

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)

R 21
R 28

L.D. 2563

DATE: 4-6-00

(Filing No. H-1081)

MAJORITY
JUDICIARY

2
4
6
8

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

12
14
16

STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION

18
20
22

COMMITTEE AMENDMENT "A" to H.P. 1829, L.D. 2563, Bill, "An Act to Implement the Recommendations of the Court Unification Task Force"

24

Amend the bill by inserting after the enacting clause and before section 1 the following:

26

'Sec. 1. 4 MRSA c. 1, sub-c. I-F is enacted to read:

28

SUBCHAPTER I-F

30

COURT UNIFICATION OVERSIGHT COMMITTEE

32

§41. Court Unification Oversight Committee

34

The Court Unification Oversight Committee is established to supervise and monitor all the parts of the unification program recommended by the court unification task force pursuant to Resolve 1997, chapter 107.

36

38

40

1. Membership. The Chief Justice of the Supreme Judicial Court may appoint judges, clerks, attorneys and members of the public to serve as members of the Court Unification Oversight Committee.

42

44

2. Ongoing goals. The Court Unification Oversight Committee shall identify from time to time additional ongoing goals for unifying the District Court and Superior Court.

46

48

3. Workload. The Court Unification Oversight Committee shall monitor the workload of judges and clerks, paying

COMMITTEE AMENDMENT

R. d. S.

2 particular attention to the workload in the District Court
clerks' offices.

4 4. Annual report. The Court Unification Oversight
Committee shall report by January 15, 2001 and annually
6 thereafter to the Supreme Judicial Court and the joint standing
committee of the Legislature having jurisdiction over judiciary
8 matters on:

10 A. The implementation of the recommendations of the court
unification task force;

12 B. The identification and implementation of additional
14 ongoing goals;

16 C. The degree to which the implementation of each of the
court unification task force's recommendations has achieved
18 the intended purpose of better service to the public;

20 D. How the implementation has affected the workload of the
courts, including the effects on the clerks' offices; and

22 E. Any other information the committee determines
24 appropriate.'

26 Further amend the bill by striking out all of section 3 and
inserting in its place the following:

28 'Sec. 3. 4 MRSA §152, as amended by PL 1999, c. 547, Pt. A,
30 §1 and Pt. B, §§5 and 6 and affected by §80, is further amended
to read:

32 **§152. District Court; civil jurisdiction**

34 The District Court shall--have has jurisdiction in the
36 following civil matters:

38 **1. Jurisdiction exercised by trial justices and municipal**
courts. The civil jurisdiction exercised by all trial justices
40 and municipal courts in the State on September 16, 1961;

42 **2. Civil actions for money damages.** Original jurisdiction,
concurrent with that of the Superior Court, of all civil actions
44 when no equitable relief is demanded ~~and the damages claimed do~~
~~not exceed \$30,000~~, except those actions for which exclusive
46 jurisdiction is vested in the Superior Court by statute;

48 **3. Civil actions to enforce liens.** Original jurisdiction,
concurrent with the Superior Court, of all civil actions to

R. of S.

COMMITTEE AMENDMENT "A" to H.P. 1829, L.D. 2563

2 enforce liens under Title 10, chapter 603 and under Title 35
35-A, section 316 706, and the court shall determine the amount
4 pursuant to Title 10, section 3258;

6 **4. Exclusive jurisdiction.** Original jurisdiction, not
7 concurrent with that of the Superior Court, of mental health
8 commitment hearings under Title 34 34-B, chapter 229 3,
9 subchapter IV, mental retardation certification hearings under
10 Title 34 34-B, chapter 229 5, habitual truancy actions under
11 Title 20-A, chapters 119 and 211 under which equitable relief may
12 be granted and small claims actions under Title 14, chapter 738;
13 and

14 **5. Other actions.** Original jurisdiction, concurrent with
15 that of the Superior Court, of the following types of actions,
16 and in these actions the District Court may grant equitable
17 relief:

18 ~~A. Actions for divorce, annulment of marriage or judicial~~
19 ~~separation and proceedings under Title 19-A;~~

22 B. Actions to quiet title to real estate under Title 14,
23 sections 6651 to 6658;

26 C. Actions to quiet title to real estate under Title 36,
27 section 946;

28 D. Actions for breach of implied warranty and covenant of
29 habitability under Title 14, section 6021;

32 E. Actions to foreclose mortgages under Title 14, chapter
31 713, subchapter VI;

34 F. Actions for restitution under Title 5, section 213;

36 G. Actions for illegal evictions under Title 14, section
37 6014;

40 H. Actions for the foreclosure of mortgages of real and
39 personal property and for redemption of estates mortgaged;

42 I. Actions to compel the specific performance of written
43 contracts and to cancel and compel the discharge of written
44 contracts, whether under seal or otherwise, when full
45 performance or payment has been made to the contracting
46 party;

48 J. Actions for relief in cases of fraud, duress, unjust
49 enrichment, trust, accident or mistake;

50

2 K. Actions concerning nuisance and waste;

4 L. Actions concerning partnership, and between partners or
6 part owners of vessels and of other real and personal
8 property to adjust all matters of the partnership and
between the part owners, compel contribution, make final
decrees and enforce their decrees by proper process in cases
where all interested persons within the jurisdiction of the
court are made parties;

10 ~~M. Actions to hear and determine property matters between
12 spouses as provided in Title 19-A, section 806 and to make
14 all necessary orders and decrees relating to these matters,
to issue all necessary process to enforce the orders and
16 decrees and to cause all the orders and decrees to be
enforced;~~

18 N. Civil actions for redelivery of goods or chattels taken
20 or detained from the owner and secreted or withheld so that
the goods or chattels cannot be replevied, and in civil
22 actions by creditors to reach and apply in payment of a debt
any property, right, title or interest, legal or equitable,
24 of a debtor or debtors, which cannot be attached on writ or
taken on execution in a civil action, and any property or
interest conveyed in fraud of creditors;

26 O. Actions in which the pleading demands a judgment:

28 (1) To exclude a person from a vested or contingent
30 interest in or lien upon specific property within the
State;

32 (2) That a vested or contingent interest in or lien
34 upon specific property within the State be enforced;

36 (2-A) That real property be partitioned by sale; or

38 (3) Otherwise affecting title to any real property;

40 P. Actions to compel the compliance with court orders
42 including the right to appoint persons to sign instruments
as provided for in the Maine Rules of Civil Procedure;

44 Q. Actions in which the equitable relief is sought through
46 an equitable defense, a counterclaim, a cross-claim or other
responsive pleading or reply permitted by the Maine Rules of
Civil Procedure; and

48 R. Actions to enforce access to health care under Title 22,
50 section 1715.

R. d. S.

COMMITTEE AMENDMENT "A" to H.P. 1829, L.D. 2563

2 Nothing in this subsection may be construed to affect the right
of any party to remove an action to the Superior Court in
4 accordance with the Maine Rules of Civil Procedure;

6 **6-A. Environmental laws.** Original jurisdiction, concurrent
with that of the Superior Court, to grant equitable relief and
8 impose penalties in proceedings involving alleged violations of a
local environmental ordinance or regulation or a state
10 environmental law or rule, including, but not limited to, the
following:

12 A. The laws pertaining to the Maine Land Use Regulation
14 Commission, Title 12, chapter 206-A;

16 B. The minimum lot size law, Title 12, sections 4807 to
4807-G;

18 C. Shoreland zoning ordinances enacted under Title 30-A,
20 section 3001, and in accordance with Title 38, sections 435
to 446 and section 449;

22 D. The plumbing and subsurface waste water disposal rules
24 adopted by the Department of Human Services under Title 22,
section 42;

26 E. Laws pertaining to public water supplies, Title 22,
28 ~~sections-2642,-2647-and-2648~~ chapter 601, subchapter IV;

30 F. Local ordinances enacted under Title 22, section 2642,
and in accordance with Title 30-A, section 3001;

32 G. Local land use ordinances enacted under Title 30-A,
34 section 3001;

36 H. Local building codes adopted pursuant to Title 30-A,
38 section 3001, and in accordance with Title 30-A, chapter
185, subchapter I;

40 I. Automobile junkyards, Title 30-A, chapter 183,
subchapter I;

42 J. Regulation and inspection of plumbing, Title 30-A,
44 chapter 185, subchapter III;

46 K. Malfunctioning domestic waste water disposal units,
Title 30-A, section 3428;

48 L. The subdivision law, Title 30-A, chapter 187, subchapter
50 IV; local subdivision ordinances enacted under Title 30-A,

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 1829, L.D. 2563

2 section 3001; and subdivision regulations adopted under
Title 30-A, section 4403;

4 M. Local zoning ordinances enacted under Title 30-A,
6 section 3001, and in accordance with Title 30-A, section
4352;

8 N. All laws administered by the Department of Environmental
10 Protection, Title 38, chapters 2 to 16;

12 O. Local ordinances regarding air pollution control enacted
pursuant to Title 38, section 597; and

14 P. The laws pertaining to harbors in Title 38, chapter 1,
16 subchapter I; local harbor ordinances adopted in accordance
with Title 38, section 7 and regulations adopted by
18 municipal officers pursuant to Title 38, section 2.;

20 **8. Consent to minor's abortion.** Original jurisdiction,
concurrent with that of the Probate Court, to grant equitable
22 relief in proceedings brought under Title 22, section 1597-A;

24 **9. Licensing jurisdiction.** Except as provided in Title 5,
section 10004; Title 8, section 279-B; Title 10, section 8003,
26 subsection 5; Title 20-A, sections 10712 and 10713; Title 29-A;
Title 32, chapters 105 and 114; and Title 35-A, section 3132,
28 exclusive jurisdiction upon complaint of an agency or, if the
licensing agency fails or refuses to act within a reasonable
30 time, upon complaint of the Attorney General to revoke or suspend
licenses issued by the agency. The District Court has original
32 jurisdiction upon complaint of a licensing agency to determine
whether renewal or reissuance of a license of that agency may be
34 refused. The District Court has original concurrent jurisdiction
to grant equitable relief in proceedings initiated by an agency
36 or the Department of the Attorney General alleging any violation
of a license or licensing laws or rules.

38 Notwithstanding any other provisions of law, a licensing agency
40 may not reinstate or otherwise affect a license suspended,
revoked or modified by the District Court pursuant to a complaint
42 filed by the Attorney General without the approval of the
Attorney General; and

44 **10. Appellate jurisdiction.** Exclusive jurisdiction to
46 review disciplinary decisions of occupational licensing boards
and commissions taken pursuant to Title 10, section 8003. Title
48 5, chapter 375, subchapter VII governs this procedure as far as
applicable, substituting "District Court" for "Superior Court-";

2 11. Actions for divorce, separation or annulment. Original
 4 jurisdiction, not concurrent with the Superior Court, of actions
 6 for divorce, annulment of marriage or judicial separation and
 8 proceedings under Title 19-A, except as otherwise specifically
 10 provided.

12 Actions for divorce, annulment or separation pending in the
 14 Superior Court may be transferred, upon agreement of the parties,
 16 from the Superior Court to the District Court in accordance with
 18 rules adopted by the Supreme Judicial Court. An action so
 20 transferred remains in the District Court, which has exclusive
 22 jurisdiction thereafter, subject to the rights of appeal to the
 24 Law Court as to matters of law.

26 12. Property matters between spouses. Original
 28 jurisdiction, not concurrent with the Superior Court, of actions
 30 to hear and determine property matters between spouses as
 32 provided in Title 19-A, section 806 and to make all necessary
 34 orders and decrees relating to these matters, to issue all
 36 necessary process to enforce the orders and decrees and to cause
 38 all the orders and decrees to be enforced. This subsection does
 40 not apply to or affect actions initiated in the Superior Court
 42 before the effective date of this subsection;

44 13. Desertion and nonsupport. Jurisdiction over complaints
 46 for desertion and nonsupport or nonsupport of dependents in the
 48 district where either the spouse, the dependent or the respondent
 50 resides; and

14. Civil violations. Jurisdiction over all civil
violations, as provided in Title 17-A, section 9, and traffic
infractions.

~~Actions for divorce, annulment or separation may be
 remanded, upon agreement of the parties, from the Superior Court
 to the District Court in accordance with rules promulgated by the
 Supreme Judicial Court. An action so remanded shall remain in the
 District Court, which shall have exclusive jurisdiction
 thereafter, subject to the rights of appeal to the Superior Court
 as to matters of law.~~

~~The District Court possesses the criminal jurisdiction
 exercised by all trial justices and municipal courts in the State
 on September 16, 1961, except as provided in Title 29-A, section
 2602.~~

~~The District Court shall also possess, concurrent with the
 Superior Court, original jurisdiction to receive pleas of guilty
 in criminal cases in which the maximum term of imprisonment to
 which the defendant may be sentenced upon conviction of that~~

COMMITTEE AMENDMENT "A" to H.P. 1829, L.D. 2563

2 ~~crime is one year or more in which the defendant has in writing~~
3 ~~waived the defendant's right to indictment by grand jury and the~~
4 ~~defendant's right to appearance and trial in the Superior Court~~
5 ~~and has indicated the defendant's intention to enter a plea of~~
6 ~~guilty to the charges pending against the defendant. When~~
7 ~~exercising such jurisdiction, the District Court shall possess~~
8 ~~all of the powers of the Superior Court. That jurisdiction shall~~
9 ~~be exercised in the manner which the Supreme Judicial Court shall~~
10 ~~by rule provide. Any person sentenced under this section shall be~~
11 ~~entitled to the rights provided by Title 15, chapter 306.~~

12 Further amend the bill by striking out all of section 6.

14 Further amend the bill by striking out all of section 19 and
15 inserting in its place the following:

16 **'Sec. 19. 15 MRSA §2115-A, sub-§2-A,** as enacted by PL 1987, c.
17 234, §1, is repealed and the following enacted in its place:

20 **2-A. Appeal from adverse decision of the Superior Court**
21 **sitting as an appellate court relative to an aggrieved**
22 **defendant's appeal from the denial of a Rule 35 motion in**
23 **District Court.** If a defendant's appeal to the Superior Court
24 sitting as an appellate court relative to a motion for correction
25 or reduction of a sentence brought in District Court under Rule
26 35 of the Maine Rules of Criminal Procedure is granted in whole
27 or in part, an appeal may be taken by the State from the adverse
28 decision of the Superior Court to the Law Court.'

30 Further amend the bill by striking out all of sections 22
31 and 23.

32 Further amend the bill by striking out all of section 41.

34 Further amend the bill by inserting after section 42 the
35 following:

36 **'Sec. 43. Court Unification Oversight Committee; initial assessments**
37 **and recommendations.** The Court Unification Oversight Committee
38 shall report by January 15, 2001 to the Supreme Judicial Court
39 and the joint standing committee of the Legislature having
40 jurisdiction over judiciary matters with assessments of and
41 recommendations concerning the following:

42 **1. Abbreviated and expedited appeal.** Reporting progress on
43 implementing an abbreviated and expedited appeal from the
44 District Court to the Law Court in appropriate cases;

45 **2. Shared docket.** Operation of the shared docket; and

46

AMS

COMMITTEE AMENDMENT "A" to H.P. 1829, L.D. 2563

3. **Workload.** Workload of the District Court and Superior Court clerks, judges and justices.

This section takes effect 90 days after adjournment of the Second Regular Session of the 119th Legislature.

Sec. 44. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative

Positions - Legislative Count	(9,000)
Personal Services	\$380,705
All Other	58,167

Provides funds for 5 Law Clerk positions, one Staff Attorney position and 3 Judicial Secretary positions and related expenses to implement the recommendations of the court unification task force.

JUDICIAL DEPARTMENT TOTAL

\$438,872

Sec. 45. Effective date. This Act takes effect January 1, 2001, except that:

1. That section of this Act that amends the Maine Revised Statutes, Title 4, section 152, subsections 9 and 10 takes effect March 15, 2001;

2. That section of this Act that enacts the Maine Revised Statutes, Title 4, chapter 1, subchapter 1-F takes effect 90 days after adjournment of the Second Regular Session of the 119th Legislature;

3. That section of this Act that charges the Court Unification Oversight Committee with making initial assessments and recommendations takes effect 90 days after adjournment of the Second Regular Session of the 119th Legislature; and

4. That section of this Act that appropriates funds from the General Fund takes effect 90 days after adjournment of the Second Regular Session of the 119th Legislature.'

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 summary the following:

FISCAL NOTE

2000-01

APPROPRIATIONS/ALLOCATIONS

General Fund \$438,872

This bill includes a General Fund appropriation of \$438,872 in fiscal year 2000-01 for the Judicial Department for 5 Law Clerk positions, one Staff Attorney position and 3 Judicial Secretary positions and related expenses to implement the recommendations of the court unification task force. The estimated future General Fund appropriations required to fund the full year costs will be approximately \$440,000 annually beginning in fiscal year 2001-02.

SUMMARY

This amendment is the majority report of the Joint Standing Committee on Judiciary. It makes technical changes concerning the wording of the District Court's civil jurisdiction, authorizes an appeal from the Superior Court to the Law Court for a specific set of facts, makes corrections consistent with Public Law 1999, chapter 547 and establishes the Court Unification Oversight Committee. The Court Unification Oversight Committee is charged with overseeing the implementation of the recommendations of the court unification task force. It is also required to review and report on specific issues annually to the joint standing committee of the Legislature having jurisdiction over judiciary matters. In the first annual report, the Court Unification Oversight Committee must make assessments and recommendations on workload, an abbreviated and expedited appeal process from the District Court to the Law Court and the shared docket.

COMMITTEE AMENDMENT "A" to H.P. 1829, L.D. 2563

2 The provisions concerning the Court Unification Oversight
Committee and the appropriation section take effect 90 days after
4 adjournment of the Second Regular Session of the 119th
Legislature.

6 Additional changes are made to the section amending the
Maine Revised Statutes, Title 4, section 152, and an effective
8 date provision is added to reflect enactment of Public Law 1999,
chapter 547.

10 The rest of the changes in the bill as amended take effect
12 January 1, 2001.

14 This amendment also adds a fiscal note.