

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1439

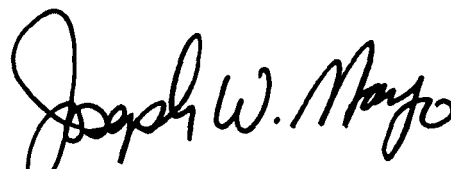
H.P. 1024

House of Representatives, April 27, 1995

An Act to Amend the Laws on Marital Property, to Provide for Alternative Dispute Resolution in Domestic Relation Matters and to Provide for the Recodification and Revision of the Maine Revised Statutes, Title 19.

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.
Cosponsored by Senator: MILLS of Somerset.

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

4 **Whereas,** the Maine Revised Statutes, Title 19 contains
6 archaic language and improper grammar and usage and is difficult
to use because of its organization; and

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

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

16 **Sec. 1. 19 MRSA §§753 and 754** are enacted to read:

18 **§753. Disposition of property**

20 **1. Disposition.** In a proceeding for dissolution of
22 marriage, in addition to all other remedies available to a court
to establish equity between the parties, or in a proceeding for
24 disposition of assets following a dissolution of marriage by a
court that lacked jurisdiction over the absent spouse or lacked
26 jurisdiction to dispose of the assets, the court shall set apart
to each spouse that spouse's nonmarital assets and shall
28 distribute between the parties the marital assets in equitable
proportions, after considering all relevant factors, including:

30 **A.** The contribution to the marriage by each spouse,
32 including contributions to the care and education of the
children and services as homemaker;

34 **B.** The economic circumstances and net holdings of the
36 parties at the time they were married;

38 **C.** The economic circumstances of the parties at the time
the division of property is to become effective, including
40 the desirability of awarding the family home or the right to
live in the family home for reasonable periods to the spouse
42 having custody of any children;

44 **D.** The duration of the marriage;

46 **E.** Any interruption of personal careers or educational
opportunities of either party;

48 **F.** The contribution of one spouse to the personal career or
50 educational opportunity of the other spouse;

2 G. The desirability of retaining any asset, including an
4 interest in a business, corporation or professional
 practice, intact and free from any claim or interference by
 the other party;

6 H. The contribution of each spouse to the acquisition,
8 enhancement and production of income or the improvement of
10 or the incurring of liabilities to both the marital assets
 and the nonmarital assets of the parties;

12 I. Whether any assets were acquired with nonmarital assets;
 and

14 J. Any other factors necessary to establish equity and
16 justice between the parties, including those factors
 enumerated in section 721, subsection 1.

18 2. Effect of judgment. The judgment distributing assets
20 has the effect of a duly executed instrument of conveyance,
22 transfer, release or acquisition that is recorded in the county
24 where the property is located when the judgment, a certified copy
 of the judgment or an abstract of the judgment is recorded in the
 official records of the county in which the property is located.

26 **§754. Court authority to approve alternative dispute resolution**
 processes

28 1. Appointment of referee. The court may appoint a referee
30 in any proceeding for paternity, divorce, judicial separation or
 modification of existing judgments brought under this Title:

32 A. When the parties agree the case may be tried before a
34 referee; or

36 B. Upon motion demonstrating exceptional circumstances that
 require a referee.

38 2. Referee's report. If all parties waive their right to
40 object to acceptance of the referee's report, the court shall
42 immediately enter judgment on the referee's report without a
 further hearing.

44 **Sec. 2. Preparation of recodification of the Maine Revised Statutes.**

46 The Office of the Revisor of Statutes and the Office of Policy
 and Legal Analysis shall jointly prepare a bill for submission by
48 the Joint Standing Committee on Judiciary to the Second Regular
 Session of the 117th Legislature that recodifies the Maine
50 Revised Statutes, Title 19. The Joint Standing Committee on
 Judiciary is authorized to report to the Second Regular Session

2 of the 117th Legislature one or more bills providing substantive
revisions of Title 19.

4 The Office of the Revisor of Statutes and the Office of
6 Policy and Legal Analysis shall invite the participation of the
following in preparing the recodification and suggested revisions:

8 1. The Family Law Section of the Maine State Bar
Association;

10 2. The Department of Human Services, Bureau of Child and
12 Family Services;

14 3. The Department of Human Services, Bureau of Income
Maintenance, Division of Support Enforcement and Recovery;

16 4. The Judicial Department; and

18 5. Any other individuals, agencies or organizations that
20 may contribute to the process of recodifying and proposing
possible revisions of Title 19.

22 The chairs of the Joint Standing Committee on Judiciary
24 shall appoint a subcommittee not to exceed 4 members of the
Judiciary Committee to oversee the preparation of the
26 legislation. The chairs shall appoint one member of the
subcommittee to serve as chair. The Office of the Revisor of
28 Statutes and the Office of Policy and Legal Analysis shall keep
the subcommittee apprised of the work pursuant to this Act. The
30 subcommittee may meet at the call of the subcommittee chair.

32 The subcommittee members may be reimbursed for expenses for
attending meetings of the subcommittee.

34 The Office of the Revisor of Statutes and the Office of
36 Policy and Legal Analysis shall provide a copy of legislation
drafted pursuant to this section to the members of the Joint
38 Standing Committee on Judiciary no later than November 1, 1995.

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

42
44 **STATEMENT OF FACT**

46 This bill provides standards for the distribution of marital
assets in a divorce. It also allows a court to send domestic
48 relations matters to an appointed referee, who will report back
to the court.

2 This bill requires the Office of the Revisor of Statutes and
the Office of Policy and Legal Analysis to prepare a bill for the
4 Second Regular Session of the 117th Legislature recodifying the
Maine Revised Statutes, Title 19. It also authorizes the Joint
6 Standing Committee on Judiciary to report out during the Second
Regular Session of the 117th Legislature a bill proposing
substantive revisions to Title 19. The offices must invite the
8 participation of interested organizations and agencies. The
chairs of the Joint Standing Committee on Judiciary shall appoint
10 a subcommittee, which may meet at the call of the chair of the
subcommittee, to oversee the preparation of the legislation. A
12 draft of the recodification must be submitted to the Joint
Standing Committee on Judiciary no later than November 1, 1995.