

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 (New Draft of H.P. 1655, L.D. 2332)
3 (New Title)
4 SECOND REGULAR SESSION
5

6 ONE HUNDRED AND TWELFTH LEGISLATURE
7

8 Legislative Document

No. 2398

9
10 H.P. 1703

House of Representatives, April 14, 1986

11 Reported by Representative Priest from the Committee on Judiciary and
12 printed under Joint Rule 2. Original bill submitted by Representative Kane of
So. Portland. Cosponsored by Senator Carpenter of Aroostook.

13 EDWIN H. PERT, Clerk

14
15 STATE OF MAINE
16

17 IN THE YEAR OF OUR LORD
18 NINETEEN HUNDRED AND EIGHTY-SIX
19

20 AN ACT to Provide Funding for the Court
21 Mediation Service through Fees.
22

23 **Emergency preamble.** Whereas, Acts of the Legis-
24 lature do not become effective until 90 days after
25 adjournment unless enacted as emergencies; and

26 Whereas, the Court Mediation Service is not pres-
27 ently performing divorce and small claims mediations;
28 and

29 Whereas, the inability of litigants to receive
30 mediation services poses a hardship in many cases;
31 and

32 Whereas, the provision of court fees to generate
33 funds that will facilitate the resumption of Court
34 Mediation Services will benefit these litigants by
35 permitting mediations to go forward; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 4 MRSA §18, sub-§6 is enacted to read:

10 6. Fees. When the court refers parties to the
11 Court Mediation Service after the filing of a com-
12 plaint or petition under Title 19, section 214 or
13 581, or Title 19, chapter 13, the court shall assess
14 the parties a \$60 fee to be apportioned equally be-
15 tween the parties, unless the court otherwise di-
16 rects. The court shall not assess the parties any
17 fees beyond the initial \$60 fee, unless one or both
18 of the parties files under Title 19, section 214 or
19 581, or Title 19, chapter 13, a motion to amend a fi-
20 nal decree, a motion to enforce a final decree or a
21 motion for contempt. When the court refers the par-
22 ties to the Court Mediation Service after the filing
23 under Title 19, section 214 or 581, or Title 19,
24 chapter 13, of a motion to amend a final decree, a
25 motion to enforce a final decree or a motion for con-
26 tempt, the court shall assess the parties another
27 \$60 fee to be apportioned equally between the par-
28 ties, unless the court otherwise directs.

29 A party may file an in forma pauperis application for
30 waiver of a fee established by this subsection. If
31 the court finds that the party does not have suffi-
32 cient funds to pay the fee, it shall order the fee
33 waived.

34 Sec. 2. 14 MRSA §7484, sub-§2-A is enacted to
35 read:

36 2-A. Filing fee. The fee for filing a statement
37 of claim commencing a small claims action shall be
38 \$20 for each defendant joined and to be served in the
39 action.

40 Sec. 3. 19 MRSA §214, sub-§4, as amended by PL
41 1985, c. 53, §1, is further amended to read:

1 4. Mediation. Prior to a contested hearing un-
2 der this section where there are minor children of
3 the parties, the court shall refer the parties to me-
4 diation; except that, for good cause shown, the
5 court, prior to referring the parties to mediation,
6 may hear motions for temporary relief, pending final
7 judgment on any issue or combination of issues for
8 which good cause for temporary relief has been shown.
9 Upon motion supported by affidavit, the court may,
10 for extraordinary cause shown, waive the mediation
11 requirement under this subsection. Any agreement
12 reached by the parties through mediation on any is-
13 sues shall be reduced to writing, signed by the par-
14 ties and presented to the court for approval as a
15 court order. When agreement through mediation is not
16 reached on any issue, the court must determine that
17 the parties made a good faith effort to mediate the
18 issue before proceeding with a hearing. If the court
19 finds that either party failed to make a good faith
20 effort to mediate, the court may order the parties to
21 submit to mediation, may dismiss the action or any
22 part of the action, may render a decision or judgment
23 by default, may assess attorney's fees and costs or
24 may impose any other sanction that is appropriate in
25 the circumstances. The court may also impose an ap-
26 propriate sanction upon a party's failure without
27 good cause to appear for mediation after receiving
28 notice of the scheduled time for mediation.

29 Sec. 4. 19 MRSA §581, sub-§4, as amended by PL
30 1985, c. 53, §2, is further amended to read:

31 4. Mediation. Prior to a contested hearing un-
32 der this section where there are minor children of
33 the parties, the court shall refer the parties to me-
34 diation; except that, for good cause shown, the
35 court, prior to referring the parties to mediation,
36 may hear motions for temporary relief, pending final
37 judgment on any issue or combination of issues for
38 which good cause for temporary relief has been shown.
39 Upon motion supported by affidavit, the court may,
40 for extraordinary cause shown, waive the mediation
41 requirement under this subsection. Any agreement
42 reached by the parties through mediation on any is-
43 sues shall be reduced to writing, signed by the par-
44 ties and presented to the court for approval as a
45 court order. When agreement through mediation is not

1 reached on any issue, the court must determine that
2 the parties made a good faith effort to mediate the
3 issue before proceeding with a hearing. If the court
4 finds that either party failed to make a good faith
5 effort to mediate, the court may order the parties to
6 submit to mediation, may dismiss the action or any
7 part of the action, may render a decision or judgment
8 by default, may assess attorney's fees and costs or
9 may impose any other sanction that is appropriate in
10 the circumstances. The court may also impose an ap-
11 propriate sanction upon a party's failure without
12 good cause to appear for mediation after receiving
13 notice of the scheduled time for mediation.

14 Sec. 5. 19 MRSA §752, sub-§4, as amended by PL
15 1985, c. 53, §4, is further amended to read:

16 4. Mediation. Prior to a contested hearing un-
17 der this section where there are minor children of
18 the parties, the court shall refer the parties to me-
19 diation; except that, for good cause shown, the
20 court, prior to referring the parties to mediation,
21 may hear motions for temporary relief, pending final
22 judgment on any issue or combination of issues for
23 which good cause for temporary relief has been shown.
24 Upon motion supported by affidavit, the court may,
25 for extraordinary cause shown, waive the mediation
26 requirement under this subsection. Any agreement
27 reached by the parties through mediation on any is-
28 sues shall be reduced to writing, signed by the par-
29 ties and presented to the court for approval as a
30 court order. When agreement through mediation is not
31 reached on any issue, the court must determine that
32 the parties made a good faith effort to mediate the
33 issue before proceeding with a hearing. If the court
34 finds that either party failed to make a good faith
35 effort to mediate, the court may order the parties to
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37 part of the action, may render a decision or judgment
38 by default, may assess attorney's fees and costs or
39 may impose any other sanction that is appropriate in
40 the circumstances. The court may also impose an ap-
41 propriate sanction upon a party's failure without
42 good cause to appear for mediation after receiving
43 notice of the scheduled time for mediation.

