

MAINE STATE LEGISLATURE

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(EMERGENCY)
(New Draft of H.P. 409, L.D. 543)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1348

H.P. 1002 House of Representatives, April 24, 1987
Reported by Representative MacBRIDE from the Committee on
Judiciary and printed under Joint Rule 2.

EDWIN H. PERT, Clerk
Original bill sponsored by Speaker MARTIN of Eagle Lake.
Cosponsored by Representative PARADIS of Frenchville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Amend the Marriage Prohibitions
2 Based on Consanguinity.
3

4 Emergency preamble. Whereas, Acts of the Legis-
5 lature do not become effective until 90 days after
6 adjournment unless enacted as emergencies; and

7 Whereas, the prohibition of marriages of first
8 cousins enacted 2 years ago changed the century-old
9 law of Maine; and

10 Whereas, the Legislature has determined that the
11 reestablishment of the traditional law permitting
12 marriages of first cousins is in the interest of the
13 State and its people; 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. 19 MRSA §31, as amended by PL 1985, c.
10 181, is repealed and the following enacted in its
11 place:

12 §31. Marriage prohibited and permitted within cer-
13 tain degrees

14 The following prohibitions and permissions apply
15 to marriages.

16 1. Prohibitions. No man may marry his mother,
17 grandmother, daughter, granddaughter, sister, brother's
18 daughter, sister's daughter, father's sister,
19 mother's sister, the daughter of his father's brother
20 or sister or the daughter of his mother's brother or
21 sister. No woman may marry her father, grandfather,
22 son, grandson, brother, brother's son, sister's son,
23 father's brother, mother's brother, the son of her
24 father's brother or sister or the son of her mother's
25 brother or sister.

26 2. Permissions. A man may marry the daughter of
27 his father's brother or sister or the daughter of his
28 mother's brother or sister, and a woman may marry the
29 son of her father's brother or sister or the son of
30 her mother's brother or sister, provided that the man
31 or woman shall provide the physician's certificate of
32 genetic counseling required by sections 61 and 62
33 prior to marriage.

34 Sec. 2. 19 MRSA §61, as amended by PL 1983, c.
35 686, §1, is further amended to read by adding after
36 the first paragraph a new paragraph to read:

37 If the parties recording notice of their inten-
38 tions to marry are related as described in section

1 31, subsection 2, the parties shall submit to the
2 clerk at the time of recording their intentions to
3 marry a certificate from a physician stating that the
4 parties have received genetic counseling from the
5 physician. The physician making the certification
6 required by this paragraph shall sign the certifi-
7 cate.

8 Sec. 3. 19 MRSA §62, as amended by PL 1983, c.
9 686, §2, is further amended to read:

10 §62. Certificate

11 On and after the 3rd day from the filing of no-
12 tice of intentions of marriage, except as otherwise
13 provided, the clerk shall deliver to the parties a
14 certificate specifying the time when such intentions
15 were entered with him. It shall be delivered to the
16 minister or magistrate before he begins to solemnize
17 the marriage, which shall be performed in the pres-
18 ence of at least 2 witnesses besides the clergyman or
19 magistrate officiating. No such certificate may be
20 issued to parties related as described in section 31,
21 subsection 2, unless the clerk has received from the
22 parties the physician's certificate of genetic coun-
23 seling required by section 61. No such certificate
24 may be issued to a male under 18 or to a female under
25 18 years of age, without the written consent of their
26 parents, guardians or persons to whom a court has
27 given custody of such minors first presented, if they
28 have any living. In the absence of persons qualified
29 to give consent, the Judge of Probate in the county
30 where such the minors reside may, after notice and
31 hearing, grant consent. When 2 licenses are required
32 and when either or both applicants for a marriage li-
33 cense are under the ages specified in this section,
34 the written consent shall be given for the issuance
35 of both licenses and such the written consent shall
36 be given in the presence of the clerk issuing the li-
37 cense or by acknowledgment under seal filed with such
38 clerk. No certificate may be issued to a person un-
39 der 16 years of age without the written consent of
40 that minor's parents, guardians, or persons to whom a
41 court has given custody of that minor first pre-
42 sented, if the minor has any living, and without that
43 clerk, having notified the Judge of Probate in the
44 county in which the minor resides of the filing of

1 these intentions, and having received in writing the
2 consent from the judge to issue the certificate. If
3 no written consent from the judge has been received
4 by the 10th day from the filing of notice of inten-
5 tions of marriage, consent shall be deemed to have
6 been received, and the clerk shall issue the certifi-
7 cate. The Judge of Probate may, in the interest of
8 public welfare, order that no such certificate shall
9 be issued. Any certificate is void if not used with-
10 in 60 days from the day the intentions are filed in
11 the office of the municipal clerks. Whoever con-
12 tracts a marriage or makes false representations to
13 procure the certificate provided for above or the
14 solemnization of marriage contrary to this chapter
15 shall forfeit \$100. The clerk of any town or his dep-
16 uty who intentionally violates this section or false-
17 ly states the residence of either party named in the
18 certificate shall forfeit \$20 for each offense.

19 **Emergency clause.** In view of the emergency cited
20 in the preamble, this Act shall take effect when ap-
21 proved.

22 **STATEMENT OF FACT**

23 The purpose of this new draft is to permit first
24 cousins to marry if they receive genetic counseling
25 from a physician.

26 Section 1 repeals and replaces the Maine Revised
27 Statutes, Title 19, section 31, to add a new subsec-
28 tion permitting first cousins to marry if they meet
29 the conditions prescribed in this new draft. Thus,
30 subsection 1 simply reenacts current law regarding
31 prohibitions on marriages between certain relatives.
32 Subsection 2 is new language concerning cousins.

1 Section 2 requires first cousins, at the time
2 their marriage intentions are recorded, to provide
3 town clerks with a physician's certificate of genetic
4 counseling. Under section 3, the clerk may not issue
5 a marriage license to first cousins unless the clerk
6 has received the required physician's certificate.

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