 24. 15 MRSA §3506-A, sub-§1, as enacted by
23 PL 1981, c. 619, § 12, is amended to read:

24 1. Petition for emancipation. If a juvenile is
25 16 years of age or older and refuses to live in the
26 home provided by his parents, guardian or custodian,
27 he may request the Family Division of the District
28 Court in the division in which his parents, guardian
29 or custodian resides to appoint counsel for him to
30 petition for emancipation.

31 Sec. 25. 18-A MRSA §1-501, first ¶, as enacted
32 by PL 1979, c. 540, §1, is amended to read:

33 Registers of probate are shall be elected or ap-
34 pointed as provided in the Constitution by the people
35 of their respective counties, by a plurality of the
36 votes given in, at the biennial election on the Tues-
37 day following the first Monday of November, and shall

1 hold their offices for 4 years, commencing on the
2 first day of January next after their elections. Va-
3 cancies occurring in these offices by death, resigna-
4 tion or otherwise, shall be filled by election in
5 this paragraph at the November election, next after
6 their occurrence. In the meantime, the Governor may
7 fill these vacancies by appointment, and the person
8 so appointed shall hold their offices until the first
9 day of January next after the election. Their The
10 election of a register of probate is effected and de-
11 termined as is provided respecting county commis-
12 sioners by Title 30, chapter 1, and they enter upon the
13 discharge of their duties on the first day of January
14 following, but the term of these appointed to fill
15 vacancies commences immediately. All registers, be-
16 fore acting, shall give bond to the treasurer of
17 their county with sufficient sureties in the sum of
18 \$2,500, except that this sum shall be \$10,000 for
19 Cumberland County. Every register, having executed
20 such bond, shall file it in the office of the clerk
21 of the county commissioners of his county, to be pre-
22 sented to them at their next meeting for approval.
23 After the bond has been so approved, the clerk shall
24 record it and certify the fact thereon, and retaining
25 a copy thereof, deliver the original to the register,
26 who shall deliver it to the treasurer of the county
27 within 10 days after its approval, to be filed in his
28 office.

29 Sec. 26. 18-A MRSA §1-602, ¶(2), as repealed and
30 replaced by PL 1983, c. 262, §1, is repealed and the
31 following enacted in its place:

32 (2) For receiving and entering each petition to
33 probate a will, including foreign wills, and each
34 petition for the administration of an estate in
35 intestacy when the value of the estate is:

36 (i) For filing a will without probate, \$10;

37 (ii) \$10,000 and under, \$50;

38 (iii) \$10,001 to \$20,000, \$60;

39 (iv) \$20,001 to \$30,000, \$70;

40 (v) \$30,001 to \$40,000, \$80;

- 1 (vi) \$40,001 to \$50,000, \$90;
2 (vii) \$50,001 to \$75,000, \$115;
3 (viii) \$75,001 to \$150,000, \$150;
4 (ix) \$150,001 to \$250,000, \$200;
5 (x) \$250,001 to \$500,000, \$250; or
6 (xi) More than \$500,000, \$300.

7 Sec. 27. 18-A MRSA §1-602, ¶(5), as enacted by
8 PL 1979, c. 540, §1, is amended to read:

9 (5) For filing a petition for appointment as
10 guardian or conservator, or for other protective
11 proceedings, ~~\$5~~ \$50.

12 Sec. 28. 18-A MRSA §1-602, ¶(6), as amended by
13 PL 1979, c. 719, §3, is further amended to read:

14 (6) For filing application for involuntary hos-
15 pitalization, ~~\$10~~ \$20.

16 Sec. 29. 18-A MRSA §1-602, ¶¶(7) and (8) are en-
17 acted to read:

18 (7) For filing a joint petition for appointment
19 as guardian and conservator, \$100.

20 (8) For filing any other formal proceeding, \$20.

21 Sec. 30. 18-A MRSA §1-603, as amended by PL
22 1981, c. 40, §3, is further amended to read:

23 §1-603. Registers to account monthly for fees

24 Registers of probate shall account for each cal-
25 endar month under oath to the county treasurers or
26 Treasurer of State, as provided in Title 4, section
27 301, for all fees received by them or payable to them
28 by virtue of the office, specifying the items, and
29 shall pay the whole amount for each calendar month to
30 the treasurers of their respective counties or Trea-
31 surer of State, as applicable, not later than the
32 15th day of the following month.

1 Sec. 31. 19 MRSA §61, 2nd ¶, as amended by PL
2 1983, c. 686, §1, is further amended to read:

3 Upon application by both of the parties to an in-
4 tended marriage, when both parties are residents of
5 this State or both parties are nonresidents, or upon
6 application of the party residing within the State
7 when one of the parties is a resident and the other a
8 nonresident, and upon the payment of a fee of \$10,
9 payable to the Probate, Supreme Judicial, Superior or
10 District Court, \$40 to the court, a Judge of the Fam-
11 ily Division of the District Court, or, if a family
12 division judge is unavailable, a Judge of Probate, a
13 Justice of the Supreme Judicial or Superior Court or
14 a Judge of the District Court may, after hearing such
15 evidence as is presented, grant a certificate stating
16 that in his opinion it is expedient that the intended
17 marriage be solemnized without delay. Upon the pre-
18 sentation of such a certificate or a copy thereof
19 certified by the clerk of the court by which the cer-
20 tificate was issued, or in extraordinary or emergency
21 cases when the death of either party is imminent,
22 upon the authoritative request of a minister, clergy-
23 man, priest, rabbi or attending physician, the clerk
24 or registrar of the city or town in which the inten-
25 tion to be joined in marriage has been filed shall at
26 once issue the certificate as prescribed in this sec-
27 tion.

28 Sec. 32. 19 MRSA §62, as amended by PL 1983, c.
29 686, §2, is further amended to read:

30 §62. Certificate

31 On and after the 3rd day from the filing of no-
32 tice of intentions of marriage, except as otherwise
33 provided, the clerk shall deliver to the parties a
34 certificate specifying the time when such intentions
35 were entered with him. It shall be delivered to the
36 minister or magistrate before he begins to solemnize
37 the marriage, which shall be performed in the pres-
38 ence of at least 2 witnesses besides the clergyman or
39 magistrate officiating. No such certificate may be
40 issued to a male under 18 or to a female under 18
41 years of age, without the written consent of their
42 parents, guardians or persons to whom a court has
43 given custody of such minors first presented, if they

1 have any living. In the absence of persons qualified
2 to give consent, ~~the~~ a Judge of Probate the Family
3 Division of the District Court in the county district
4 where such minors reside may, after notice and hear-
5 ing, grant consent. When 2 licenses are required and
6 when either or both applicants for a marriage license
7 are under the ages specified in this section, the
8 written consent shall be given for the issuance of
9 both licenses and such written consent shall be given
10 in the presence of the clerk issuing the license or
11 by acknowledgment under seal filed with such clerk.
12 No certificate may be issued to a person under 16
13 years of age without the written consent of that
14 minor's parents, guardians, or persons to whom a
15 court has given custody of that minor first pre-
16 sented, if the minor has any living, and without that
17 clerk, having notified ~~the~~ a Judge of Probate the
18 Family Division of the District Court in the county
19 district in which the minor resides of the filing of
20 these intentions, and having received in writing the
21 consent from the judge to issue the certificate. If
22 no written consent from the judge has been received
23 by the 10th day from the filing of notice of inten-
24 tions of marriage, consent shall be deemed to have
25 been received, and the clerk shall issue the certifi-
26 cate. The Judge of Probate the Family Division of the
27 District Court may, in the interest of public wel-
28 fare, order that no such certificate shall be issued.
29 Any certificate is void if not used within 60 days
30 from the day the intentions are filed in the office
31 of the municipal clerks. Whoever contracts a mar-
32 riage or makes false representations to procure the
33 certificate provided for above or the solemnization
34 of marriage contrary to this chapter shall forfeit
35 \$100. The clerk of any town or his deputy who inten-
36 tionally violates this section or falsely states the
37 residence of either party named in the certificate
38 shall forfeit \$20 for each offense.

39 Sec. 33. 19 MRSA §92, as amended by PL 1977, c.
40 479, §2, is further amended to read:

41 §92. Filing of cautions

42 Any person, believing that parties are about to
43 contract marriage when either of them cannot lawfully
44 do so, may file a caution and the reasons therefor in

1 the office of the clerk where notice of their intentions should be filed. Then, if either party applies
2 to enter such notice, the clerk shall withhold the
3 certificate until a decision is made by the ~~probate~~
4 ~~court judge~~ Judge of the Family Division of the Dis-
5 trict Court from the ~~county~~ district involved, ap-
6 proving the marriage, after due notice to and hearing
7 all concerned, provided the person filing the caution
8 shall within 7 days thereafter procure the decision
9 of ~~such probate court~~ the judge unless he certifies
10 that further time is necessary for the purpose. In
11 such case a certificate shall be withheld until the
12 expiration of the certified time. He shall, finally,
13 deliver or withhold the certificate in accordance
14 with the final decision of ~~said the~~ judge. If the de-
15 cision is against the sufficiency, the judge shall
16 enter judgment against the applicant for costs, and
17 issue execution therefor.
18

19 Sec. 34. 19 MRSA §214, sub-§3, as enacted by PL
20 1983, c. 813, §1, is amended to read:

21 3. Jurisdiction. If the father and mother of a
22 minor child are living apart, the ~~Probate Court, Su-~~
23 ~~perior Court or Family Division of the~~ District
24 Court in the ~~county or~~ division where either resides,
25 on complaint of either and after such notice to the
26 other as the court may order, may make an order
27 awarding parental rights and responsibilities with
28 respect to the child. The fee for filing the com-
29 plaint shall be \$65.

30 The right to file a complaint shall not be denied any
31 person for failure to meet any residency requirement
32 if the person is a member of the Armed Forces of the
33 United States on active duty stationed in this State
34 or a parent of a child of such a member. Such a mem-
35 ber shall be deemed to be a resident either of the
36 county district in which the military installation or
37 installations, or other place at which he has been
38 stationed, is located or of the county district in
39 which he has sojourned.

40 The jurisdiction granted by this section shall be
41 limited by the Uniform Child Custody Jurisdiction
42 Act, sections 801 to 825, if another state may have
43 jurisdiction as provided in that Act.

1 Sec. 35. 19 MRSA §275, as enacted by PL 1967, c.
2 325, §2, is amended to read:

3 §275. Remedies

4 The ~~Superior~~ er Family Division of the District
5 Court has jurisdiction of an action under this sub-
6 chapter and all remedies for the enforcement of judg-
7 ments for expenses of pregnancy and confinement for a
8 wife or for education, necessary support or funeral
9 expenses for legitimate children apply. The court has
10 continuing jurisdiction to modify or revoke a judg-
11 ment for future education and necessary support. All
12 remedies under the Uniform Reciprocal Enforcement of
13 Support Act are available for enforcement of duties
14 of support under this subchapter.

15 Sec. 36. 19 MRSA §284, as enacted by PL 1967, c.
16 325, §2, is amended to read:

17 §284. Venue

18 An action under this subchapter may be brought in
19 the ~~county~~ er district where the alleged father is
20 present or has property or in the ~~county~~ er district
21 where the mother or child resides.

22 Sec. 37. 19 MRSA §301, sub-§1, as enacted by PL
23 1979, c. 668, §3, is amended to read:

24 1. Petition. If a parent, spouse or child ~~reside~~
25 resides in this State, the parent or spouse, a guard-
26 ian or a municipality providing maintenance may peti-
27 tion the ~~Superior,~~ Family Division of the District ~~er~~
28 ~~Probate~~ Court to order a nonsupporting parent or
29 spouse to contribute to the support of his spouse or
30 child. The petition may be brought in the court in
31 the ~~county~~ er district where the parent, spouse or
32 child ~~reside~~ resides or in the ~~county~~ er district in
33 which the nonsupporting parent or spouse may be
34 found.

35 Sec. 38. 19 MRSA §302, as amended by PL 1979, c.
36 733, §6, is further amend to read:

37 §302. Support of child committed to custodial agency

1 Whenever a child under the age of 17 years is
2 committed by the Family Division of the District
3 Court, or the Family Division of the District Court
4 acting as a Juvenile Court, to custody other than
5 that of its parent, such commitment shall be subject
6 to Title 22, sections 4038, 4061 and 4063. The court
7 may, after giving a parent a reasonable opportunity
8 to be heard, adjudge that such parent shall pay in
9 such manner as the court may direct such sum as will
10 cover in whole or in part the support of such child,
11 and if such parent shall willfully fail or refuse to
12 pay such sum, he may be proceeded against as provided
13 by law for cases of desertion or failure to provide
14 subsistence.

15 Sec. 39. 19 MRSA §332, sub-§1, as amended by PL
16 1971, c. 393, §1, is further amended to read:

17 1. Court. "Court" means the Superior Court or
18 Family Division of the District Court of this State
19 and when the context requires means the court of any
20 other state as defined in a substantially similar re-
21 ciprocal law.

22 Sec. 40. 19 MRSA §393. as amended by PL 1971, c.
23 393, §§5 and 6, is further amended to read:

24 §393. How duties of support enforced

25 All duties of support, including the duty to pay
26 arrearages, are enforceable by a proceeding under
27 this Act including the proceeding for civil contempt.
28 The defense that the parties are immune to suit be-
29 cause of their relationship as husband and wife or
30 parent and child is not available to the obligor.
31 Jurisdiction of all proceedings hereunder shall be
32 vested in the Superior Court or Family Division of
33 the District Court. All proceedings may be commenced
34 and acted upon by the Superior Court in vacation be-
35 fore a single justice as well as in term time or by
36 the District Court.

37 Sec. 41. 19 MRSA §402-C, as enacted by PL 1971,
38 c. 393, §11, is amended to read:

39 §402-C. Rules of evidence

1 In any hearing for the civil enforcement of this
2 Act the court is governed by the rules of evidence
3 applicable in a civil court action in the ~~Superior or~~
4 Family Division of the District Court. If the action
5 is based on a support order issued by another court,
6 a certified copy of the order shall be received as
7 evidence of the duty to support, subject only to any
8 defenses available to an obligor with respect to pa-
9 ternity under section 411 or to a defendant in an ac-
10 tion or a proceeding to enforce a foreign money judg-
11 ment. The determination or enforcement of a duty of
12 support owed to one obligee is unaffected by any in-
13 terference by another obligee with rights of custody
14 or visitation granted by a court.

15 Sec. 42. 19 MRSA §445 is amended to read:

16 §445. Jurisdiction

17 The ~~Superior Court and~~ Family Division of the
18 District Court shall have jurisdiction of all pro-
19 ceedings brought under this subchapter.

20 Sec. 43. 19 MRSA §531, as amended by PL 1983, c.
21 262, §3, is further amended to read:

22 §531. Persons who may adopt

23 Any husband and wife jointly, or any unmarried
24 person, resident or nonresident of the State, may pe-
25 tition the Probate Court to adopt a person, regard-
26 less of age, and for a change of his name. The fee
27 for filing the petition shall be ~~\$10~~ \$65. Jurisdic-
28 tion to grant the adoption and change of name shall
29 be in the county where the person to be adopted lives
30 or the county where the petitioner resides or the pe-
31 titioners reside or in the county in which the plac-
32 ing agency having custody of the child is located.

33 Sec. 44. 19 MRSA §584, as repealed and replaced
34 by PL 1979, c. 540, §33, is amended to read:

35 §584. Petition; notice; fee

36 The petition under section 581 may be brought and
37 determined in the ~~county or judicial division~~
38 district in which either of the parties lives, except

1 that if the petitioner has left the ~~county or~~ judi-
2 cial division in which the parties lived together and
3 the respondent still lives therein, the petition
4 shall be brought in that ~~county or~~ judicial division,
5 and ~~such~~ notice shall be given ~~thereon~~ as the rules
6 of the court may provide. The fee for filing ~~such~~ the
7 petition shall be \$5 \$65.

8 The right to bring ~~such~~ the petition shall not be
9 denied any person for failure to meet any residency
10 requirement if ~~such~~ the person is a member of the
11 Armed Forces of the United States on active duty sta-
12 tioned in Maine or a dependent or spouse of such mem-
13 ber. Such a member shall be deemed to be a resident
14 ~~either~~ of the ~~county or judicial division~~ district in
15 which the military installation or installations or
16 other place at which he has been stationed is located
17 or of the ~~county or judicial division~~ district in
18 which he has sojourned.

19 Sec. 45. 19 MRSA §588, as amended by PL 1975, c.
20 540, §37, is further amended to read:

21 §588. Jurisdiction

22 The Family Division of the District Court shall
23 possess original jurisdiction, ~~concurrent with the~~
24 Superior Court, of actions for judicial separation
25 under this chapter.

26 Sec. 46. 19 MRSA §632, as amended by PL 1973, c.
27 479, §4, is further amended to read:

28 §632. Annulment of illegal marriages

29 When the validity of a marriage is doubted, ei-
30 ther party may file a complaint as for divorce, and
31 the court shall order it annulled or affirmed accord-
32 ing to the proof; but no such order affects the
33 rights of the defendant unless he was actually noti-
34 fied of the action or answered to the complaint. The
35 fee for filing the complaint shall be \$65. The right
36 to file such a complaint shall not be denied any per-
37 son for failure to meet any residency requirement if
38 ~~such~~ the person is a member of the Armed Forces of
39 the United States on active duty stationed in Maine
40 or a dependent or spouse of such a member. Such a

1 member shall be deemed to be a resident ~~either~~ of the
2 ~~county district~~ in which the military installation or
3 installations or other place at which he has been
4 stationed is located or ~~of the county district~~ in
5 which he has sojourned.

6 Sec. 47. 19 MRSA §635 is amended to read:

7 §635. Jurisdiction

8 The Family Division of the District Court shall
9 possess original jurisdiction, ~~concurrent with the~~
10 ~~Superior Court~~, of actions for annulment of marriage
11 under this subchapter.

12 Sec. 48. 19 MRSA §664 is amended to read:

13 §664. Jurisdiction

14 The Family Division of the District Court shall
15 possess original jurisdiction, ~~concurrent with the~~
16 ~~Superior Court~~, of actions for divorce under this
17 subchapter.

18 Sec. 49. 19 MRSA §691, sub-§2, as enacted by PL
19 1977, c. 226, §1, is amended to read:

20 2. Jurisdiction. The ~~Superior Court or Family~~
21 Division of the District Court shall have jurisdic-
22 tion of an action for divorce if:

23 A. The plaintiff has resided in good faith in
24 this State for 6 months prior to the commencement
25 of the action;

26 B. The plaintiff is a resident of this State and
27 the parties were married in this State;

28 C. The plaintiff is a resident of this State and
29 the parties resided in this State when the cause
30 of divorce accrued; or

31 D. The defendant is a resident of this State.

32 The fee for filing a divorce action shall be \$65.

33 Sec. 50. 19 MRSA §691, last ¶, as enacted by PL
34 1977, c. 226, §1, is amended to read:

1 Any person serving on active duty in a branch of
2 the Armed Services of the United States and the
3 spouse of any such person who was not previously a
4 citizen of this State and who, at the time of the
5 commencement of an action for divorce, has been sta-
6 tioned at a military installation or installations or
7 other place in this State for 6 months prior to the
8 commencement of an action for divorce shall for the
9 purposes hereof be deemed to be a resident in good
10 faith of this State and either the ~~county~~ district in
11 which the military installation or installations or
12 other place at which he has been stationed is located
13 or of the ~~county~~ district in which he has sojourned.

14 Sec. 51. 19 MRSA §691-A is enacted to read;

15 §691-A. Mediation

16 Prior to a contested hearing under this chapter,
17 the court shall refer the parties to mediation; ex-
18 cept that, for good cause shown, the court, prior to
19 referring the parties to mediation, may hear motions
20 for temporary relief, pending final judgment on any
21 issue or combination of issues for which good cause
22 for temporary relief has been shown. Any agreement
23 reached by the parties through mediation on any is-
24 ssues shall be reduced to writing, signed by the par-
25 ties and presented to the court for approval as a
26 court order. When agreement through mediation is not
27 reached on any issue, the court must determine that
28 the parties made a good faith effort to mediate the
29 issue before proceeding with a hearing. If the court
30 finds that either party failed to make a good faith
31 effort to mediate, the court may order the parties to
32 submit to mediation, dismiss the action or any part
33 of the action, render a decision or judgment by de-
34 fault, assess attorney's fees and costs or impose any
35 other sanction that is appropriate in the circum-
36 stances. The court may also impose an appropriate
37 sanction upon a party's failure without good cause to
38 appear for mediation after receiving notice of the
39 scheduled time for mediation.

40 After entry of an order of divorce or nullity,
41 the parties may request court-sponsored mediation
42 services for the purposes of interpreting and imple-
43 menting the order of divorce or nullity. The parties

1 shall be given those services without being required
2 to file a motion to amend or enforce the order of di-
3 vorce or nullity.

4 Sec. 52. 19 MRSA §762, sub-§3, as enacted by PL
5 1979, c. 578, §5, is repealed and the following en-
6 acted in its place:

7 3. Court. "Court" means any Family Division of
8 the District Court or any Superior Court, where ap-
9 plicable.

10 Sec. 53. 19 MRSA §763, as amended by PL 1979, c.
11 677, §§6 and 18, is repealed and the following en-
12 acted in its place:

13 §763. Filing of complaint

14 Proceedings under this chapter shall be filed,
15 heard and determined in the Family Division of the
16 District Court of the division in which either the
17 plaintiff or the defendant resides. If the plaintiff
18 has left his residence to avoid abuse, he may bring
19 an action in the division of his previous residence
20 or of his new residence.

21 The Superior Court shall have jurisdiction to en-
22 ter temporary orders under section 765, subsection 2.
23 As soon as the action is taken by the Superior Court,
24 the matters shall be transferred to the Family Divi-
25 sion of the District Court.

26 Sec. 54. 19 MRSA §765, sub-§3, ¶A, as amended by
27 PL 1985, c. 495, §13, is further amended to read:

28 A. When the courthouse is closed and no other
29 provision can be made for the shelter of an
30 abused family or household member or minor child,
31 a complaint may be filed before any Family Divi-
32 sion of the District Court Judge or Superior
33 Court Justice. Upon a showing of good cause, as
34 defined in subsection 2, the court may enter any
35 temporary orders authorized under subsection 4 as
36 it deems necessary to protect the plaintiff or
37 minor child from abuse.

1 Sec. 55. 19 MRSA §765, sub-§3, ¶B, as repealed
2 and replaced by PL 1981, c. 420, §5, is amended to
3 read:

4 B. If a complaint is filed under this subsection,
5 that complaint and any order issued pursuant
6 to it shall be forwarded immediately to the
7 clerk of the Family Division of the District
8 Court ~~or Superior Court~~ having venue.

9 Sec. 56. 19 MRSA §781, as amended by PL 1983, c.
10 262, §4, is further amended to read:

11 §781. Petition for name change

12 If a person desires to have his name changed, he
13 may petition the judge of probate Judge of the Family
14 Division of the District Court in the county district
15 where he resides; or, if he is a minor, his legal
16 custodian may petition in his behalf, and the judge,
17 after due notice, may change the name of the person
18 and shall make and preserve a record thereof. The
19 fee for filing the petition shall be ~~§10~~ §20.

20 Sec. 57. 19 MRSA §803, sub-§1-A is enacted to
21 read:

22 1-A. Court of this State. "Court of this State"
23 means a Family Division of the District Court.

24 Sec. 58. 20-A MRSA §5053, sub-§2, as enacted by
25 PL 1981, c. 693, §§5 and 8, is amended to read:

26 2. Jurisdiction. The Family Division of the
27 District Court shall have jurisdiction of these of-
28 fenses.

29 Sec. 59. 22 MRSA §4031, sub-§1, as enacted by PL
30 1979, c. 733, §18, is amended to read:

31 1. Jurisdiction. The following provisions shall
32 govern jurisdiction.

33 A. The Family Division of the District Court
34 shall have jurisdiction over child protection pe-
35 titions.

1 B. The Probate Court shall have concurrent ju-
2 risdiction to hear petitions under sections 4032
3 and 4034. The Probate Court may transfer a case
4 to the District Court on the motion of any party
5 or its own motion. The Probate Court order shall
6 remain in effect unless modified by the District
7 Court.

8 C. The Superior Court shall have jurisdiction to
9 act on requests for preliminary child protection
10 orders under section 4034. As soon as the action
11 is taken by the Superior Court, the matter shall
12 be transferred to the District Court.

13 Sec. 60. 30 MRSA §2, sub-§1, ¶A, sub-§(4) as
14 amended, is repealed.

15 Sec. 61. 30 MRSA §2, sub-§1, ¶B, sub-§(4) as
16 amended, is repealed.

17 Sec. 62. 30 MRSA §2, sub-§1, ¶C, sub-§(4) as
18 amended, is repealed.

19 Sec. 63. 30 MRSA §2, sub-§1, ¶D, sub-§(4) as
20 amended, is repealed.

21 Sec. 64. 30 MRSA §2, sub-§1, ¶E, sub-§(4) as
22 amended, is repealed.

23 Sec. 65. 30 MRSA §2, sub-§1, ¶F, sub-§(4) as
24 amended, is repealed.

25 Sec. 66. 30 MRSA §2, sub-§1, ¶G, sub-§(4) as
26 amended, is repealed.

27 Sec. 67. 30 MRSA §2, sub-§1, ¶H, sub-§(4) as
28 amended, is repealed.

29 Sec. 68. 30 MRSA §2, sub-§1, ¶I, sub-§(4) as
30 amended, is repealed.

31 Sec. 69. 30 MRSA §2, sub-§1, ¶J, sub-§(4) as
32 amended, is repealed.

33 Sec. 70. 30 MRSA §2, sub-§1, ¶K, sub-§(4) as
34 amended, is repealed.

1 Sec. 71. 30 MRSA §2, sub-§1, ¶L, sub-§(4) as
2 amended, is repealed.

3 Sec. 72. 30 MRSA §2, sub-§1, ¶M, sub-§(4) as
4 amended, is repealed.

5 Sec. 73. 30 MRSA §2, sub-§1, ¶N, sub-§(4) as
6 amended, is repealed.

7 Sec. 74. 30 MRSA §2, sub-§1, ¶O, sub-§(4) as
8 amended, is repealed.

9 Sec. 75. 30 MRSA §2, sub-§1, ¶P, sub-§(4) as
10 amended, is repealed.

11 Sec. 76. 34-B MRSA §3863, sub-§3, as enacted by
12 PL 1983, c. 459, §7, is amended to read:

13 3. Judicial review. The application and accom-
14 panying certificate shall be reviewed by a Justice of
15 the Superior Court, Judge of the Family Division of
16 the District Court or, if a Family Division Judge is
17 not available, by another Judge of the District
18 Court, Justice of the Superior Court, Judge of Pro-
19 bate or a complaint justice.

20 A. If the judge or justice finds the application
21 and accompanying certificate to be regular and in
22 accordance with the law, he shall endorse them.

23 B. No person may be held against his will in the
24 hospital under this section, whether informally
25 admitted under section 3831 or sought to be in-
26 voluntarily admitted under this section, unless
27 the application and certificate have been en-
28 dorsed by a judge or justice, except that a per-
29 son for whom an examiner has executed the certif-
30 icate under subsection 2 may be detained in a
31 hospital for a reasonable period of time, not to
32 exceed 18 hours, pending endorsement by a judge
33 or justice, if:

34 (1) For a person informally admitted under
35 section 3831, the chief administrative offi-
36 cer of the hospital undertakes to secure the
37 endorsement forthwith upon execution of the
38 certificate by the examiner; and

1 (2) For a person sought to be involuntarily
2 admitted under this section, the person or
3 persons transporting him to the hospital un-
4 dertake to secure the endorsement forthwith
5 upon execution of the certificate by the ex-
6aminer.

7 Sec. 77. 34-B MRSA §3863, sub-§5, ¶¶B and C, as
8 enacted by PL 1983, c. 459, §7, are amended to read:

9 B. If the chief administrative officer of the
10 hospital determines that admission of the person
11 as an informally admitted patient is not suit-
12 able, or if the person declines admission as an
13 informally admitted patient, the chief adminis-
14 trative officer of the hospital may file an ap-
15 plication for the issuance of an order for hospi-
16 talization under section 3864.

17 (1) The application shall be made to the
18 Family Division of the District Court having
19 territorial jurisdiction over the hospital.

20 (2) The application shall be filed within 5
21 days from the admission of the patient under
22 this section, excluding the day of admission
23 and any Saturday, Sunday or legal holiday.

24 C. If neither readmission nor application to the
25 ~~District Court~~ court is effected under this sub-
26 section, the chief administrative officer of the
27 hospital shall discharge the person forthwith.

28 Sec. 78. 34-B MRSA §3864, sub-§1, as enacted by
29 PL 1983, c. 459, §7, is amended to read:

30 1. Application. An application to the Family
31 Division of the District Court to admit a person to a
32 mental hospital, filed under section 3863, subsection
33 5, paragraph B, shall be accompanied by:

34 A. The emergency application under section 3863,
35 subsection 1;

36 B. The accompanying certificate of the physician
37 or psychologist under section 3863, subsection 2;
38 and

1 C. The certificate of the physician or psycholo-
2 gist under section 3863, subsection 7, that:

3 (1) He has examined the patient; and

4 (2) It is his opinion that the patient is a
5 mentally ill person and, because of his ill-
6 ness, poses a likelihood of serious harm.

7 Sec. 79. 34-B MRSA §3864, sub-§2, ¶¶A and B, as
8 enacted by PL 1983, c. 459, §7, is amended to read:

9 A. The ~~District Court~~ court orders release or
10 discharge upon the application of the patient,
11 his guardian, parent, spouse or next of kin;

12 B. The ~~District Court~~ court orders release or
13 discharge upon the report of the chief adminis-
14 trative officer of the hospital that the person
15 may be discharged with safety; or

16 Sec. 80. 34-B MRSA §3864, sub-§3, ¶A, as enacted
17 by PL 1983, c. 459, §7, is amended to read:

18 A. Upon receipt by the ~~District Court~~ court of
19 the application and accompanying documents speci-
20 fied in subsection 1, the court shall cause writ-
21 ten notice of the application:

22 (1) To be given personally or by mail to
23 the person within a reasonable time before
24 the hearing, but not less than 3 days before
25 the hearing; and

26 (2) To be mailed to the person's guardian,
27 if known, and to his spouse, his parent or
28 one of his adult children or, if none of
29 these persons exist or if none of them can
30 be located, to one of his next of kin or a
31 friend.

32 Sec. 81. 34-B MRSA §3864, sub-§4, ¶A, as enacted
33 by PL 1983, c. 459, §7, is amended to read:

34 A. Upon receipt by the ~~District Court~~ court of
35 the application and the accompanying documents
36 specified in subsection 1, the court shall forth-

1 with cause the person to be examined by 2 examiners.
2

3 (1) Each examiner must be either a licensed
4 physician or a licensed clinical psychologist.
5

6 (2) One of the examiners shall be a physician
7 or psychologist chosen by the person or
8 by his counsel, if the chosen physician or
9 psychologist is reasonably available.

10 (3) Neither examiner appointed by the court
11 may be the certifying examiner under section
12 3863, subsection 2 or 7.

13 Sec. 82. 34-B MRSA §3864, sub-§5, ¶¶A, G and H,
14 as enacted by PL 1983, c. 459, §7, are amended to
15 read:

16 A. The ~~District Court~~ court shall hold a hearing
17 on the application not later than 15 days from
18 the date of the application.

19 (1) On a motion by any party, the hearing
20 may be continued for cause for a period not
21 to exceed 10 additional days.

22 (2) If the hearing is not held within the
23 time specified, or within the specified con-
24 tinuance period, the court shall dismiss the
25 application and order the person discharged
26 forthwith.

27 (3) In computing the time periods set forth
28 in this paragraph, the District Court Civil
29 Rules shall apply.

30 G. A stenographic or electronic record shall be
31 made of the proceedings in all judicial hospital-
32 ization hearings.

33 (1) The record and all notes, exhibits and
34 other evidence shall be confidential.

35 (2) The record and all notes, exhibits and
36 other evidence shall be retained as part of

1 the Family Division of the District Court
2 records for a period of 2 years from the
3 date of the hearing.

4 H. The hearing shall be confidential and no re-
5 port of the proceedings may be released to the
6 public or press, except by permission of the per-
7 son or his counsel and with approval of the pre-
8 siding District Court Judge judge, except that
9 the court may order a public hearing on the re-
10 quest of the person or his counsel.

11 Sec. 83. 34-B MRSA §3864, sub-§§6, 8, 9, 10 and
12 11, as enacted by PL 1983, c. 459, §7, are amended to
13 read:

14 6. Court findings. Procedures dealing with the
15 District Court's court's findings under this section
16 are as follows.

17 A. The District Court court shall so state in
18 the record, if it finds upon completion of the
19 hearing and consideration of the record:

20 (1) Clear and convincing evidence that the
21 person is mentally ill and that his recent
22 actions and behavior demonstrate that his
23 illness poses a likelihood of serious harm;

24 (2) That inpatient hospitalization is the
25 best available means for treatment of the
26 patient; and

27 (3) That it is satisfied with the individu-
28 al treatment plan offered by the hospital.

29 B. If the District Court court makes the find-
30 ings described in paragraph A, subparagraphs 1
31 and 2, but is not satisfied with the individual
32 treatment plan as offered, it may continue the
33 case for not longer than 10 days, pending recon-
34 sideration and resubmission of an individual
35 treatment plan by the hospital.

36 8. Continued involuntary hospitalization. If
37 the chief administrative officer of the hospital de-
38 termines that continued involuntary hospitalization

1 is necessary for a person who has been ordered by the
2 District Court to be committed, he shall, not later
3 than 30 days prior to the expiration of a period of
4 commitment ordered by the court, make application in
5 accordance with this section to the Family Division
6 of the District Court which has territorial jurisdic-
7 tion over the hospital for a hearing to be held under
8 this section.

9 9. Transportation. Unless otherwise directed by
10 the court, the sheriff of the county in which the
11 Family Division of the District Court has jurisdic-
12 tion and in which the hearing takes place shall pro-
13 vide transportation to any hospital to which the
14 court has committed the person.

15 10. Expenses. With the exception of expenses
16 incurred by the applicant pursuant to subsection 5,
17 paragraph F, the Family Division of the District
18 Court shall be responsible for any expenses incurred
19 under this section, including fees of appointed coun-
20 sel, witness and notice fees and expenses of trans-
21 portation for the person.

22 11. Appeals. A person ordered by the Family Di-
23 vision of the District Court to be committed to a
24 hospital may appeal from that order to the Superior
25 Court.

26 A. The appeal is on questions of law only.

27 B. Any findings of fact of the Family Division
28 of the District Court may not be set aside unless
29 clearly erroneous.

30 C. The order of the Family Division of the Dis-
31 trict Court shall remain in effect pending the
32 appeal.

33 D. The District Court Civil Rules and the Maine
34 Rules of Civil Procedure apply to the conduct of
35 the appeals, except as otherwise specified in
36 this subsection.

37 Sec. 84. 34-B MRSA §3870, sub-§4, ¶B, as enacted
38 by PL 1983, c. 459, §7, is amended to read:

1 B. If the order is not voluntarily complied
2 with, and if the order is endorsed by a Family
3 Division of the District Court Judge or complaint
4 justice in the county in which the patient has
5 his legal residence or is present, any health of-
6 ficer or police officer may take the patient into
7 custody and transport him to:

8 (1) The state mental health institute, if
9 the order is issued by the chief administra-
10 tive officer of the state mental health in-
11 stitute; or

12 (2) A hospital designated by the commis-
13 sioner, if the order is issued by the com-
14 missioner.

15 **Sec. 85. 34-B MRSA §5475, sub-§1**, as enacted by
16 PL 1983, c. 459, §7, is amended to read:

17 1. Petition. A petition to admit a client by
18 judicial certification may be filed in the Family Di-
19 vision of the District Court with jurisdiction over
20 the place where the client is residing.

21 A. Only a chief administrative officer of a re-
22 gional office or facility may file the petition.

23 B. The petition may not be filed by the chief
24 administrative officer of a regional office until
25 he has obtained approval for the admission by the
26 chief administrative officer of the facility un-
27 der rules promulgated by the commissioner under
28 section 1203, subsection 3.

29 C. Any party may file a motion with the court
30 where the petition is filed alleging that a court
31 in another location would be more convenient, and
32 the court may order a change in venue if justice
33 so requires.

34 **Sec. 86. 34-B MRSA §5475, sub-§2**, as amended by
35 PL 1983, c. 580, §22, is further amended to read:

36 2. Prehearing duties of the court. Upon receipt
37 by the Family Division of the District Court of the
38 petition, the court shall:

1 A. Schedule a certification hearing to be held
2 as soon as practicable, except that if the client
3 is being detained under section 5477, subsection
4 4, the hearing shall be held no later than 15
5 days from the day the petition was filed, unless
6 the court, for cause shown, grants a continuance
7 of not more than 10 additional days;

8 B. Cause written notice of the petition and
9 hearing to be given personally or by mail to the
10 client who is the subject of the proceeding and
11 to the client's guardian, spouse, parent or adult
12 child, if any is known.

13 (1) If none of these persons is known or if
14 none can be located, the notice shall be
15 given to one of the client's next of kin or
16 to a next friend.

17 (2) A docket entry is sufficient evidence
18 that the notice has been given;

19 C. Unless waived by a client and his counsel,
20 cause the client who is the subject of the proceeding
21 to be examined by a professional.

22 (1) The client or his counsel may choose
23 the professional, if the professional he
24 chooses is reasonably available.

25 (2) The professional may not be the same
26 one who performed any part of the evaluation
27 required under section 5468 or who partici-
28 pated in the development of the prescriptive
29 program plan.

30 (3) Upon completion of the examination, the
31 professional shall report to the court his
32 opinion whether the client is mentally re-
33 tarded and therefore requires treatment,
34 stating his reasons for his opinion;

35 D. Appoint counsel for any indigent client not
36 already represented;

1 E. Furnish counsel with copies of the petition
2 and the reports of the court-appointed examiner;
3 and

4 F. Cancel the certification hearing if a parent
5 or guardian having legal custody of the person of
6 the client so requests.

7 Sec. 87. 34-B MRSA §5475, sub-§7, as enacted by
8 PL 1983, c. 459, §7, is amended to read:

9 7. Expenses. The Family Division of the Dis-
10 trict Court is responsible for any expenses incurred
11 under this section, including fees of appointed coun-
12 sel, witness fees and the expenses resulting from a
13 court-appointed examiner.

14 Sec. 88. 34-B MRSA §5475, sub-§8, ¶¶B and C, as
15 enacted by PL 1983, c. 459, §7, are amended to read:

16 B. Any findings of fact of the Family Division
17 of the District Court may not be set aside unless
18 clearly erroneous.

19 C. The order of the Family Division of the Dis-
20 trict Court shall remain in effect pending the
21 appeal.

22 Sec. 89. 34-B MRSA §5476, sub-§1, as repealed
23 and replaced by PL 1983, c. 580, §23, is amended to
24 read:

25 1. Application to the Family Division of the
26 District Court. If the chief administrative officer
27 of the facility determines that the admission of the
28 client pursuant to section 5473, subsection 2, is not
29 suitable, or if the client declines admission pursu-
30 ant to section 5473, subsection 2, the chief adminis-
31 trative officer may apply to the Family Division of
32 the District Court having territorial jurisdiction
33 over the facility for the issuance of an order of ju-
34 dicial commitment.

35 Sec. 90. 34-B MRSA §5476, sub-§4, ¶A, as enacted
36 by PL 1983, c. 580, §23, is amended to read:

1 A. Upon receipt by the ~~District Court~~ court of
2 the application and accompanying documents speci-
3 fied in this section, the court shall cause writ-
4 ten notice of the application:

5 (1) To be given personally or by mail to
6 the client within a reasonable time before
7 the hearing, but not less than 3 days before
8 the hearing; and

9 (2) To be mailed to the client's guardian,
10 if known, and to his spouse, his parent or
11 one of his adult children, or if none of
12 these persons exist or if none of them can
13 be located, to one of his next of kin or an
14 advocate.

15 Sec. 91. 34-B MRSA §5476, sub-§5, ¶A, as enacted
16 by PL 1983, c. 580, §23, is amended to read:

17 A. Upon receipt by the ~~District Court~~ court of
18 the application and the accompanying documents
19 specified in this section, the court shall forth-
20 with cause the client to be examined by 2 examin-
21 ers.

22 (1) Each examiner shall be either a li-
23 censed physician or a licensed clinical psy-
24 chologist.

25 (2) One of the examiners shall be a physi-
26 cian or psychologist chosen by the client or
27 by his counsel, if the chosen physician or
28 psychologist is reasonably available.

29 (3) Neither examiner appointed by the court
30 may be the certifying examiner under subsec-
31 tion 3, paragraph B or C.

32 Sec. 92. 34-B MRSA §5476, sub-§6, ¶¶A, G and H,
33 as enacted by PL 1983, c. 580, §23, is amended to
34 read:

35 A. The ~~District Court~~ court shall hold a hearing
36 on the application not later than 15 days from
37 the date of the application.

1 (1) On a motion by any party, the hearing
2 may be continued for cause for a period not
3 to exceed 10 additional days.

4 (2) If the hearing is not held within the
5 time specified, or within the specified con-
6 tinuance period, the court shall dismiss the
7 application and order the client discharged
8 forthwith.

9 (3) In computing the time periods set forth
10 in this paragraph, the District Court Rules
11 of Civil Procedure shall apply.

12 G. A stenographic or electronic record shall be
13 made of the proceedings in all judicial commit-
14 ment hearings.

15 (1) The record, all notes, exhibits and
16 other evidence shall be confidential.

17 (2) The record, all notes, exhibits and
18 other evidence shall be retained as part of
19 the Family Division of the District Court
20 records for a period of 2 years from the
21 date of the hearing.

22 H. The hearing shall be confidential. No report
23 of the proceedings may be released to the public
24 or press, except by permission of the client, or
25 his counsel and with approval of the presiding
26 ~~District Court Judge~~ judge, except that the court
27 may order a public hearing on the request of the
28 client or his counsel.

29 Sec. 93. 34-B MRSA §5476, sub-§7, as amended by
30 PL 1983, c. 763, is further amended to read:

31 7. Court findings. Procedures dealing with the
32 ~~District Court's~~ court's findings under this section
33 are as follows.

34 A. The ~~District Court~~ court shall so state in
35 the record, if it finds upon completion of the
36 hearing and consideration of the record:

1 (1) Clear and convincing evidence that the
2 client is mentally retarded and that his re-
3 cent actions and behavior demonstrate that
4 he poses a likelihood of serious harm;

5 (2) That judicial commitment to the facili-
6 ty is the best available means for treatment
7 or security of the client; and

8 (3) That it is satisfied with the individu-
9 al treatment plan offered by the facility.

10 B. If the ~~District Court~~ court makes the find-
11 ings described in paragraph A, subparagraphs 1
12 and 2, but is not satisfied with the individual
13 treatment plan offered, it may continue the case
14 for not longer than 10 days, pending reconsidera-
15 tion and resubmission of an individual treatment
16 plan by the facility.

17 Sec. 94. 34-B, MRSA §5476, sub-§§9,10, 11 and
18 12, as enacted by PL 1983, c. 580, §23, are amended
19 to read:

20 9. Continued judicial commitment. If the chief
21 administrative officer of the facility determines
22 that continued judicial commitment is necessary for a
23 person who has been ordered by the District Court to
24 be committed, he shall, not later than 30 days prior
25 to the expiration of a period of commitment ordered
26 by the court, make application in accordance with
27 this section to the Family Division of the District
28 Court which has territorial jurisdiction over the fa-
29 cility for a hearing to be held under this section.

30 10. Transportation. Unless otherwise directed
31 by the court, the sheriff of the county in which the
32 Family Division of the District Court has jurisdic-
33 tion and in which the hearing takes place shall pro-
34 vide transportation to any facility to which the
35 court has committed the person.

36 11. Expenses. With the exception of expenses
37 incurred by the applicant pursuant to subsection 6,
38 paragraph F, the Family Division of the District
39 Court shall be responsible for any expenses incurred
40 under this section, including fees of appointed coun-

1 sel, witness and notice fees and expenses of trans-
2 portation for the person.

3 12. Appeals. A person ordered by the Family Di-
4 vision of the District Court to be committed to the
5 facility may appeal from that order to the Superior
6 Court.

7 A. The appeal shall be on questions of law only.

8 B. Any findings of fact of the Family Division
9 of the District Court may not be set aside unless
10 clearly erroneous.

11 C. The order of the Family Division of the Dis-
12 trict Court shall remain in effect pending the
13 appeal.

14 D. The District Court Rules of Civil Procedure
15 and the Maine Rules of Civil Procedure apply to
16 the conduct of the appeals, except as otherwise
17 specified in this subsection.

18 Sec. 95. 34-B MRSA §5477, sub-§4, ¶C, as enacted
19 by PL 1983, c. 459, §7, is amended to read:

20 C. The application and accompanying certificate
21 shall be reviewed by a ~~Justice of the Superior~~
22 ~~Court~~, a Judge of the Family Division of the Dis-
23 trict Court or, if a Family Division Judge is not
24 available, by another Judge of the District
25 Court, Justice of the Superior Court, a Judge of
26 Probate or a complaint justice.

27 (1) If the judge or justice finds the ap-
28 plication and accompanying certificate to be
29 regular and in accordance with the law, he
30 shall endorse them.

31 (2) No person may be held against his will
32 in the facility under this subsection unless
33 the application and certificate have been
34 endorsed by a judge or justice, except that
35 a person for whom an examiner has executed
36 the certificate provided for under this sub-
37 section may be detained in a facility for as
38 long as is necessary to obtain the endorse-

1 ment by a judge or justice, if the person or
2 persons transporting the person to the fa-
3 cility undertake to secure the endorsement
4 forthwith upon execution of the certificate
5 by the examiner.

6 Sec. 96. 34-B MRSA §5478, sub-§2, as repealed
7 and replaced by PL 1983, c. 580, §26, is amended to
8 read:

9 2. Appointment of counsel. The ~~District Court~~
10 court shall appoint counsel for any indigent client
11 not already represented.

12 Sec. 97. 34-B MRSA 5478, sub-§3, as enacted by
13 PL 1983, c. 580, §26, is amended to read:

14 3. Waiver of judicial certification. A petition
15 to waive judicial certification under section 5475
16 may be filed in the Family Division of the District
17 Court by the client's counsel, who may waive judicial
18 certification under the following conditions.

19 A. A prescriptive program plan, as provided in
20 section 5470, has been agreed to by the superin-
21 tendent of the facility and the guardian;

22 B. The guardian has been informed of and under-
23 stands the nature, purpose and proposed duration
24 of the admission and the provisions of section
25 5480 regarding the client's right to leave and
26 the limitations on that right;

27 C. The guardian has consented to the continued
28 extended care and treatment of the client in the
29 facility; and

30 D. Continued care and treatment is necessary and
31 there is no less restrictive alternative to the
32 care and treatment provided by the facility, con-
33 sistent with the best interest of the client.

34 Sec. 98. 34-B MRSA §7005, sub-§1, as enacted by
35 PL 1983, c. 459, §7, is amended to read:

36 1. Court order required. A Family Division of
37 the District Court order authorizing sterilization is

1 required before the sterilization of any person de-
2 scribed in section 7004, subsection 2.

3 Sec. 99. 34-B MRSA §7007, sub-§§1 and 2, as en-
4 acted by PL 1983, c. 459, §7, are amended to read:

5 1. Petition submission. The petition for a de-
6 termination of ability to give informed consent shall
7 be submitted to the Family Division of the District
8 Court in the division of residence of the person
9 seeking sterilization or for whom sterilization is
10 sought.

11 2. Notice of hearing. Upon the receipt of a pe-
12 tition to determine informed consent, the Family Di-
13 vision of the District Court shall assign a time, not
14 later than 30 days thereafter, and a place for hear-
15 ing the petition. The court may, at its discretion,
16 hold the hearing on the petition at a place within
17 the county other than the usual courtroom if it would
18 facilitate the presence of the person seeking steri-
19 lization or for whom sterilization is sought.

20 Sec. 100. 34-B MRSA §7008, sub-§1, as enacted by
21 PL 1983, c. 459, §7, is amended to read:

22 1. Counsel. If the person seeking sterilization
23 or for whom sterilization is sought requests counsel
24 and cannot afford counsel, the court shall appoint
25 counsel to represent that person at public expense.
26 If the person is not represented by counsel and ap-
27 pears to the court unable to request counsel, the
28 court shall order that counsel be retained or shall
29 appoint counsel to represent the person at public ex-
30 pense if the person cannot afford counsel. A reason-
31 able fee shall be set for appointed counsel by the
32 ~~District Court~~ court. Counsel, or the person seeking
33 sterilization or for whom sterilization is sought,
34 may present evidence, call witnesses and cross-
35 examine witnesses who testify or present evidence at
36 any hearing on the petition.

37 Sec. 101. 34-B MRSA §7010, as enacted by PL
38 1983, c. 459, §7, is amended to read:

39 §7010. Determination of the best interests of a per-
40 son unable to give informed consent for
41 sterilization

1 The parent, spouse, guardian or custodian of any
2 person found unable to give informed consent for
3 sterilization may petition the Family Division of the
4 District Court, in the county of residence of the
5 person being considered for sterilization, to deter-
6 mine if sterilization is in the best interest of that
7 person. The court shall have sole jurisdiction and
8 authority to order that a sterilization procedure may
9 be performed when a person is incapable of giving in-
10 formed consent, as determined by the hearing required
11 in section 7008.

12 Sec. 102. 34-B MRSA §7013, sub-§§2, 6 and 7, as
13 enacted by PL 1983, c. 459, §7, are amended to read:

14 2. Presence of person; counsel; findings. The
15 person being considered for sterilization shall be
16 physically present throughout the entire best inter-
17 est hearing, unless that right is waived by the per-
18 son, personally or through his attorney, and that
19 waiver is approved by the court. The person being
20 considered for sterilization shall be represented by
21 counsel and provided the right and opportunity to be
22 confronted with and to cross-examine all witnesses.
23 The right to counsel may not be waived. If the per-
24 son cannot afford counsel, the court shall appoint an
25 attorney, not less than 20 days before the scheduled
26 hearing, to represent the person at public expense.
27 A reasonable fee shall be set for appointed counsel
28 by the ~~District Court~~ court. Counsel shall represent
29 the person being considered for sterilization in as-
30 suring that information and evidence in opposition to
31 sterilization without informed consent is fully
32 represented. All stages of the hearing shall be re-
33 corded by a tape recorder or a court reporter, as the
34 court may direct. In all cases, the court shall is-
35 sue written findings to support its decision.

36 6. Court order. If the court finds that steri-
37 lization is in the best interest of the person being
38 considered for sterilization, the court shall order
39 that sterilization may be performed. The steriliza-
40 tion procedure used shall be the most reversible pro-
41 cedure available at the time when, in the judgment of
42 the physician performing the sterilization, that pro-
43 cedure is not inconsistent with the health or safety
44 of his patient. If the court finds that steriliza-

1 tion is not in the best interest of the person being
2 considered for sterilization, the court shall order
3 that sterilization may not be performed, unless the
4 order is amended by a the Family Division of the Dis-
5 trict Court to permit sterilization.

6 7. Appeal. Appeal of a final order of a the
7 Family Division of the District Court shall be by
8 right in accordance with the Maine Rules of Civil
9 Procedure, except that, upon a finding of inability
10 to pay the required fees for an appeal, those fees
11 shall be waived. Pendency of an appeal of an order
12 under this section shall stay any order allowing
13 sterilization.

14 **Sec. 103. Effective date.** Sections 3 to 5, 14,
15 15, 17, 18, 20 to 24, 26 to 60, 62, 63, 64, 65, 69,
16 75, and 76 to 102 of this Act become effective on
17 January 1, 1987. Section 6 becomes effective on Janu-
18 ary 1, 1987, except that the Maine Revised Statutes,
19 Title 4, section 152-A, subsections 3 to 6 become ef-
20 fective 90 days after adjournment of the Legislature.
21 Sections 61, 66, 67, 68, 70, 71, 72, 73 and 74 become
22 effective on January 1, 1989.

23 STATEMENT OF FACT

24 This bill results from the work of the Family
25 Matters in Court Commission created by Private and
26 Special Law 1985, chapter 65.

27 Section 1 of the bill amends a provision of the
28 Maine Revised Statutes, Title 4, describing the au-
29 thority and responsibility of the Chief Justice of
30 the Supreme Judicial Court. The bill requires the
31 Chief Justice to appoint judges to the Family Divi-
32 sion of the District Court.

33 Section 2 enacts a new duty for the State Court
34 Administrator. The administrator is to establish a
35 uniform docket for the Family Division of the Dis-
36 trict Court and to assist with the scheduling of
37 courtrooms for use by the family division.

1 Sections 3 to 5 amend provisions of the Maine Re-
2 vised Statutes, Title 4, concerning District Court
3 jurisdiction to reflect the exclusive jurisdiction
4 over family matters given to the Family Division of
5 the District Court.

6 Section 6 establishes the Family Division of the
7 District Court. The family division is given juris-
8 diction over family matters, with the exception of
9 limited emergency jurisdiction given to other courts
10 in certain family cases. The position of Deputy
11 Chief Judge of the Family Division of the District
12 Court is created. Family division judges are to be
13 appointed from among District Court, Superior Court,
14 Probate Court and Administrative Court judges to
15 serve 2-year terms in the family division. A uniform
16 docket for family cases is to be used by the Family
17 Division of the District Court. All courtrooms of
18 the State are to be available for the scheduling of
19 family cases. Any family case may be referred to me-
20 diation. The use of guardians ad litem, court ap-
21 pointed special advocate volunteers, and other ser-
22 vices are to be explored by judges in family cases.
23 All family division judges are to attend an annual
24 conference on family matters. An advisory committee
25 of persons involved with family cases is created to
26 assist the Deputy Chief Judge of the Family Division.

27 Sections 7 to 9 create the position of Deputy
28 Chief Judge of the Family Division of the District
29 Court within the District Court laws of the Maine Re-
30 vised Statutes, Title 4.

31 Section 10 permits Judges and Active Retired
32 Judges of the Probate Court or Administrative Court,
33 and Justices and Active Retired Justices of the Supe-
34 rior Court, to be assigned to sit in the Family Divi-
35 sion of the District Court.

36 Section 11 requires appointment of specific
37 clerks to handle the docket of the Family Division of
38 the District Court.

39 Section 12 makes it clear that the facilities of
40 the Probate Court and Administrative Court are to be
41 available for the possible use of the Family Division
42 of the District Court. A current law already re-

1 quires Superior Court facilities to be available to
2 the District Court.

3 Section 13 requires the Chief Judge of the Dis-
4 trict Court to delegate the administrative responsi-
5 bility for the family division he deems appropriate
6 to the Deputy Chief Judge of the Family Division of
7 the District Court. This delegation includes, at a
8 minimum, the responsibility given to the Deputy Chief
9 Judge of the Family Division by law.

10 Section 14 permits the Probate Court to change
11 names of children as part of an adoption proceeding.
12 Petitions for changes of names of adults or minors,
13 apart from adoption proceedings, are to be heard by
14 the Family Division of the District Court.

15 Section 15 amends a provision of the Maine Re-
16 vised Statutes, Title 4, concerning the election of
17 Judges of Probate. This change is part of a transfer
18 to a system of full-time, appointed Probate Judges.
19 Section 15 also alters the handling of Probate Court
20 filing fees. When a county has an appointed Probate
21 Judge, whose salary is paid by the State, most prob-
22 ate fees are to be paid into the General Fund, with
23 a percentage of the fees retained by the county.

24 Section 16 establishes a Probate Court system
25 with full-time appointed Probate Judges. In estab-
26 lishing this system of full-time Probate Judges, sec-
27 tion 16 effectuates the repeal of the Constitution of
28 Maine, Article VI, section 6, which requires the
29 election of judges and registers of probate. From
30 1987 to 1988, 3 Probate Judges will be appointed by
31 the Governor to serve Cumberland, York, Kennebec,
32 Androscoggin, Franklin, Penobscot and Hancock Coun-
33 ties full time. In 1989, 3 more Probate Judges will
34 be appointed so that all 16 counties will be served
35 by full-time Probate Judges. These judges will be
36 members of the Judicial Department with salaries,
37 paid by the State, equivalent to those of District
38 Court Judges. One of the Probate Judges will be ap-
39 pointed to serve as Chief Judge of the Probate Court.

40 Sections 17 and 18 amend the Maine Revised Stat-
41 utes, Title 4, that concern elected Probate Judges.

1 Section 19 adds the Deputy Chief Judge of the
2 Family Division of the District Court and any other
3 Deputy Chief Judge of the District Court, to the mem-
4 bership of the Judicial Council. Section 19 also
5 provides for the Chief Judge of the Probate Court,
6 upon appointment, to represent the Probate Court on
7 the Judicial Council.

8 Section 20 places the advisory committee created
9 under section 6 within the required bill for boards
10 and commissions.

11 Sections 21, 22 and 23 give the Family Division
12 of the District Court jurisdiction over juvenile of-
13 fenses.

14 Section 24 gives the Family Division of the Dis-
15 trict Court jurisdiction over petitions to emancipate
16 minors.

17 Section 25 places the repealed provisions of the
18 Constitution of Maine concerning the election of reg-
19 isters of probate into law.

20 Sections 26 to 29 increase fees for the filing of
21 probate court actions.

22 Section 30 concerns payment, where applicable, of
23 probate fees to the State.

24 Section 31 gives primary jurisdiction over ac-
25 tions to waive the waiting period prior to marriage
26 to the Family Division of the District Court.

27 Section 32 gives jurisdiction over actions to
28 permit minors to marry to the Family Division of the
29 District Court.

30 Section 33 gives jurisdiction over actions aris-
31 ing from cautions to marriage to the Family Division
32 of the District Court.

33 Section 34 gives jurisdiction over actions to de-
34 termine parental rights and responsibilities when
35 parents are living apart to the Family Division of
36 the District Court and establishes a filing fee in
37 the law for these actions.

1 Sections 35 and 36 give jurisdiction over pater-
2 nity actions to the Family Division of the District
3 Court.

4 Sections 37 and 38 give jurisdiction over actions
5 for support of a spouse or child to the Family Divi-
6 sion of the District Court.

7 Sections 39, 40 and 41 give jurisdiction over ac-
8 tions under the Uniform Reciprocal Enforcement of
9 Support Act to the Family Division of the District
10 Court.

11 Section 42 gives jurisdiction over actions under
12 the Uniform Civil Liability for Support Act to the
13 Family Division of the District Court.

14 Section 43 raises the fee for filing a petition
15 for adoption in the Probate Court.

16 Sections 44 and 45 give jurisdiction over judi-
17 cial separation actions to the Family Division of the
18 District Court. Section 44 establishes a filing fee
19 in the law for these actions.

20 Sections 46 and 47 give jurisdiction over annul-
21 ment actions to the Family Division of the District
22 Court. Section 46 establishes a filing fee in the
23 law for these actions.

24 Sections 48, 49 and 50 give jurisdiction over di-
25 vorce actions to the Family Division of the District
26 Court. Section 49 establishes a filing fee in the
27 law for these actions.

28 Section 51 requires mediation of all divorce and
29 annulment actions prior to a contested hearing. If
30 the parties seek mediation services after entry of a
31 divorce or annulment order to interpret or implement
32 the order, the court shall provide these services
33 without requiring the filing of a motion to amend or
34 enforce the order.

35 Sections 52 to 55 give jurisdiction over protec-
36 tion from domestic abuse actions to the Family Divi-
37 sion of the District Court. Section 54 places lim-
38 ited emergency jurisdiction over these actions in the
39 Superior Court.

1 Section 56 gives jurisdiction over name change
2 petitions to the Family Division of the District
3 Court and raises the filing fee for these petitions.

4 Section 57 gives a definition for "court of this
5 State" in the Uniform Child Custody Jurisdiction Act
6 thereby giving jurisdiction over actions under this
7 Act to the Family Division of the District Court.

8 Section 58 gives jurisdiction over actions to en-
9 force truancy laws to the Family Division of the Dis-
10 trict Court.

11 Section 59 gives jurisdiction over child protec-
12 tion actions to the Family Division of the District
13 Court, with limited emergency jurisdiction in the Su-
14 perior Court.

15 Sections 60 to 75 repeal the county-paid salaries
16 of elected probate judges.

17 Sections 76 to 84 give jurisdiction over commit-
18 ments of mentally ill persons to the Family Division
19 of the District Court.

20 Sections 85 to 97 give jurisdiction over institu-
21 tionalization of mentally retarded persons to the
22 Family Division of the District Court.

23 Sections 98 to 102 give jurisdiction over actions
24 seeking sterilizations without informed consent to
25 the Family Division of the District Court.

26 Section 103 transfers jurisdiction over family
27 matters to the Family Division of the District Court
28 on January 1, 1987. It permits necessary administra-
29 tive activities to go forward 90 days after the Leg-
30 isature adjourns so that the Family Division of the
31 District Court may come into existence on January 1,
32 1987. Finally, it makes the repeal of the
33 county-paid salaries of elected probate judges effec-
34 tive for each county at the time the Probate Judge
35 becomes an appointed office for that county.

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