

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)

M
R.S.

L.D. 1842

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

DATE: 3/30/96

(Filing No. H- 897)

JUDICIARY

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842, Bill, "An Act to Recodify and Revise the Maine Revised Statutes, Title 19"

Amend the bill in Part A by inserting before section 1 the following:

Sec. A-1. 5 MRSA §12004-I, sub-§52-B is enacted to read:

<u>52-B.</u>	<u>Family Law</u>	<u>None</u>	<u>19 MRSA</u>
<u>Judiciary:</u>	<u>Advisory</u>	<u>Authorized</u>	<u>§2001</u>
<u>Family Law</u>	<u>Commission'</u>		

Further amend the bill in Part A in section 1 in subsection 9 in the first paragraph in the 4th line (page 1, line 11 in L.D.) by striking out the following: "necessary" and in the last line (page 1, line 20 in L.D.) by striking out the following: "necessary"

Further amend the bill in Part A in section 2, in the indented paragraph in the 8th line (page 2, line 16 in L.D.) by striking out the following: "necessary" and inserting in its place the following: '~~necessary~~' and in the 11th line (page 2, line 19 in L.D.) by striking out the following: "necessary" and inserting in its place the following: '~~necessary~~' and in the 6th line from the end (page 2, line 21 in L.D.) by striking out the following: "necessary" and in the 4th line from the end (page 2, line 23 in L.D.) by striking out the following: "necessary"

Further amend the bill in Part A in section 2 in the indented paragraph by striking out all of the last sentence (page

COMMITTEE AMENDMENT

R.S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2, lines 23 to 26 in L.D.) and inserting in its place the following: ~~'Aid-to-Families-with-Dependent-Children-benefits expended, pursuant to Title 22, chapter 1053, on behalf of the mother by the public authority shall be considered necessary support for the child.'~~

Further amend the bill in Part A, in section 3 in that part designated "§312." in the first paragraph in the last line (page 2, line 37 in L.D.) by striking out the following: "necessary"

Further amend the bill in Part A, in section 3 in that part designated "§315." in the first paragraph in the 2nd line (page 2, line 42 in L.D.) by striking out the following: "necessary"

Further amend the bill in Part A, in section 4 in subsection 1-A in the first line (page 3, line 1 in L.D.) by striking out the following: "necessary" and in the 2nd line (page 3, line 2 in L.D.) by striking out the following: "necessary" and in the last line (page 3, line 4 in L.D.) by striking out the following: "necessary"

Further amend the bill in Part A, in section 6 in that part designated "§448." in the first paragraph in the 8th line (page 3, line 20 in L.D.) by striking out the following: "necessary"

Further amend the bill in Part A, in section 7 in subsection 4 in the first line (page 3, line 30 in L.D.) by striking out the following: "necessary" and in the 2nd line (page 3, line 31 in L.D.) by striking out the following: "necessary" and in the 3rd line from the end (page 3, line 37 in L.D.) by striking out the following: "necessary" and in the last line (page 3, line 39 in L.D.) by striking out the following: "necessary"

Further amend the bill in Part A by striking out all of sections 8 and 9 and inserting in their place the following:

Sec. A-8. 19 MRSA §1111, sub-§2, as amended by PL 1995, c. 412, §7, is further amended to read:

2. Notification. If the judge finds from the affidavit of the birth mother that the putative father's whereabouts are known, the judge shall order that notice of the mother's intent to consent to adoption or to execute a surrender and release, or the mother's actual consent or surrender and release, for the purpose of adoption of the child, be served upon the putative father of the child. If the judge finds that the putative father's whereabouts are unknown, then the court shall order notice by publication in accordance with the Maine Rules of Civil Probate Procedure. If the birth mother does not know or refuses to tell the court who the birth father is, the court may order

R & S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 publication in accordance with the Maine Rules of Civil Probate
3 Procedure in a newspaper of general circulation in the area where
4 the petition is filed, where the birth mother became pregnant or
5 where the putative father is most likely to be located. The
6 notice must specify the names of the birth mother and the child.

7 **Sec. A-9. 19 MRSA §1111, sub-§2-A**, as enacted by PL 1995, c.
8 412, §8, is repealed and the following enacted in its place:

9 **2-A. Waiver of notice by putative father or legal father**
10 **who is not the biological father.** A putative father or a legal
11 father who is not the biological father may waive his right to
12 notice in a document acknowledged before a notary public or a
13 judge of probate. The notary public may not be an attorney who
14 represents either the mother or any person who is likely to
15 become the legal guardian, custodian or parent of the child.

16 **A. The waiver of notice must indicate that the putative**
17 **father or legal father understands that the waiver of notice**
18 **operates as a consent to adoption or a surrender and release**
19 **for the purposes of adoption for any adoption of the child,**
20 **and that by signing the waiver of notice the putative father**
21 **or legal father voluntarily gives up any rights to the named**
22 **child.**

23 **B. The waiver of notice may state that the putative father**
24 **or legal father neither admits nor denies paternity.**

25 **C. The legal father shall attach to the waiver of notice an**
26 **affidavit stating that, although he is the legal father, he**
27 **is not the biological father.**

28 **Sec. A-10. 19 MRSA 1111, sub-§7**, as enacted by PL 1993, c.
29 686, §5 and affected by §13, is amended to read:

30 **7. Adoptive study.** Upon order of the court, ~~either through~~
31 ~~its own caseworkers or through a licensed child placing agency,~~
32 the department or licensed child placing agency shall furnish
33 studies and reports relevant to the proceedings.

34 **Sec. A-11. 19 MRSA §1112, sub-§1**, as amended by PL 1995, c.
35 412, §10, is further amended to read:

36 **1. Surrender and release or consent to adopt.** With the
37 approval of the judge of probate of any county within the State
38 and after a determination by the judge that a surrender and
39 release or a consent is in the best interest of the child, the
40 parents or surviving parent of a child may at any time after the
41 child's birth:

42
43
44
45
46
47
48
49
50

R. W. S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 A. Surrender and release all parental rights to the child
and the custody and control of the child to a licensed child
4 placing agency or the department to enable the licensed
child placing agency or the department to have the child
6 adopted by some suitable person; or

8 B. Consent to have the child adopted by a specified
petitioner.

10 The parents or surviving parent must execute the surrender and
release or consent in the presence of the judge. The waiver of
12 notice by the father or putative father is governed by section
1111, subsection 2-A.

14 **Sec. A-12. 19 MRSA §1112, sub-§8**, as enacted by PL 1995, c.
16 412, §14, is repealed and the following enacted in its place:

18 **8. Reciprocity.** The court shall accept a consent or a
surrender and release by a court of comparable jurisdiction in
20 another state if the court receives an affidavit from a member of
that state's bar or a certificate from that court of comparable
22 jurisdiction stating that:

24 A. The person executing the consent or the surrender and
release followed the procedure required to make a consent or
26 a surrender and release valid in the state in which it was
executed; and

28 B. The court of comparable jurisdiction advised the person
30 executing the consent or the surrender and release of the
consequences of the consent or the surrender and release
32 under the laws of the state in which the consent or the
surrender and release was executed.

34 **Sec. A-13. 19 MRSA §1129, sub-§4**, as amended by PL 1995, c.
36 412, §26, is further amended to read:

38 **4. Notice upon completion.** Upon completion of an adoption
proceeding, the birth parents who consented to an adoption or who
40 executed a surrender and release must be notified of the
completion by regular mail at their last known address. A notice
42 under this subsection is not required to a biological parent who
is also a petitioner. When the birth parents' rights have been
44 terminated pursuant to Title 22, section 4055, the notice must be
given to the department and the department shall notify the birth
46 parents of the completion by regular mail at their last known
address. Actual receipt of the notice is not a precondition of
48 completion and does not affect the rights or responsibilities of
adoptees or adoptive parents.

50 **Sec. A-14. 19 MRSA c. 25** is enacted to read:

COMMITTEE AMENDMENT

R. of S.

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

CHAPTER 25

FAMILY LAW ADVISORY COMMISSION

§2001. Commission established

The Family Law Advisory Commission, established in Title 5, section 12004-I, subsection 52-B and referred to in this chapter as the "commission," is created for the purpose of conducting a continuing study of the family laws of this State.

§2002. Membership; terms; vacancies

1. Membership. The commission is composed of 9 members appointed by the Chief Justice of the Supreme Judicial Court. The members must have experience in practicing family law or be knowledgeable about family law. The membership of the commission must include:

- A. An active Superior Court Justice;
- B. An active District Court Judge;
- C. A current Probate Court Judge;
- D. Two members of the family law section of the Maine State Bar Association, or its successor;
- E. A representative of a legal services organization;
- F. A representative of the department; and
- G. Two public members, at least one of whom has experience in providing mental health services.

2. Terms. A member is appointed for a term of 2 years and may be reappointed.

3. Vacancies. In the event of the death or resignation of a member, the Chief Justice of the Supreme Judicial Court shall appoint a qualified person for the remainder of the term.

§2003. Consultants; experts

Whenever it considers appropriate, the commission shall seek the advice of consultants or experts, including representatives of the legislative and executive branches of State Government, in fields related to its duties.

R. 4/8

§2004. Duties

2

1. Examine, evaluate and recommend. It is the duty of the commission:

4

6

A. To examine the sections of this Title that pertain to family law and to draft amendments to those sections that the commission considers advisable;

8

10

B. To evaluate the operation of this Title and to recommend amendments based on the evaluation;

12

14

C. To examine current laws pertaining to family law pleadings and to recommend changes based on the examination; and

16

18

D. To examine any other aspects of the State's family law, including substantive, procedural and administrative matters, that the commission considers relevant.

20

22

2. Propose changes. The commission may propose to the Legislature, at the start of each session, changes in family laws and in related provisions as the commission considers appropriate. The commission may also make recommendations to the Judicial Council, the Advisory Committee on Criminal Rules, the Advisory Committee on Civil Rules and to any other organization or committee whose affairs pertain to family law and its practice in this State.

24

26

28

30

§2005. Organization; staff

32

The Chief Justice of the Supreme Judicial Court shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a chair, vice-chair and secretary-treasurer from its membership and adopt rules governing the administration of the commission and its affairs. The commission shall maintain financial records as required by the State Auditor.

34

36

38

40

§2006. Federal funds

42

The commission may accept federal funds on behalf of the State.

44

46

Sec. A-15. Study. The Family Law Advisory Commission shall conduct a study of the statutes and practices of awards and allocations concerning parental rights and responsibilities.

48

50

1. Content of study. The study must include an examination of the following:

R. 015

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

- 2 A. Equal consideration and treatment of mothers and fathers
3 as primary care providers;
- 4
- 5 B. Appropriate consideration and consequences of the
6 relocation or intended relocation of the primary care
7 provider to a place that disrupts the child's relationship
8 with the other parent as well as the child's relationship
9 with friends, school, community and other family;
- 10
- 11 C. Whether the importance of the roles of the mother and
12 the father in a child's life is recognized in law and
13 practice; and
- 14
- 15 D. Any other issues relating to parental rights and
16 responsibilities, including child support, visitation and
17 enforcement of court orders concerning parental rights and
18 responsibilities.

20 **2. Study protocol.** The Family Law Advisory Commission
21 shall adopt a study protocol that allows contribution to the
22 study process by members of the public, other interested persons
23 and recognized experts.

24

25 **3. Drafting assistance.** The Family Law Advisory Commission
26 may request assistance from the Legislative Council in drafting
27 recommendations of legislation.

28

29 **4. Report.** The Family Law Advisory Commission shall submit
30 a report, including any necessary implementing legislation, to
31 the Legislature and the joint standing committee of the
32 Legislature having jurisdiction over judiciary matters by
33 December 15, 1996 for consideration in the First Regular Session
34 of the 118th Legislature. The report must include a summary of
35 the study process, a list of participants and any
36 recommendations, including any necessary implementing
37 legislation.'

38

39 Further amend the bill in Part B in section 2 in that part
40 designated "**§102.**" in the first paragraph in the 4th line (page
41 6, line 46 in L.D.) by inserting after the following: "this State
42 or" the following: 'the spouse of that member or'

43

44 Further amend the bill in Part B in section 2 by inserting
45 after that part designated "**§102.**" the following:

46 '**§103. Jurisdiction**

48

COMMITTEE AMENDMENT

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Except as otherwise expressly provided, the District Court
3 has original jurisdiction, concurrent with the Superior Court, of
4 all actions under this Title.'

6 Further amend the bill in Part B in section 2 in that part
7 designated "~~§251.~~" in subsection 2 in the 2nd line (page 7, line
8 18 in L.D.) by striking out the following: "27 or chapter 29" and
9 inserting in its place the following: "27, chapter 29, chapter 55
10 or chapter 63'

12 Further amend the bill in Part B in section 2 in that part
13 designated "~~§352.~~" in subsection 1 in the first line (page 8,
14 line 43 in L.D.) by striking out the following: "7" and inserting
15 in its place the following: '9'

16 Further amend the bill in Part B in section 2 in that part
17 designated "~~§352.~~" in subsection 1 by striking out all of
18 paragraphs E and F (page 9, lines 7 to 10 in L.D.) and inserting
19 in their place the following:

20 'E. A representative of a legal services organization;

22 F. A representative of the department; and

24 G. Two public members, at least one of whom has experience
25 providing mental health services.'

28 Further amend the bill in Part B in section 2 by striking
29 out all of that part designated "~~§356.~~"

30 Further amend the bill in Part B in section 2 in that part
31 designated "~~§651.~~" in subsection 4 in the first line (page 14,
32 line 24 in L.D.) by striking out the following: "filing" and
33 inserting in its place the following: 'recording' and in the 3rd
34 line (page 14, line 26 in L.D.) by striking out the following:
35 "notice" and inserting in its place the following: 'application'

38 Further amend the bill in Part B in section 2 in that part
39 designated "~~§652.~~" in subsection 2 in the 2nd line (page 15, line
40 10 in L.D.) by striking out the following: "certificate" and
41 inserting in its place the following: 'license'

42 Further amend the bill in Part B in section 2 in that part
43 designated "~~§652.~~" by striking out all of subsection 5.

46 Further amend the bill in Part B in section 2 in that part
47 designated "~~§652.~~" by renumbering the subsections to read
48 consecutively.

R. W. S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 in that part
designated "~~§656.~~" by striking out all of subsection 3.

4 Further amend the bill in Part B in section 2 in that part
designated "~~§659.~~" in subsection 4 in the last line (page 20,
6 line 35 in L.D.) by striking out the following: "~~§100~~" and
8 inserting in its place the following: '~~§20~~'

10 Further amend the bill in Part B in section 2 in that part
designated "~~§851.~~" by striking out all of subsection 1 and
12 inserting in its place the following:

14 '1. Grounds. A person may file a petition for judicial
separation if:

16 A. The person's spouse, without just cause, deserts the
18 person, and the desertion has continued for at least 60 days
immediately before the filing of the petition; or

20 B. The person, with just cause, is actually living apart
22 from the spouse and has lived apart from the spouse for at
least 60 days immediately before the filing of the petition.

24 If the person is mentally ill, the person's guardian or next
26 friend may file the petition.'

28 Further amend the bill in Part B in section 2 in that part
designated "~~§851.~~" in subsection 2 in the first line (page 25,
30 line 22 in L.D.) by striking out the following: "~~;~~ fee"

32 Further amend the bill in Part B in section 2 in that part
designated "~~§851.~~" in subsection 2 by striking out all of the
34 blocked paragraph (page 25, line 31 in L.D.)

36 Further amend the bill in Part B in section 2 in that part
designated "~~§851.~~" by inserting after subsection 2 the following:

38 '3. Order. The court may enter an order stating that the
40 person is deserted or living apart and may prohibit the spouse
during such time as the court may by order direct.'

42 Further amend the bill in Part B in section 2 in that part
44 designated "~~§851.~~" by striking out all of subsections 5 to 11.

46 Further amend the bill in Part B in section 2 in that part
designated "~~§851.~~" in subsection 12 in the 4th line (page 28,
48 line 10 in L.D.) by striking out the following: "~~alimony~~" and
50 inserting in its place the following: 'spousal support'

R. W. S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 in that part
designated "§851." by renumbering the subsections to read
consecutively.

4
6 Further amend the bill in Part B in section 2 in that part
designated "§904." in subsection 6 in the 4th line (page 36, line
26 in L.D.) by striking out the following: "a husband" and
8 inserting in its place the following: 'either spouse' and in the
last line (page 36, line 27 in L.D.) by striking out the
10 following: "alimony" and inserting in its place the following:
'spousal support'

12
14 Further amend the bill in Part B in section 2 in that part
designated "§953." in subsection 5 in the 4th line (page 41, line
17 in L.D.) by inserting after the following: "fee" the
16 following: 'after the clerk has prepared or approved the abstract'

18 Further amend the bill in Part B in section 2 in that part
designated "§1503." in the first paragraph in the 2nd line (page
20 44, line 12 in L.D.) by striking out the following: "natural" and
inserting in its place the following: 'biological'

22
24 Further amend the bill in Part B in section 2 in that part
designated "§1552." in the indented paragraph in the 3rd line
from the end (page 48, line 17 in L.D.) by striking out the
26 following: "necessary"

28 Further amend the bill in Part B in section 2 in that part
designated "§1553." in the first paragraph in the 8th line (page
30 48, line 30 in L.D.) by striking out the following: "necessary"
and in the 11th line (page 48, line 33 in L.D.) by striking out
32 the following: "necessary" and in the 13th line (page 48, line
35 in L.D.) by striking out the following: "necessary" and in the
34 14th line (page 48, line 36 in L.D.) by striking out the
following: "necessary"

36
38 Further amend the bill in Part B in section 2 in that part
designated "§1553." in the first paragraph by striking out all of
the last underlined sentence (page 48, lines 37 to 40 in L.D.)

40
42 Further amend the bill in Part B in section 2 in that part
designated "§1554." in the first paragraph in the first line
(page 49, line 2 in L.D.) by striking out the following:
44 "necessary"

46 Further amend the bill in Part B in section 2 in that part
designated "§1556." in the indented paragraph in the 4th line
48 (page 49, line 21 in L.D.) by striking out the following:
"necessary" and in the 7th line (page 49, line 24 in L.D.) by
50 striking out the following: "necessary"

RWS

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 in that part
designated "~~§1606.~~" in subsection 4 in the first line (page 57,
4 line 18 in L.D.) by striking out the following: "Reimbursement"
and inserting in its place the following: 'Past support'

6
8 Further amend the bill in Part B in section 2 in that part
designated "~~§1606.~~" in subsection 4 in the 2nd line (page 57,
line 19 in L.D.) by striking out the following: "necessary" and
10 in the 3rd line from the end (page 57, line 25 in L.D.) by
striking out the following: "necessary" and in the 2nd line from
12 the end (page 57, line 26 in L.D.) by striking out the following:
"necessary"

14
16 Further amend the bill in Part B in section 2 in that part
designated "~~§1611.~~" in subsection 1 in the 6th line (page 59,
line 24 in L.D.) by inserting after the following: "blood" the
18 following: 'or tissue-typing'

20 Further amend the bill in Part B in section 2 in that part
designated "~~§1653.~~" by striking out all of subsection 5 and
22 inserting in its place the following:

24 '5. Departure from family residence. The court may not
consider departure from the family residence as a factor in
determining parental rights and responsibilities with respect to
a minor child when the departing parent has been physically
harmed or seriously threatened with physical harm by the other
parent and that harm or threat of harm was causally related to
the departure, or when one parent has left the family residence
by mutual agreement or at the request or insistence of the other
parent.'

34 Further amend the bill in Part B in section 2 in that part
designated "~~§1653.~~" in subsection 8 in paragraph A by striking
36 out all of the 2nd sentence (page 66, lines 45 to 46 in L.D.) and
inserting in its place the following: "In an action filed under
section 1654, the court may require the child's nonprimary care
provider to pay past support."

40
42 Further amend the bill in Part B in section 2 in that part
designated "~~§1653.~~" in subsection 8 in paragraph A in the 4th
line (page 66, line 46 in L.D.) by striking out the following:
44 "necessary"

46 Further amend the bill in Part B in section 2 in that part
designated "~~§1653.~~" in subsection 8 in paragraph A in the 2nd
48 line from the end (page 67, line 5 in L.D.) by striking out the
following: "part necessary" and inserting its place the
50 following: 'past'

2013

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 in that part
designated "§1653." in subsection 8 in paragraph B in the first
4 and 2nd lines (page 67, lines 8 and 9 in L.D.) by striking out
the following: "the court may order either parent to provide
6 child support" and inserting in its place the following: 'if the
court orders either parent to provide child support, the court
8 order must require that the child support be provided'

10 Further amend the bill in Part B in section 2 in that part
designated "§1653." in subsection 12 by striking out all of the
12 blocked paragraph (page 68, lines 24 to 29 in L.D.)

14 Further amend the bill in Part B in section 2 in that part
designated "§1653." by inserting after subsection 12 the
16 following:

18 '13. Automatic adjustments. The order of the court or
hearing officer may include automatic adjustments to the amount
20 of money paid for the support of a child when the child attains
12 or 18 years of age; or when the child graduates, withdraws or
22 is expelled from secondary school, attains 19 years of age or is
otherwise emancipated, whichever occurs first.'

24 Further amend the bill in Part B in section 2 by striking
out all of that part designated "§1654." and inserting in its
26 place the following:

28 '§1654. Parenting and support when parents live apart

30
32 If the father and mother of a minor child are living apart,
the Probate Court, Superior Court or District Court in the county
34 or division where either resides, upon complaint of either and
after notice to the other as the court may order, may make an
36 order awarding parental rights and responsibilities with respect
to the child in accordance with this chapter.

38 The jurisdiction granted by this section is limited by the
Uniform Child Custody Jurisdiction Act, if another state may have
40 jurisdiction as provided in that Act.'

42 Further amend the bill in Part B in section 2 by striking
out all of that part designated "§1655." (page 69, lines 1 to 18
44 in L.D.) and inserting in its place the following:

46 '§1655. Support and maintenance when parental rights and
responsibilities or contact awarded to agency or person
48 other than parent

R. 013

2 1. Department granted parental rights and responsibilities
3 or contact awarded. When the department has been granted
4 parental rights and responsibilities for a child under this
5 chapter, Title 22, chapter 1071 applies regarding subsequent
6 reviews and governs further rights and responsibilities of the
7 department, the parents, the child and any other party.

8 2. Modification of orders. Upon the motion of an agency or
9 person who has been granted parental rights and responsibilities
10 or contact with respect to a child under this chapter, the court
11 may alter its order concerning parental rights and
12 responsibilities or contact with respect to a minor child as
13 circumstances require in accordance with section 1657.

14 3. Support of child committed to agency. When a child
15 under 17 years of age is committed by the District Court, or the
16 District Court acting as a Juvenile Court, to custody other than
17 that of the child's parent, that commitment is subject to Title
18 22, sections 4038, 4061 and 4063. The court may, after giving a
19 parent a reasonable opportunity to be heard, adjudge that the
20 parent shall pay, in a manner as the court may direct, a sum that
21 covers in whole or in part the support of that child. If that
22 parent fails to pay that sum, that parent may be proceeded
23 against as provided in chapter 65. A determination or
24 modification of child support under this section must comply with
25 chapter 63.'

26
27 Further amend the bill in Part B in section 2 by striking
28 out all of that part designated "~~§1656.~~" (page 69, lines 20 to 32
29 in L.D.) and inserting in its place the following:

30
31 '§1656. Exclusion of public

32
33 In an action for parental rights and responsibilities under
34 this chapter, at the request of either party, personally or
35 through that party's attorney, unless the other party who has
36 entered an appearance objects personally or through the other
37 party's attorney, the court shall exclude the public from the
38 court proceedings.

39
40 If the court orders that the public is to be excluded, only
41 the parties, their attorneys, court officers and witnesses may be
42 present.'

43
44 Further amend the bill in Part B in section 2 in that part
45 designated "~~§1657.~~" in subsection 2 in paragraph B in the last
46 line (page 70, line 9 in L.D.) by striking out the following:
47 "custody determination" and inserting in its place the
48 following: 'determination of primary residence'

49
50

RMS

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 by striking
out all of that part designated "~~§1658.~~" (page 70, lines 18 to 29
in L.D.).

4
6 Further amend the bill in Part B in section 2 in that part
designated "~~§2002.~~" in the indented paragraph in the last line
(page 88, line 27 in L.D.) by striking out the following:
8 "necessary"

10 Further amend the bill in Part B in section 2 in that part
designated "~~§2005.~~" in the indented paragraph in the 2nd line
12 (page 89, line 38 in L.D.) by striking out the following:
"necessary"

14
16 Further amend the bill in Part B in section 2 in that part
designated "~~§2006.~~" by striking out all of subsection 2 (page 90,
lines 14 to 17 in L.D.) and inserting in its place the following:

18
20 '2. Past support. This chapter applies to an award of past
support. Past support is calculated by applying the current
support guidelines to the period for which past support is owed.'

22
24 Further amend the bill in Part B in section 2 in that part
designated "~~§2102.~~" in the indented paragraph in the 7th line
(page 101, line 3 in L.D.) by striking out the following:
26 "necessary"

28 Further amend the bill in Part B in section 2 in that part
designated "~~§2103.~~" in subsection 6 in the 3rd line (page 102,
30 line 30 in L.D.) by striking out the following: "necessary"

32 Further amend the bill in Part B in section 2 in that part
designated "~~§2201.~~" by inserting after subsection 14 the
34 following:

36 '15. Program review. In furtherance of the public policy
of increasing collection of child support, the department shall
38 report the following to the Legislature and the Governor on
January 31, 1999 and biennially thereafter:

40
42 A. The number of support obligors identified as licensees
subject to this section;

44 B. The number of support obligors identified by the
department under this section who are not in compliance with
46 a court order of support; and

48 C. The number of actions taken by the department under this
section and the results of those actions.'

50

R.A.S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 in that part
designated "§2202." by inserting after subsection 11 the
following:

4
6 '12. Program review. In furtherance of the public policy
of increasing collection of child support, the department shall
report the following to the Legislature and the Governor on
8 January 31, 1999 and biennially thereafter:

10 A. The number of notices served upon support obligors by
the department under this section;

12 B. The number of obligors served notice under this section
14 who request a hearing;

16 C. The number of hearings held under this section, the
18 results of the hearings and the number of cases settled
without a hearing;

20 D. The number of support obligors certified to the
22 Secretary of State for noncompliance with a court order of
support under this section; and

24 E. The costs incurred in the implementation and enforcement
26 of this section and the department's estimate of the amount
of child support collected due to the department's actions
28 under this section.'

30 Further amend the bill in Part B in section 2 in that part
designated "§2203." in subsection 1 in the 3rd line from the end
(page 115, line 42 in L.D.) by inserting after the following:
32 "chapter 53," the following: 'chapter 55,'

34 Further amend the bill in Part B in section 2 in that part
designated "§2203." in subsection 13 in the 3rd line from the end
36 (page 119, line 10 in L.D.) by inserting after the following:
"chapter 53," the following: 'chapter 55,'

38
40 Further amend the bill in Part B in section 2 in that part
designated "§2301." in subsection 1 in paragraph A in the 4th
line (page 123, line 10 in L.D.) by striking out the following:
42 "necessary"

44 Further amend the bill in Part B in section 2 in that part
designated "§2304." in the headnote in the 2nd line (page 124,
46 line 44 in L.D.) by striking out the following: "necessary"

48 Further amend the bill in Part B in section 2 in that part
designated "§2304." in the indented paragraph in the 4th line

R 218

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 (page 124, line 50 in L.D.) by striking out the following:
"necessary"

4 Further amend the bill in Part B in section 2 in that part
designated "~~§2304.~~" in the indented paragraph in the 4th line
6 from the end (page 125, line 17 in L.D.) by striking out the
following: "necessary"

8 Further amend the bill in Part B in section 2 in that part
10 designated "~~§2304.~~" in subsection 1 in paragraph B in the 3rd
line (page 125, line 32 in L.D.) by striking out the following:
12 "necessary"

14 Further amend the bill in Part B in section 2 in that part
designated "~~§2304.~~" in subsection 1 in paragraph D in the 4th
16 line from the end (page 125, line 44 in L.D.) by striking out the
following: "necessary"

18 Further amend the bill in Part B in section 2 in that part
20 designated "~~§2304.~~" in subsection 1 in paragraph I in the 2nd
line (page 126, line 22 in L.D.) by striking out the following:
22 "necessary"

24 Further amend the bill in Part B in section 2 in that part
designated "~~§2304.~~" in subsection 2 in the 5th line (page 126,
26 line 30 in L.D.) by striking out the following: "necessary"

28 Further amend the bill in Part B in section 2 in that part
designated "~~§2304.~~" in subsection 2 in the 10th line (page 126,
30 line 35 in L.D.) by striking out the following: "necessary"

32 Further amend the bill in Part B in section 2 in that part
designated "~~§2304.~~" in subsection 2 in paragraph D in the 2nd
34 line (page 127, line 16 in L.D.) by striking out the following:
"necessary"

36 Further amend the bill in Part B in section 2 in that part
38 designated "~~§2304.~~" in subsection 3 in paragraph B in the 2nd
line (page 127, line 30 in L.D.) by striking out the following:
40 "necessary"

42 Further amend the bill in Part B in section 2 in that part
designated "~~§2304.~~" in subsection 4 in paragraph A in the 3rd
44 line (page 128, line 27 in L.D.) by striking out the following:
"necessary"

46 Further amend the bill in Part B in section 2 in that part
48 designated "~~§2304.~~" in subsection 4 in paragraph D in the 2nd
line (page 128, line 47 in L.D.) by striking out the following:
50 "necessary"

COMMITTEE AMENDMENT

R. O. S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 in that part
designated "~~§2306.~~" in subsection 1 in the 2nd line (page 131,
4 line 2 in L.D.) by striking out the following: "this chapter" and
inserting in its place the following: 'section 2304'

6 Further amend the bill in Part B in section 2 in that part
8 designated "~~§2366.~~" in the 2nd indented paragraph D in the first
line (page 149, line 23 in L.D.) by striking out the following:
10 "any withholding order" and inserting in its place the following:
'an order to withhold and deliver'

12 Further amend the bill in Part B in section 2 in that part
14 designated "~~§2366.~~" in the 2nd indented paragraph D in the 4th
line (page 149, line 26 in L.D.) by striking out the following:
16 "15" and inserting in its place the following: '30'

18 Further amend the bill in Part B in section 2 in that part
designated "~~§4002.~~" in subsection 4 in the 8th line (page 193,
20 line 28 in L.D.) by striking out the following: "together as" and
inserting in its place the following: 'together and individuals
22 who are or were'

24 Further amend the bill in Part B in section 2 in that part
designated "~~§4006.~~" in subsection 5 in paragraph D in
26 subparagraph (2) in the last line (page 196, line 29 in L.D.) by
striking out the following: "employment; or" and inserting in its
28 place the following: 'employment;'

30 Further amend the bill in Part B in section 2 in that part
designated "~~§4006.~~" in subsection 5 in paragraph E in the last
32 line (page 196, line 32 in L.D.) by striking out the following:
"interest." and inserting in its place the following: 'interest;
34 or'

36 Further amend the bill in Part B in section 2 in that part
designated "~~§4006.~~" in subsection 5 by inserting after paragraph
38 E the following:

40 'F. Having any direct or indirect contact with the
plaintiff.'

42 Further amend the bill in Part B in section 2 in that part
designated "~~§4007.~~" in subsection 1 by inserting after paragraph
44 C the following:

46 'D. Directing the defendant to refrain from having any
48 direct or indirect contact with the plaintiff;'

COMMITTEE AMENDMENT

RMS

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part B in section 2 in that part
designated "~~§4007.~~" in subsection 1 by relettering the paragraphs
to read consecutively.

4
6 Further amend the bill in Part B in section 2 in that part
designated "~~§4011.~~" in subsection 2 in the 3rd line (page 201,
line 10 in L.D.) by striking out the following: "F to K," and
8 inserting in its place the following: 'H to M,'

10 Further amend the bill in Part B by striking out all of
section 4 (page 204, lines 49 and 50 and page 205, lines 1 to 29
12 in L.D.) and inserting in its place the following:

14 **'Sec. B-4. Rule-making authority.** All rule-making authority
enacted in this Act is a continuation of rule-making authority
16 contained in the Maine Revised Statutes, Title 19, and is not new
rule-making authority for the purposes of Title 5, chapter 375,
18 subchapter II-A. Rules adopted pursuant to rule-making authority
enacted in this Act do not require legislative review under Title
20 5, chapter 375, subchapter II-A.'

22 Further amend the bill in Part C in section 7 in that part
designated "~~§9-201.~~" by striking out all of subsection (c) (page
24 211, lines 2 to 14 in L.D.) and inserting in its place the
following:

26
28 '(c) A putative father or a legal father who is not the
biological father may waive his right to notice in a document
acknowledged before a notary public or a judge of probate. The
notary public may not be an attorney who represents either the
30 mother or any person who is likely to become the legal guardian,
custodian or parent of the child.

34 (1) The waiver of notice must indicate that the putative
father or legal father understands that the waiver of notice
operates as a consent to adoption or a surrender and release
36 for the purposes of adoption for any adoption of the child,
and that by signing the waiver of notice the putative father
or legal father voluntarily gives up any rights to the named
40 child.

42 (2) The waiver of notice may state that the putative father
or legal father neither admits nor denies paternity.

44 (3) The legal father shall attach to the waiver of notice
an affidavit stating that, although he is the legal father,
46 he is not the biological father.'

48
Further amend the bill in Part C in section 7 in that part
50 designated "~~§9-202.~~" in subsection (a) in the last line (page

H. of S.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

212, line 14 in L.D.) by inserting after the following: "may" the following: 'at any time after the child's birth'

Further amend the bill in Part C in section 7 in that part designated "~~§9-202.~~" in subsection (b) in paragraph (2) in the next to the last line (page 212, line 49 in L.D.) by inserting after the following: "when" the following: 'the individual is'

Further amend the bill in Part C in section 7 in that part designated "~~§9-202.~~" in subsection (b) in paragraph (2) in the last line (page 212, line 50 in L.D.) by striking out the following: "is" and inserting in its place the following: 'and'

Further amend the bill in Part C in section 7 in that part designated "~~§9-202.~~" in subsection (h) by striking out all of paragraph (2) (page 214, lines 13 to 25 in L.D.) and inserting in its place the following:

'(2) The court of comparable jurisdiction advised the person executing the consent or the surrender and release of the consequences of the consent or the surrender and release under the laws of the state in which the consent or the surrender and release was executed.'

Further amend the bill in Part C in section 7 in that part designated "~~§9-308.~~" in subsection (d) in the 4th line (page 224, line 22 in L.D.) by inserting after the following: "address." the following: 'Notice under this subsection is not required to a biological parent who is also a petitioner.'

Further amend the bill in Part D by striking out all of section 5 (page 232, lines 24 to 28 in L.D.) and inserting in its place the following:

'**Sec. D-5. 5 MRSA §12004-I, sub-§52-A** is enacted to read:

<u>52-A.</u>	<u>Family Law</u>	<u>None</u>	<u>19-A MRSA</u>
<u>Judiciary:</u>	<u>Advisory</u>	<u>Authorized</u>	<u>§351</u>
<u>Family Law</u>	<u>Commission'</u>		

Further amend the bill in Part D in section 25 in subsection 3 in the 3rd line (page 238, line 38 in L.D.) by striking out the following: "A to E" and inserting in its place the following: 'A to E G'

Further amend the bill in Part D in section 27 in the indented paragraph in the 3rd line from the end (page 239, line 13 in L.D.) by inserting after the following: "63" the following: ',65'

COMMITTEE AMENDMENT

A. 1/3

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 Further amend the bill in Part D in section 46 in subsection
1 in paragraph C in the 2nd line from the end (page 246, line 13
4 in L.D.) by striking out the following: "it" and inserting in
its place the following: 'it'

6 Further amend the bill in Part D by striking out all of
section 64 (page 250, lines 34 and 35 in L.D.).

8
10 Further amend the bill by inserting after Part D the
following:

12 **PART E**

14 **Sec. E-1. Policy changes.** This Act contains the following
16 policy changes.

18 1. It resolves ambiguities related to marriage licenses and
the authority of the State Registrar of Vital Statistics in the
20 Maine Revised Statutes, Title 19-A, chapter 23.

22 2. It revises the divorce laws to prohibit divorce on the
basis of fraud rather than collusion in Title 19-A, chapter 29.

24 3. It extends the provisions covering domestic abuse to all
26 proceedings that award or allocate parental rights and
responsibilities, rather than limiting those provisions to
28 divorce in Title 19-A, chapter 55.

30 4. It revises the provisions covering the crimes of cruelty
to children and abandonment of children and places those crimes
32 in the Maine Criminal Code in Part C.

34 5. It creates the Family Law Advisory Commission.

36 6. It revises the waiver requirements for putative fathers
and legal fathers under the adoption laws, Title 18-A, Article
38 IX, Part 2. A "putative father" is a person alleged to be the
father of a child.

40 7. It revises consideration of "abandonment of the family
42 residence" in the context of determining parental rights and
responsibilities.

44 8. It requires that all awards of past child support be
46 calculated using the child support guidelines, overruling White
v. Allen, 667 A. 2d 112 (Me. 1995).

48 **Sec. E-2. Effective date.** Parts B, C, D and E of this Act take
50 effect October 1, 1997.'

COMMITTEE AMENDMENT

R. 0. 8.

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

This bill also establishes a Family Law Advisory Commission. The Judicial Department will incur minor expenses related to the reimbursement of expenses that can be absorbed within the budgeted resouces of the Judicial Department.

The additional costs associated with revising rules, preparing the required reports and serving on the commission can be absorbed by the Department of Human Services utilizing existing budgeted resources.'

SUMMARY

This amendment makes the following changes to the bill.

1. It removes the word "necessary" from the phrase "past necessary support" throughout the bill, because all past support must be calculated by using child support guideline tables.

2. It deletes amendments authorizing the court to order past support in actions for judicial separation and divorce.

3. It amends the general exception to the durational residency requirement to include application to the spouse of a member of the Armed Forces of the United States, as is provided in current law.

4. It enacts a general jurisdiction section for the Maine Revised Statutes, Title 19-A, consistent with current law.

5. It amends the section on mediation to include cross-references to the chapters governing the establishment and modification of orders for parental rights and responsibilities, Title 19-A, chapter 55, and orders for child support, Title 19-A, chapter 63.

6. It revises the membership of the new Family Law Advisory Commission by adding 2 new public members, at least one of whom must have experience in providing mental health services. It

COMMITTEE AMENDMENT

H of S

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 also deletes reference to Pine Tree Legal Assistance but
continues to include a member from a legal services
4 organization. The amendment adds the creation of the Commission
to Part A, making it effective 90 days after the Legislature
6 adjourns, rather than waiting until October 1, 1997 when Title
19-A becomes effective.

8 7. It deletes the authorization of expenses for members of
the Family Law Advisory Commission.

10

12 8. It makes corrections in the terms relating to recording
intentions to be married and the resulting marriage license.

14 9. It repeals the exemption from the 3-day marriage license
waiting period for newly arrived immigrants.

16

18 10. It repeals the provision requiring the copy of a
marriage license to be accepted by all courts as evidence of
marriage because the requirement is contained in the Maine Rules
20 of Evidence.

22 11. It retains the current civil forfeiture level of \$20
for municipal clerks who violate the marriage license
24 requirements.

26 12. It deletes the revision of the judicial separation
statutes and replaces it with the current judicial separation
28 language. The amendment deletes the filing fee, leaving it to
court rules that establish filing fees for other actions.

30

32 13. It amends the language referring to incarceration for
nonsupport to be gender neutral by applying to all spouses, not
just husbands, and changes the term "alimony" to "spousal
34 support."

36 14. It amends the requirements concerning recording divorce
decrees, or abstracts of divorce decrees, that affect ownership
38 of real property to indicate that the court clerk must prepare or
approve the abstract to be recorded.

40

42 15. It revises the term "natural parents" to "biological
parents" to be consistent with the rest of the title.

44 16. It deletes a sentence categorizing AFDC payments as
"necessary support" because it is unnecessary as all past support
46 obligations must be based on child support guideline tables.

48 17. It corrects a reference to blood and tissue-typing
tests within the expedited process for the commencement of
50 paternity actions.

1103

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 18. It revises the term "abandonment" of the family
4 residence as used in the determination of parental rights and
responsibilities. Instead, the term "departure from the family
6 residence" is used to eliminate negative connotations associated
with the term "abandonment." "Departure" is used as a broader
8 term. In addition, new language is inserted in recognition of
the fact that one of the spouses may depart from the family
residence by mutual agreement of the spouses.

10
12 19. It amends the general language concerning child support
orders to continue the lack of the courts' current authority to
14 order one spouse to pay past child support to the other for the
period prior to the divorce or separation. Current authority
16 allows the court to order child support from the date of filing a
motion for support for the period between the filing and the
final divorce judgment. These changes do not disturb that power.

18
20 20. It amends the language concerning child support for
children up to the age of 19, while still attending school, to be
22 consistent with other requirements that the child support
obligation continue until then.

24 21. It revises the format of provisions concerning child
support orders containing automatic adjustments.

26
28 22. It removes appeal provisions already contained in
general provisions and revises format accordingly.

30 23. It combines and updates terminology in 2 sections
concerning support by parents when parental rights and
32 responsibilities are granted to the Department of Human Services,
another agency or another person.

34
36 24. It reinstates program review and establishes biennial
reporting requirements for occupational license and driver's
38 license revocation based on noncompliance with child support
orders.

40 25. It corrects a cross-reference in the provision
concerning immediate income withholding in the Department of
42 Human Services' support enforcement actions. The correct
cross-reference is to a specific section under which child
44 support orders are established or modified.

46 26. It clarifies language governing an employer's
responsibility to notify the Department of Human Services when
48 the employer is withholding pay from an employee pursuant to an
order or assignment and the employee leaves. Current law
50 requires an employer to report the termination to the Department

COMMITTEE AMENDMENT

11 of 12

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 of Human Services within 15 days if the pay was withheld pursuant
3 to an income-withholding order, but within 30 days if the pay was
4 withheld pursuant to an order to withhold and deliver or an
5 assignment of earnings. This amendment maintains that
6 dichotomy. It also makes consistent the information reported.

7 27. It amends the definition of "family or household
8 members" in the chapter on protection from abuse orders to be
9 consistent with L.D. 1758, as amended by Committee Amendment "A."

10 28. It amends the type of relief that can be included in an
11 interim or final protection from abuse order, consistent with
12 L.D. 1758, as amended by Committee Amendment "A."

13 29. It deletes the section outlining the major policy
14 changes and creates a section serving the same purposes in a new
15 Part E.

16 30. It inserts an unallocated section stating that the
17 rule-making authority in this Act is a continuation of the
18 rule-making authority of current law and is not new rule-making
19 authority delegated to an authority after January 1, 1996 for the
20 purposes of the Maine Administrative Procedure Act, subchapter on
21 mandatory legislative review of major substantive rules. Rules
22 adopted under the rule-making authority contained in this Act do
23 not require legislative review.

24 31. It amends the waiver of notice provision in the
25 adoption laws to specifically state the effect of a waiver of
26 notice, and to include an option that allows the person to
27 neither admit nor deny that he is the father of the child named
28 in the waiver of notice.

29 32. It clarifies that a surrender and release or a consent
30 may be executed any time after the child is born.

31 33. It clarifies that a parent consenting to an adoption in
32 which the child will be adopted by that parent and that parent's
33 spouse does not have 3 days in which to revoke the consent, and
34 that parent's consent is valid upon signature.

35 34. It revises the language concerning consents or
36 surrender and releases executed in other states. It deletes
37 requirements that the judge of the other state explain Maine law
38 or provide copies of Maine law to the parent or parents
39 consenting or executing a surrender and release in the other
40 state. Retained is the requirement that an attorney or the judge
41 in the other state complete an affidavit or certificate stating
42 that the requirements of the other state's laws were met and that
43 the judge advised the person consenting or executing a surrender
44

REVISED

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 and release of the consequences under that state's laws. A court
in this State must accept a consent or a surrender and release
4 from another state that meets these requirements.

6 35. It deletes the requirement that a biological parent be
sent written notice of the finalization of an adoption if that
biological parent consented to the adoption and is also
8 petitioning to adopt the child. This covers situations of
step-parent adoptions.

10 36. It changes the effective date to October 1, 1997 in all
12 Parts, except Part A.

14 37. It requires the newly created Family Law Advisory
Commission to study issues surrounding parental rights and
16 responsibilities and the treatment of mothers and fathers in law
and in practice. The commission will report back to the
18 Legislature by December 15, 1996.

Substantive changes

22 The bill, as amended by this committee amendment, makes
these changes to the effect of current law.

24 The legislation creates the Family Law Advisory Commission,
26 which is responsible for examining, evaluating and recommending
changes to family law. The commission is established to start
28 its work in 1996.

30 In the Maine Revised Statutes, Title 19-A, chapter 23,
subchapter I of the bill, which outlines the general provisions
32 regarding marriage, the committee amendment does the following.

34 1. It requires that parties to be married "record notice"
of their intentions to marry, instead of requiring the parties to
36 "cause notice" of their intentions.

38 2. It adds 2 new subsections:

40 A. "Recognition of foreign divorce," which specifies that a
record of divorce from another state or foreign country is
42 evidence of divorce, and if the record is not in English, it
must be translated by a disinterested 3rd person at the
44 parties' expense; and

46 B. "Resident defined," which defines a resident for
purposes of the chapter as a person whose habitation is
48 fixed in a place within Maine and to which that person,
whenever temporarily absent, has the intention of
50 returning. A municipal clerk shall consider a person who

COMMITTEE AMENDMENT

2018

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 qualifies as a resident under Title 21-A, section 112 for
voting purposes as a resident.

4 3. It clarifies that a clerk issues a "marriage license"
instead of a "marriage certificate" to parties the clerk is
6 satisfied are not prohibited to marry by the laws of their
jurisdiction.

8 4. It removes the exception to the 3-day filing of notice
10 of intentions that applies only when either of the parties to a
marriage has arrived as an immigrant from a foreign country.

12 5. It allows for "notice and opportunity for hearing"
14 instead of "notice and hearing" by the court for parties under 18
years of age who wish to marry without parental consent.

16 6. It clarifies that if the judge of probate determines
18 that parties may lawfully marry, the judge shall enter judgment
and issue execution for costs against any person who filed a
20 caution that the parties should not marry.

22 7. It deletes language requiring all courts to receive a
record of marriage as evidence of marriage in court, because this
24 is covered by the Maine Rules of Evidence, Article X.

26 8. It gives the State Registrar of Vital Statistics the
authority to file an action in District Court to have a marriage
28 declared void.

30 In Title 19-A, chapter 23, subchapter II of the bill,
concerning restrictions regarding marriage, it adopts 2
32 definitions used when describing persons with disabilities. The
definitions exist in current Title 34-B for "mental illness" and
34 "mental retardation."

36 In Title 19-A, chapter 27 of the bill, judicial separation,
it deletes the filing fee of \$5 in judicial separation, leaving
38 the setting of fees to court rule.

40 In Title 19-A, chapter 29, subchapter I of the bill,
concerning the grounds and procedures for divorce, it does the
42 following.

44 1. It deletes "collusion" and specifies that the court may
not grant a divorce to parties who seek a divorce for fraudulent
46 purposes.

48 2. It combines provisions concerning the payment of
attorneys fees, which provides that the court may order either

COMMITTEE AMENDMENT

R. 1/3

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

party to pay the costs and attorney's fees of the other party in the defense or prosecution of a divorce.

3. It consolidates provisions regarding jurisdiction in a general jurisdictional statement.

In Title 19-A, chapter 29, subchapter II of the bill, concerning spousal support and property rights provisions, it requires the parties to a divorce to record the divorce decree or abstract. Current law requires both the parties and the clerk to record. The abstract must be provided or approved by the clerk before recording.

In Title 19-A, chapter 53 of the bill, concerning paternity, it does the following.

1. It deletes all references to "necessary" in provisions regarding "past necessary support."

2. It deletes redundant language in the section concerning enforcement that states Aid to Families with Dependent Children benefits expended are considered support for the child.

3. It renames the headnote "reimbursement" as "past support," and requires a judgment for past support to be calculated by applying the current child support guidelines to the period for which the past support is owed.

4. It makes consistent all references to "blood and tissue-typing tests."

In Title 19-A, chapter 55 of the bill, concerning parental rights and responsibilities, it does the following.

1. It specifies that an order modifying a previous order does not need to restate parts of the original order that remain unchanged.

2. It clarifies that after January 1, 1990, if the court orders either parent to provide child support, the order must require that support be provided beyond the child's 18th birthday if the child is attending secondary school until the child graduates, withdraws or is expelled from the secondary school or attains 19 years of age, whichever comes first. A conflict exists in current law. One provision states that the court "may" order, while another states the court "shall" order the child support.

3. Current law prohibits the consideration of one spouse's abandonment of the family home when determining appropriate

H. 213

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 parental rights and responsibilities if the parent left because
of abuse or other circumstances. This legislation changes the
4 term "abandonment of the family residence" to "departure from the
family residence." It also allows the parties to mutually agree
6 that one parent should leave the residence anytime prior to the
final judgment.

8 In Title 19-A, chapter 65, subchapter I, general provisions
of support enforcement, "court order of support" is changed to
10 "order of support," which reflects that both the court and the
Department of Human Services may order support.

12 In Title 19-A, chapter 65, subchapter II of the bill,
concerning enforcement by the Department of Human Services, the
14 following changes are made.

16 1. It amends the license revocation for nonpayment of child
support and the family financial responsibility program review
18 sections to require the Department of Human Services to report to
the Legislature and the Governor on January 31, 1999 and
20 biennially thereafter.

22 2. It makes consistent employer and payor information
24 requirements when the responsible parent is no longer employed by
the employer. The employer shall report within 30 days of the
26 responsible parent's termination date, that parent's social
security number and support enforcement case number, in addition
28 to other information currently required by law.

30 In Title 19-A, chapter 65, subchapter III of the bill,
concerning enforcement by the court, the following changes are
32 made.

34 1. It does not incorporate the section concerning jail
costs, because it is redundant. Counties already bear the costs
36 of housing prisoners for nonsupport.

38 2. It amends the section concerning orders relating to
public assistance by requiring that the party seeking an order to
40 plead that the party is receiving support enforcement services
from the Department of Human Services. In that same section it
42 also requires that notice of the hearing to establish a support
order be mailed to the department at least 21 days before the
44 hearing.

46 In Title 19-A, chapter 101, concerning protection from
abuse, the following changes are made.
48

COMMITTEE AMENDMENT

1003

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

1 1. It amends the definition of "family or household
2 members" to clarify that it includes individuals who are or were
3 sexual partners.

4
5 2. It adds to the court's list of options the ability to
6 specifically prohibit a defendant from having any direct or
7 indirect contact with the plaintiff.

8
9 It states that rules adopted under Title 19 continue in
10 effect until amended or repealed. It also states that the
11 rule-making authority contained in the new Title 19-A is a
12 continuation of existing rule-making authority in Title 19, and
13 is not new rule-making authority delegated after January 1, 1996
14 for the purposes of the Maine Administrative Procedure Act
15 concerning legislative review of rules.

16
17 In Part C of the bill, in those sections amending Title 14
18 concerning parents, children and spouses, the following changes
19 are made.

20
21 1. It amends language to be gender neutral to clarify that
22 either a husband or a wife may bring an action for loss of
23 consortium.

24
25 2. It does not incorporate Title 19, section 483,
26 concerning the collection of earnings of a person sentenced for
27 nonsupport, which is obsolete since persons are no longer
28 sentenced to "hard labor."

29
30 3. It does not incorporate Title 19, section 486,
31 concerning the violation of support orders, penalties and payment
32 because it is obsolete. Criminal penalties for nonsupport exist
33 in Title 17-A.

34
35 In Part C of the bill, in those sections amending Title 18-A
36 concerning adoption, the following changes are made.

37
38 1. It does not incorporate the redundant definition "birth
39 parent; biological parent."

40
41 2. When the Probate Court tries to identify the father of a
42 child to be given up for adoption, the court is required to order
43 notice of publication in accordance with the Maine Rules of
44 Probate, which require notice to be made 2 times, instead of in
45 accordance with the Maine Rules of Civil Procedure, which require
46 notice to be made 3 times.

47
48 3. It clarifies that a consent or a surrender and release
49 may be executed any time after the child's birth.

50

12. 9. 82

COMMITTEE AMENDMENT "A" to H.P. 1347, L.D. 1842

2 4. It clarifies the consequences of a waiver of notice by
the putative father or the legal father, who is not the
biological father, and allows the putative or legal father to
4 state that he neither admits nor denies paternity.

6 5. It clarifies that upon order of the court in an adoptive
study, the Department of Human Services or the licensed
8 child-placing agency shall furnish studies and reports relevant
to the proceedings.

10 6. It provides that the 3-day revocation period after a
12 consent is executed does not apply to a consenting parent who is
also petitioning to adopt the child. The written notice of the
14 finalization of an adoption is not required to be mailed to the
biological parent who is also adopting the child. This occurs
16 when a parent consents to the adoption of the child by that
parent's spouse.

18 7. It revises the provisions concerning the acceptance by a
20 Probate Court in this State of a consent or a surrender and
release executed in another state. The court must accept a
22 consent or a surrender and release executed in another state if
it is accompanied by an affidavit from a member of the bar in
24 that state or a certificate from the judge of a court of
comparable jurisdiction in that other state where the consent or
26 the surrender and release was executed, in accordance with the
laws of that state, and that the consequences of that state's law
28 were explained to the person or persons executing the consent or
the surrender and release.

30 In Part D, the responsibilities of the State Registrar of
32 Vital Statistics are enhanced to include supervision over
marriage licenses and marriage certificates.

34 It creates a Part E listing the major policy changes in the
36 bill as amended.

38 It makes Parts B, C, D and E effective October 1, 1997.

COMMITTEE AMENDMENT