

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 174

H.P. 129

House of Representatives, January 28, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative KETOVER of Portland.

Cosponsored by Representative FARNSWORTH of Hallowell, Representative PARADIS of Augusta and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

Resolve, to Review the Probate System of Maine.

(EMERGENCY)



2 **Emergency preamble.** Whereas, Acts and resolves of the
Legislature do not become effective until 90 days after
adjournment unless enacted as emergencies; and

4
6 Whereas, the study proposed by this resolve must be
completed in time for a report to be submitted to the Second
Regular Session of the 115th Legislature and, therefore, it is
8 essential that this study be initiated as soon as possible; and

10 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
12 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
14 safety; now, therefore, be it

16 **Sec. 1. Commission established. Resolved:** That the Commission
to Study the Probate System is established; and be it further

18 **Sec. 2. Commission membership. Resolved:** That the commission
20 consists of the following 9 members:

22 1. One Senator serving on the Joint Standing Committee on
the Judiciary, to be appointed by the President of the Senate;

24 2. Three members of the House of Representatives serving on
26 the Joint Standing Committee on the Judiciary, to be appointed by
the Speaker of the House of Representatives; and

28 3. Five other members appointed by the Governor, including:

30 A. Two attorneys whose practice includes matters of
32 probate; and

34 B. Three members of the general public who have familiarity
36 with the probate system, one of whom represents low-income
citizens.

38 The commission shall ask the Chief Justice of the Supreme
Judicial Court to designate a judge and a clerk from the Probate
40 Court to act as advisors to the commission; and be it further

42 **Sec. 3. Appointments; meeting. Resolved:** That all appointments
must be made no later than 30 days following the effective date
44 of this resolve. The Executive Director of the Legislative
Council must be notified by all appointing authorities once the
46 selections have been made. The Chair of the Legislative Council
shall call the first meeting of the commission. The commission
48 shall select a chair from its membership; and be it further

2 **Sec. 4. Duties. Resolved:** That the commission undertake a
3 study of the probate system in the State. As part of the study,
4 the commission shall examine the current probate code, the
5 probate courts and the following specific issues:

6 1. Adequate protection for all parties involved in adoption
7 matters;

8 2. Feasibility of a family court system;

10 3. Consistency in probate proceedings throughout the State;

12 4. Recorded proceedings in the probate courts;

14 5. Adequacy of the probate courts throughout the State; and

16 6. The adequacy of judges serving on a part-time basis.
18

19 The commission shall use past studies from the State and
20 other states during the examination of issues concerning the
21 probate courts and the feasibility of a family court system; and
22 be it further

23 **Sec. 5. Report. Resolved:** That the commission shall submit
24 its report, together with any necessary implementing legislation,
25 to the Second Regular Session of the 115th Legislature and to the
26 Office of the Executive Director of the Legislative Council by
27 November 1, 1991; and be it further
28

29 **Sec. 6. Staff assistance. Resolved:** That the commission may
30 request from the Legislative Council sufficient staff assistance
31 to carry out its duties; and be it further
32

33 **Sec. 7. Reimbursement. Resolved:** That the members of the
34 commission who are Legislators are entitled to the legislative
35 per diem, as defined in the Maine Revised Statutes, Title 3,
36 section 2, for days of attendance at commission meetings. All
37 members of the commission who are not state employees are
38 entitled to expenses, as defined in the Maine Revised Statutes,
39 Title 5, section 12002, upon application to the Executive
40 Director of the Legislative Council for those expenses.
41
42

43 **Emergency clause.** In view of the emergency cited in the
44 preamble, this resolve takes effect when approved.
45
46

47 **STATEMENT OF FACT**

48 This resolve establishes the Commission to Study the Probate
49 System.
50

51 The specific issues concerning the probate system to be
52 studied are adoption, feasibility of a family court system,

2 consistency in probate proceedings in the Probate Court, adequacy
of the probate courts throughout the State, adequacy of judges
4 serving on a part-time basis and review of the current probate
code.

6 The commission shall submit its report to the Second Regular
Session of the 115th Legislature in November 1991.