

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1411

S.P. 472

In Senate, February 18, 1999

An Act Regarding Counseling in Divorce and Separation.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CAREY of Kennebec.

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

4 **Sec. 1. 19-A MRSA c. 7 is enacted to read:**

6 **CHAPTER 7**

8 **DIVORCE EFFECTS PROGRAM**

10 **§401. Court order**

12 1. Court authority to order program attendance. Except as
14 provided in subsection 2, prior to a hearing under chapter 27,
16 29, 55 or 63, when there are minor children of the parties, the
18 court shall refer each party to a divorce effects program
20 described in sections 262 and 263. The court shall determine
22 whether the parties are to attend the program separately or
24 together.

26 2. Waiver. The court may waive a party's attendance at a
28 divorce effects program if, upon motion supported by affidavit, a
30 party shows that:

32 A. The party has attended a divorce effects program meeting
34 the requirements of section 403; or

36 B. Other extraordinary cause exists for the court to waive
38 attendance at a divorce effects program.

40 3. Failure to appear. The court may impose an appropriate
42 sanction upon a party's failure without good cause to appear at
44 or pay costs for a divorce effects program.

46 4. Costs. The court shall order each party to pay the
48 costs of attendance at a divorce effects program as provided in
50 section 402, subsection 2.

5. Temporary relief. For good cause shown, the court, prior
to referring the parties to a divorce effects program, may hear
motions for temporary relief pending final judgment on an issue
or combination of issues for which good cause for temporary
relief has been shown.

§402. Divorce effects program providers and fees

1. Providers. For the purposes of this chapter, a divorce
effects program may be provided by one or more of the following:

A. A psychiatrist licensed under Title 32, chapter 48;

B. A psychologist licensed under Title 32, chapter 56;

2 C. A clinical social worker, master social worker or social
3 worker licensed under Title 32, chapter 83; or

4
5 D. A clinical professional counselor, marriage and family
6 therapist, professional counselor or pastoral counselor
7 licensed under Title 32, chapter 119.

8
9 2. Fees. A provider of a divorce effects program shall
10 offer a schedule of graduated fees based on program attendees'
11 ability to pay. Ability to pay must be determined according to
12 an attendee's gross income as set by the court. As used in this
13 subsection "gross income" has the same meaning as in section
14 2001, subsection 5. An attendee shall pay the provider's fee
15 directly to the provider.

16 **§403. Divorce effects program content**

17
18 For the purposes of this chapter, a divorce effects program
19 must present the following information to program attendees:

20
21 1. Effects of parental separation on children. The
22 potential effects of the separation of their parents on
23 children. The program provider shall present information on:

24
25 A. Children's developmental stages;

26
27 B. Children's responses to parental separation;

28
29 C. Potential maladjustment by children to parental
30 separation and possible responses by parents to such
31 maladjustment; and

32
33 D. Education or counseling options for children whose
34 parents have separated;

35
36 2. Parental skills. Skills, approaches and resources that
37 may assist separated parents in acting in the best interests of
38 their children. The program provider shall present information
39 on:

40
41 A. Communication skills;

42
43 B. Conflict resolution skills;

44
45 C. Emotional, family, financial and work adjustment;

46
47 D. Stress reduction;

48
49 E. Parallel and cooperative parenting techniques;

- 2 F. Guidelines for parenting planning;
- 4 G. Reconciliation and counseling options;
- 6 H. Remarriage issues; and
- 8 I. Substance abuse and resources for substance abuse
10 treatment; and

12 3. Law and court procedure. The law and court procedure
14 pertaining to parental separation. The program provider shall
16 present information on:

- 18 A. The content of chapter 27, 29, 55 or 63, as applicable
20 to a program attendee, and the mandatory and optional court
22 procedures under the pertinent law;
- 24 B. Options for legal representation;
- 26 C. Possible 3rd-party involvement in court procedures; and
- 28 D. Alternative dispute resolution options.

30 **§404. Program attendance certificate**

32 The provider of a divorce effects program meeting the
34 requirements of sections 402 and 403 shall provide a program
36 attendee with a certificate declaring the attendee's successful
38 completion of the program.

40 **Sec. 2. 19-A MRSA §1651-A is enacted to read:**

42 **§1651-A. Parental separation in child's best interest**

44 In the case of a petition or complaint under section 851,
46 901 or 1654 that seeks an award of parental rights and
48 responsibilities, the court shall:

50 1. Showing. Require the party filing the petition or
52 complaint to show that the separation, divorce or continued
54 living apart of the parents is in the best interest of the child;
56 and

58 2. Finding. Prior to making an award of parental rights
60 and responsibilities, find that the separation, divorce or
62 continued living apart of the parents is in the best interest of
64 the child. The court shall determine the best interest of the
66 child by applying the factors set forth in section 1653,

2 subsection 3 to the question of parental separation, divorce or
3 continued living apart.

4
5
6 **SUMMARY**

7 This bill establishes a divorce effects program. The court
8 must order every party to a proceeding for judicial separation,
9 divorce, award of parental rights and responsibilities when the
10 parents live apart or child support to attend such a program when
11 minor children are involved. The bill sets forth who may provide
12 such a program and the program's content with regard to the
13 effect of divorce on children. The bill also requires the party
14 initiating a judicial separation or divorce proceeding or
15 proceeding when parents live apart to show that parental
16 separation is in a child's best interest. The court must make
17 this finding prior to awarding parental rights and
18 responsibilities.