

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 426

H.P. 312

House of Representatives, February 23, 1989

Reference to the Committee on Aging, Retirement and Veterans suggested and ordered printed.

*Ed Pert*

EDWIN H. PERT, Clerk

Presented by Representative MELENDY of Rockland.

Cosponsored by Representative ALLEN of Washington, Representative CROWLEY of Stockton Springs and Senator HOLLOWAY of Lincoln.

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STATE OF MAINE

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

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**An Act to Provide Access to Retirement Benefits for Former Spouses of  
Members of the Armed Forces.**

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

3 19 MRSA §725-A is enacted to read:

5 §725-A. Military retirement benefits

7 1. Authorization for court action. If a decree of divorce  
9 does not provide for the disposition of retirement benefits, the  
11 former spouse of a member of the Armed Forces of the United  
13 States who has received such a decree may bring an action in the  
district court for the partition of benefits which the member  
spouse has received or to which the member spouse is or may be  
entitled, other than benefits for disability.

15 2. Specifics of court action. In any such action:

17 A. The doctrines of res judicata and collateral estoppel do  
not bar relief;

19 B. The member spouse may assert any available equitable  
21 defense;

23 C. The delay of the plaintiff in bringing the action is not  
25 a bar to relief, except to the extent that the doctrine of  
laches is shown to apply, and relief may be sought  
27 regardless of the data on which the decree was entered; and

29 D. The district court shall apply the law of this State  
applicable to the division of such benefits, regardless of  
31 the law of the jurisdiction in which the decree was entered.

33 3. When court has jurisdiction. The district court has no  
jurisdiction over the spouse who is or was a member of the Armed  
35 Forces, or over the payments received from the Armed Forces,  
unless the member spouse:

37 A. Is a resident of this State, other than by reason of an  
assignment by the Armed Forces;

39 B. Is domiciled in this State; or

41 C. Consents to the exercise of jurisdiction by the court at  
43 the time the decree of divorce is entered or at any time  
45 thereafter.

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## STATEMENT OF FACT

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In 1983, the United States Congress gave states the right to allocate a portion of a person's military retirement to that person's spouse upon a divorce. There was, however, no provision for persons divorced before 1983. This bill allows persons divorced from members of the Armed Forces before 1983 to bring a court action for partition of the member's retirement benefits.