

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1718

H.P. 1177

House of Representatives, April 25, 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 PARADIS of Augusta.

Cosponsored by Senator GAUVREAU of Androscoggin, Senator HOLLOWAY of Lincoln and Representative HANLEY of Paris.

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STATE OF MAINE

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

---

**An Act to Provide for Administrative Correction of Certain Errors and  
Inconsistencies in the Maine Revised Statutes and to Establish the  
Commission to Study Resolution of Conflicting Enactments.**

---

(EMERGENCY)

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

4  
Whereas, this bill provides a mechanism for remedying  
6 certain statutory errors during the annual update of the  
statutory data base; and

8  
Whereas, the bill also establishes a commission to study  
10 mechanisms for resolving conflicting enactments; and

12  
Whereas, the annual update will be well under way before the  
expiration of the 90-day period and the commission needs to begin  
14 work promptly in order to report back to the Second Regular  
Session; and

16  
Whereas, in the judgment of the Legislature, these facts  
18 create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
20 necessary for the preservation of the public peace, health and  
safety; now, therefore,

22  
Be it enacted by the People of the State of Maine as follows:

24  
PART A

26  
1 MRSA c. 4 is enacted to read:

28  
CHAPTER 4

30  
STATUTORY MAINTENANCE

32  
§91. Definitions

34  
As used in this chapter, unless the context otherwise  
36 indicates, the following terms have the following meanings.

38  
1. Conflicting enactments. "Conflicting enactments" means  
40 multiple enactments, amendments, repeals, reallocations or  
reenactments, or any combination of these actions, that affect  
42 the same statutory unit and that have been adopted by Acts of the  
Legislature that do not refer to each other.

44  
2. Executive director. "Executive director" means the  
46 Executive Director of the Legislative Council appointed under  
Title 3, section 162.

48  
3. Revisor. "Revisor" means the Revisor of Statutes, or  
50 the person under Title 3, section 162 who is responsible for the  
form and format of legislative instruments.

2           4. Revisor's change. "Revisor's change" means a change  
made in the course of update under the authority of section 93.

4           5. Revisor's report. "Revisor's report" means the  
post-update report made by the revisor pursuant to section 95.  
6           This report may be cited as Revisor's Report 19XX, §X or RR 19XX,  
§X.

8           6. Revision clause. "Revision clause" means a section of a  
10           law that is not allocated to the Maine Revised Statutes and that  
changes a term throughout the laws and instructs the revisor to  
12           implement the revision as part of update.

14           7. Statutory unit. "Statutory unit" means a title, chapter  
or section or a part of a title, chapter or section of the laws  
16           of Maine.

18           8. Update. "Update" means the process by which enactments,  
amendments, repeals, reallocations or reenactments from a  
20           legislative session or sessions are integrated into the statutory  
data base of the Maine Revised Statutes.

22           §92. Statutory data base; update

24           The executive director shall ensure that the legislative  
26           staff maintains a statutory data base that contains the text of  
the Maine Revised Statutes and the appropriate history of each  
28           statutory unit.

30           The revisor shall update the statutory data base at least  
annually after the close of each regular legislative session and  
32           may update the data base more frequently.

34           The Legislative Council shall adopt policies governing  
access to and publication of the data contained in the statutory  
36           data base.

38           §93. Administrative changes and corrections

40           The revisor may make the following changes or corrections,  
when the corrections do not alter the sense or meaning of the  
42           laws, without specific legislative action as part of the  
statutory data base update.

44           1. Misspellings. Misspelled words may be corrected.

46           2. Histories. Erroneous enacting clauses or statutory  
48           histories may be corrected.

50           3. Cross-references. Cross-references to statutory units  
may be changed to agree with renumbered or reallocated statutory  
52           units.

2        4. Obsolete dates. Obsolete temporal references may be  
3        removed.

4        5. Capitalization. Improper capitalization may be  
5        corrected.

6        6. Headnotes. Descriptive headings of titles, chapters,  
7        sections or subsections may be edited or added to briefly and  
8        clearly indicate the subject matter of the title, chapter,  
9        section or subsection.

10       7. Renumbering. The numbering of statutory elements,  
11       including duplicative numbering created by conflicting  
12       enactments, may be corrected or properly arranged.

13       8. Punctuation. Punctuation, including hyphenization, may  
14       be corrected.

15       9. Revision clauses. Changes in nomenclature or  
16       terminology authorized by a revision clause must be made in  
17       accordance with the instructions of the revision clause.

18       10. Typographical errors. Obvious clerical or  
19       typographical errors may be corrected.

20       Any change made by the revisor may not change the  
21       substantive meaning of any statutory unit. Any error or  
22       inadvertent substantive change made by the revisor must be  
23       construed as a clerical error and given no effect. If the  
24       revisor is in doubt whether a specific change is authorized by  
25       this section, the revisor may not make the change but shall  
26       incorporate the proposed change into the legislation authorized  
27       by section 94.

28       **§94. Omnibus errors and inconsistencies bill**

29       The revisor shall prepare legislation containing proposed  
30       changes and consolidations identified but not made under section  
31       93. The legislation may also contain any other statutory errors  
32       or inconsistencies identified by the revisor. The legislation  
33       must be submitted to the joint standing committee of the  
34       Legislature having jurisdiction over judiciary matters, with a  
35       copy to the executive director.

36       **§95. Report and publication**

37       The revisor shall submit an annual revisor's report  
38       containing a description of all changes made pursuant to section  
39       93 to the joint standing committee of the Legislature having  
40       jurisdiction over judiciary matters by October 1st of the year in  
41       which the changes have been made and shall provide copies of the  
42       changes.

2 report to the Secretary of State, to the executive director and  
3 to the publisher of the Maine Revised Statutes Annotated. The  
4 publisher shall incorporate the changes made in the report in all  
5 subsequent publications of the laws. The revisor's report must  
6 be published annually in the Laws of Maine.

7  
8 If the joint standing committee of the Legislature having  
9 jurisdiction over judiciary matters disagrees with any change  
10 contained in the revisor's report, the committee may instruct the  
11 revisor to make appropriate corrections during the next update,  
12 may amend the legislation authorized by section 94 to reverse the  
13 change or may report out legislation overriding any revisor's  
14 change.

## 16 PART B

18 **Sec. B-1. Commission established.** The Commission to Study  
19 Resolution of Conflicting Enactments is established.

20 **Sec. B-2. Commission membership.** The commission consists of  
21 the following members: 4 Legislators who are members of the  
22 Joint Standing Committee on the Judiciary, jointly appointed by  
23 the President of the Senate and the Speaker of the House of  
24 Representatives, 2 from the majority party and 2 from the  
25 minority party; the Attorney General or the Attorney General's  
26 designee; and one representative of the Maine State Bar  
27 Association appointed by the Governor. The Revisor of Statutes  
28 and the Director of the Office of Policy and Legal Analysis shall  
29 serve in an advisory capacity. The Chair of the Legislative  
30 Council shall request the Chief Justice of the Supreme Judicial  
31 Court to appoint a justice or judge to serve in an advisory  
32 capacity.

34 **Sec. B-3. Appointments; meetings.** All appointments must be  
35 made no later than 30 days following the effective date of this  
36 Act. The Executive Director of the Legislative Council must be  
37 notified by all appointing authorities once the selections have  
38 been made. The President of the Senate and the Speaker of the  
39 House of Representatives shall jointly appoint the chair of the  
40 commission.

42 **Sec. B-4. Duties.** The commission shall study whether  
43 administrative correction of errors and inconsistencies in the  
44 Maine Revised Statutes should be extended to conflicting  
45 enactments and whether there is a need to enact a statutory rule  
46 of construction to aid in the resolution of conflicting  
47 enactments.

50 In examining these questions, the commission may:

- 52 1. Meet up to 4 times in Augusta;

- 2            2. Hold informational sessions for discussions with knowledgeable persons;
- 4
- 6            3. Procure and analyze relevant data;
- 8            4. Conduct legal research and prepare opinions on legal questions within the scope of the study; and
- 10           5. Determine and summarize the legislative actions, statutes and rules adopted in other jurisdictions related to issues within the scope of the study.

14           **Sec. B-5. Staff assistance.** The commission shall request staffing assistance from the Legislative Council.

16           **Sec. B-6. Reimbursement.** The members of the commission who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, for each day's attendance of commission hearings.

22           **Sec. B-7. Report.** The commission shall submit its report together with any necessary implementing legislation to the Second Regular Session of the 115th Legislature no later than November 1, 1991.

26           **Sec. B-8. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

		1991-92
32	<b>JUDICIAL DEPARTMENT</b>	
34	<b>Courts - Supreme, Superior, District and Administrative</b>	
36		
38	Personal Services	\$600
	All Other	200
40	Provides funds for the per diem and expenses of an Active Retired Judge to replace the Judge or Justice acting as advisor to the Commission to Study Resolution of Conflicting Enactments.	
46	<b>JUDICIAL DEPARTMENT</b>	
	<b>TOTAL</b>	<b>\$800</b>

48           **LEGISLATURE**

50           **Commission to Study Resolution of**

2 **Conflicting Enactments**

2		
4	Personal Services	\$880
	All Other	1,700
6	Provides funds for the per diem of	
8	Legislative members and meeting expenses of	
	the Commission to Study Resolution of	
10	Conflicting Enactments.	
12	<b>LEGISLATURE</b>	
	<b>TOTAL</b>	<u>\$2,580</u>
14	<b>TOTAL APPROPRIATIONS</b>	<u>\$3,380</u>

16 **Emergency clause.** In view of the emergency cited in the  
18 preamble, this Act takes effect when approved.

20 **STATEMENT OF FACT**

22 This bill establishes an administrative mechanism for the  
24 correction of technical errors and inconsistencies in the Maine  
26 Revised Statutes. Errors such as spelling, history line errors,  
28 headnote changes, erroneous cross-references, renumbering of  
30 sections and the like can be corrected by the Office of the  
32 Revisor of Statutes during the annual update of the statutory  
34 data base. Implementation of nomenclature changes authorized by  
36 revision clauses can be accomplished at the same time. The bill  
specifies that administrative corrections are not to be made in  
doubtful cases, and sets up mechanisms to provide for legislative  
review and adequate publication and citation of these changes.  
The purpose is to provide for a more manageable errors bill  
process and to avoid the necessity of printing extensive  
legislative documents merely to change a term that appears in  
many places throughout the statutes.

38 The bill also establishes the Commission to Study Resolution  
40 of Conflicting Enactments to study whether administrative  
42 correction should be extended to resolution of conflicting  
enactments, and whether a rule of construction for conflicting  
amendments should be placed in the statutes.