MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1016

H.P. 711

House of Representatives, March 11, 1991

Received by the Clerk of the House on March 7, 1991. Referred to the Committee on Aging, Retirement and Veterans and 1400 ordered printed pursuant to Joint Rule 14.

EDWIN H. PERT, Clerk

Presented by Representative FARNSWORTH of Hallowell.
Cosponsored by Representative CATHCART of Orono, Senator HOLLOWAY of Lincoln and Representative KETTERER of Madison.

STATE OF MAINE

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

An Act Relating to Distribution of Retirement Benefits in Divorce.



Be it enacted by the People of the State of Maine as follow	Be it	enacted	by	the	People	of the	State	of	'Mai	ine	as	follow
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- Sec. 1. 5 MRSA §17054, sub-§§1 and 2, as enacted by PL 1985, c. 801, §§5 and 7, are amended to read:
- 1. Retirement allowance available for child support. A member's retirement allowance shall—be—is available to satisfy any child support obligation which that is otherwise enforceable by execution, garnishment, attachment, assignment or other process; and
- 2. Accumulated contributions available for child support. A member's accumulated contributions, being refundable under sections 17705, 17706, 18306 and 18307 shall-be are available to satisfy any child support obligation which that is otherwise enforceable by execution, garnishment, attachment, assignment or other process.

Sec. 2. 5 MRSA §17054, sub-§§3 and 4 are enacted to read:

- 3. Retirement allowance available for property division. A member's retirement allowance is available to satisfy any court-ordered division of property incident to a divorce or judicial separation; and
- 4. Retirement allowance available for spousal support. A member's retirement allowance is available to satisfy any spousal support obligation that is otherwise enforceable by execution, garnishment, attachment, assignment or other process.

STATEMENT OF FACT

Federal pension law now requires all pension administrators to accept and enforce a court-ordered division of retirement benefits in divorce if the order meets certain requirements. The Maine State Retirement System is not subject to this federal law and, therefore, can refuse to abide by a judicially ordered division of retirement benefits. Because the Maine Revised Statutes, Title 5, section 17054 states that a member of the Maine State Retirement System may not have benefits subject to execution, garnishment or attachment and that a member's benefits are unassignable, except for child support, the administrators of the Maine State Retirement System believe it violative of the law if they accept a court order related to property distribution under Title 19, section 722-A or spousal support under Title 19, section 721.

This bill allows an administrator of the Maine State
Retirement System to accept and enforce a court-ordered retirement benefits division when the division ordered is incident to a divorce or judicial separation or it is necessary to satisfy a spousal support obligation.