

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

SECOND REGULAR SESSION-2000

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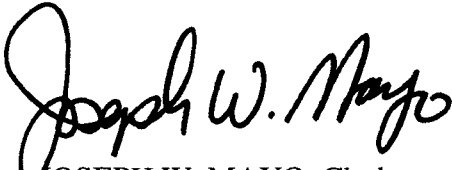
H.P. 1829

House of Representatives, February 10, 2000

**An Act to Implement the Recommendations of the Court Unification
Task Force.**

Reported by Representative THOMPSON for the Joint Standing Committee on Judiciary
pursuant to Joint Order H.P. 1786.

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

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

2 **Sec. 1. 4 MRSA §57**, as amended by PL 1979, c. 540, §2, is
4 further amended to read:

6 **§57. Jurisdiction; disposition of cases; technical
8 errors in pleading and procedure**

10 The following cases only come before the court as a court of
12 law: Cases on appeal from the District Court, the Superior Court
14 or a single Justice of the Supreme Judicial Court or from the
16 probate courts; questions of law arising on reports of cases,
18 including interlocutory orders or rulings of such importance as
20 to require, in the opinion of the justice, review by the ~~law~~
22 ~~court~~ Law Court before any further proceedings in the action;
24 agreed statement of facts; cases presenting a question of law;
26 all questions arising in cases in which equitable relief is
28 sought; motions to dissolve injunctions issued after notice and
30 hearing or continued after a hearing; questions arising on habeas
32 corpus, mandamus and certiorari and questions of state law
34 certified by the federal courts. They shall ~~must~~ be marked "law"
36 on the docket of the county or district where they are pending,
and there continued until their determination is certified by the
~~clerk~~ Clerk of the ~~law-court~~ Law Court to the clerk of courts of
the county and the court shall immediately after the decision of
the question submitted to it make such order, direction, judgment
or decree as is fit and proper for the disposal of the case, and
cause a rescript in all civil actions, briefly stating the points
therein decided, to be filed therein, which rescript shall ~~must~~
be certified by the ~~clerk~~ Clerk of the ~~law-court~~ Law Court to the
clerk of courts of the county or district where the action is
pending and to the Reporter of Decisions. If no further opinion
is written out, the reporter shall publish in the next volume of
reports thereafter issued the case, together with such rescript,
if the reporter deems the same of sufficient importance for
~~publicaiten~~ publication.

38 When the issues of law presented in any case before the ~~law~~
40 ~~court~~ Law Court can be clearly understood, they shall ~~must~~ be
42 decided, and ~~ne a~~ case shall ~~may not~~ be dismissed by the ~~law~~
44 ~~court~~ Law Court for technical errors in pleading alone or for
46 want of proper procedure if the record of the case presents the
48 merits of the controversy between the parties. Whenever, in the
opinion of the ~~law-court~~ Law Court, the ends of justice require,
it may remand any case to the court below or to any justice or
judge thereof for the correction of any errors in pleading or
procedure. In remanding said case, the ~~law-court~~ Law Court may
set the time within which said correction shall ~~must~~ be made and
said case reentered in the ~~law-court~~ Law Court.

2 When it ~~shall appear~~ appears to the Supreme Court of the
United States, or to any court of appeals or district court of
4 the United States, that there ~~are~~ is involved in any proceeding
before it one or more questions of law of this State, which may
6 be determinative of the cause, and there are no clear controlling
precedents in the decisions of the Supreme Judicial Court, such
8 federal court may certify any such questions of law of this State
to the Supreme Judicial Court for instructions concerning such
10 questions of state law, which certificate the Supreme Judicial
Court sitting as a ~~law court~~ the Law Court may, by written
opinion, answer.

12 **Sec. 2. 4 MRSA §105**, as amended by PL 1979, c. 540, §3, is
14 repealed and the following enacted in its place:

16 **§105. Superior Court; civil jurisdiction**

18 **1. Jurisdiction.** Except as provided in subsection 2, the
Superior Court has and shall exercise exclusive jurisdiction and
20 has and shall exercise all of the powers, duties and authority
necessary for exercising the jurisdiction in any and all matters
22 that were, prior to January 1, 1930, within the jurisdiction of
the Supreme Judicial Court or any of the Superior Courts, whether
24 cognizable at law or in equity.

26 **2. Exceptions to Superior Court's exclusive jurisdiction.**
The Superior Court does not have exclusive jurisdiction over
28 matters for which:

30 A. Concurrent or exclusive jurisdiction is vested in the
District Court; or

32 B. Concurrent jurisdiction is vested in the Supreme
34 Judicial Court as provided in Title 14, section 5301.

36 **3. Appellate jurisdiction.** The Superior Court shall hear
appeals as follows:

38 A. Administrative appeals brought pursuant to Title 5,
40 chapter 375, subchapter VII and the Maine Rules of Civil
42 Procedure, Rules 80B and 80C; and

44 B. Appeals from the District Court:

46 (1) Brought pursuant to Title 14, section 6008;

48 (2) Brought pursuant to Title 14, chapter 738; and

50 (3) As provided in Title 15, section 1.

2 4. No jurisdiction, powers, duties or authority of the Law
3 Court. The Superior Court does not have and may not exercise the
4 jurisdiction, powers, duties and authority of the Supreme
5 Judicial Court sitting as the Law Court.

6 **Sec. 3. 4 MRSA §152**, as amended by PL 1995, c. 694, Pt. D,
7 §§2 and 3 and affected by Pt. E, §2, is further amended to read:

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

9 The District Court shall--have has jurisdiction in the
10 following civil matters:

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

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

19 **3. Civil actions to enforce liens.** Original jurisdiction,
20 concurrent with the Superior Court, of all civil actions to
21 enforce liens under Title 10, chapter 603 and under Title ~~35~~
22 35-A, section ~~316~~ 706, and the court shall determine the amount
23 pursuant to Title 10, section 3258;

24 **4. Exclusive jurisdiction.** Original jurisdiction, not
25 concurrent with that of the Superior Court, of mental health
26 commitment hearings under Title ~~34~~ 34-B, chapter ~~229~~ 3,
27 subchapter IV, mental retardation certification hearings under
28 Title ~~34~~ 34-B, chapter ~~229~~ 5, habitual truancy actions under
29 Title 20-A, chapters 119 and 211 under which equitable relief may
30 be granted and small claims actions under Title 14, chapter 738;
31 and

32 **5. Other actions.** Original jurisdiction, concurrent with
33 that of the Superior Court, of the following types of actions,
34 and in these actions the District Court may grant equitable
35 relief:

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

38 **B.** Actions to quiet title to real estate under Title 14,
39 sections 6651 to 6658;

40 **C.** Actions to quiet title to real estate under Title 36,
41 section 946;

- 2 D. Actions for breach of implied warranty and covenant of
habitability under Title 14, section 6021;
- 4
- 6 E. Actions to foreclose mortgages under Title 14, chapter
713, subchapter VI;
- 8 F. Actions for restitution under Title 5, section 213;
- 10 G. Actions for illegal evictions under Title 14, section
6014;
- 12
- 14 H. Actions for the foreclosure of mortgages of real and
personal property and for redemption of estates mortgaged;
- 16 I. Actions to compel the specific performance of written
contracts and to cancel and compel the discharge of written
18 contracts, whether under seal or otherwise, when full
performance or payment has been made to the contracting
20 party;
- 22 J. Actions for relief in cases of fraud, duress, unjust
enrichment, trust, accident or mistake;
- 24
- 26 K. Actions concerning nuisance and waste;
- 28
- 30 L. Actions concerning partnership, and between partners or
part owners of vessels and of other real and personal
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
32 where all interested persons within the jurisdiction of the
court are made parties;
- 34
- 36 ~~M. Actions to hear and determine property matters between
spouses as provided in Title 19-A, section 806 and to make
all necessary orders and decrees relating to these matters,
38 to issue all necessary process to enforce the orders and
decrees and to cause all the orders and decrees to be
40 enforced;~~
- 42 N. Civil actions for redelivery of goods or chattels taken
or detained from the owner and secreted or withheld so that
44 the goods or chattels cannot be replevied, and in civil
actions by creditors to reach and apply in payment of a debt
46 any property, right, title or interest, legal or equitable,
of a debtor or debtors, which cannot be attached on writ or
48 taken on execution in a civil action, and any property or
interest conveyed in fraud of creditors;
- 50

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

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

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

10 (2-A) That real property be partitioned by sale; or

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

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

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

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

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

30 **6-A. Environmental laws.** Original jurisdiction, concurrent
32 with that of the Superior Court, to grant equitable relief and
34 impose penalties in proceedings involving alleged violations of a
local environmental ordinance or regulation or a state
environmental law or rule, including, but not limited to, the
following:

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

40 B. The minimum lot size law, Title 12, sections 4807 to
42 4807-G;

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

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

- 2 E. Laws pertaining to public water supplies, Title 22,
sections-2642,-2647-and-2648 chapter 601, subchapter IV;
- 4 F. Local ordinances enacted under Title 22, section 2642,
and in accordance with Title 30-A, section 3001;
- 6 G. Local land use ordinances enacted under Title 30-A,
8 section 3001;
- 10 H. Local building codes adopted pursuant to Title 30-A,
12 section 3001, and in accordance with Title 30-A, chapter
185, subchapter I;
- 14 I. Automobile junkyards, Title 30-A, chapter 183,
16 subchapter I;
- 18 J. Regulation and inspection of plumbing, Title 30-A,
chapter 185, subchapter III;
- 20 K. Malfunctioning domestic waste water disposal units,
22 Title 30-A, section 3428;
- 24 L. The subdivision law, Title 30-A, chapter 187, subchapter
26 IV; local subdivision ordinances enacted under Title 30-A,
section 3001; and subdivision regulations adopted under
Title 30-A, section 4403;
- 28 M. Local zoning ordinances enacted under Title 30-A,
30 section 3001, and in accordance with Title 30-A, section
4352;
- 32 N. All laws administered by the Department of Environmental
34 Protection, Title 38, chapters 2 to 16;
- 36 O. Local ordinances regarding air pollution control enacted
pursuant to Title 38, section 597; and
- 38 P. The laws pertaining to harbors in Title 38, chapter 1,
40 subchapter I; local harbor ordinances adopted in accordance
with Title 38, section 7 and regulations adopted by
42 municipal officers pursuant to Title 38, section 2-;
- 44 **8. Consent to minor's abortion.** Original jurisdiction,
concurrent with that of the Probate Court, to grant equitable
46 relief in proceedings brought under Title 22, section 1597-A-;
- 48 **9. Actions for divorce, separation or annulment.** Original
jurisdiction, not concurrent with the Superior Court, of actions
for divorce, annulment of marriage or judicial separation and

2 proceedings under Title 19-A, except as otherwise specifically
3 provided.

4 Actions for divorce, annulment or separation pending in the
5 Superior Court may be transferred, upon agreement of the parties,
6 from the Superior Court to the District Court in accordance with
7 rules adopted by the Supreme Judicial Court. An action so
8 transferred remains in the District Court, which has exclusive
9 jurisdiction thereafter, subject to the rights of appeal to the
10 Law Court as to matters of law;

12 10. Property matters between spouses. Original
13 jurisdiction, not concurrent with the Superior Court, of actions
14 to hear and determine property matters between spouses as
15 provided in Title 19-A, section 806 and to make all necessary
16 orders and decrees relating to these matters, to issue all
17 necessary process to enforce the orders and decrees and to cause
18 all the orders and decrees to be enforced. This subsection does
19 not apply to or affect actions initiated in the Superior Court
20 before the effective date of this subsection;

22 11. Desertion and nonsupport. Jurisdiction over complaints
23 for desertion and nonsupport or nonsupport of dependents where
24 either the spouse, the dependent or the respondent resides; and

26 12. Civil violations. Jurisdiction over all civil
27 violations, as defined by Title 17-A, section 9, and traffic
28 infractions.

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

38 ~~The--District--Court--possesses--the--criminal--jurisdiction~~
39 ~~exercised--by--all--trial--justices--and--municipal--courts--in--the--State~~
40 ~~on--September--16,--1961,--except--as--provided--in--Title--29-A,--section~~
41 ~~2602.~~

42 ~~The--District--Court--shall--also--possess,--concurrent--with--the~~
43 ~~Superior--Court,--original--jurisdiction--to--receive--pleas--of--guilty~~
44 ~~in--criminal--cases--in--which--the--maximum--term--of--imprisonment--to~~
45 ~~which--the--defendant--may--be--sentenced--upon--conviction--of--that~~
46 ~~crime--is--one--year--or--more--in--which--the--defendant--has--in--writing~~
47 ~~waived--the--defendant's--right--to--indictment--by--grand--jury--and--the~~
48 ~~defendant's--right--to--appearance--and--trial--in--the--Superior--Court~~

2 and has indicated the defendant's intention to enter a plea of
guilty to the charges pending against the defendant. When
4 exercising such jurisdiction, the District Court shall possess
all of the powers of the Superior Court. That jurisdiction shall
6 be exercised in the manner which the Supreme Judicial Court shall
be exercised in the manner which the Supreme Judicial Court shall be
entitled to the rights provided by Title 15, chapter 306.

8
9 **Sec. 4. 4 MRS §155, sub-§3** is amended to read:

10
11 **3. Divorce, separation, annulment, support.** An action or
12 proceeding for divorce, separation, annulment of marriage or for
support may be brought in the division where either the plaintiff
14 or the defendant resides. ~~Such action or proceeding may be
removed to the Superior Court by the defendant. The rules of
16 municipal courts now in effect for removal of actions to the
Superior Court shall apply.~~

18
19 **Sec. 5. 4 MRS §165**, as amended by PL 1995, c. 388, §2 and
20 affected by §8, is repealed and the following enacted in its
place:

22
23 **§165. District Court; jurisdiction over crimes and juvenile**
24 **offenses**

26 **1. Crimes; under one year imprisonment.** The District Court
has jurisdiction and, except as provided in Title 29-A, section
28 2602, concurrent jurisdiction with the Superior Court of all
crimes, including violation of any statute or a bylaw of a town,
30 village corporation or local health officer and breach of the
peace, for which the maximum term of imprisonment to which the
32 defendant may be sentenced upon conviction of that crime is less
than one year.

34
35 **2. Juvenile Court.** The District Court has jurisdiction
36 over juvenile offenses pursuant to Title 15, Part 6.

38 **3. Crimes; one year or more imprisonment.** The District
Court has, concurrent with the Superior Court, original
40 jurisdiction to receive pleas of guilty in criminal cases, other
than murder, in which:

42 **A. The maximum term of imprisonment to which the defendant**
44 **may be sentenced upon conviction of that crime is one year**
or more;

46 **B. The defendant has in writing waived the defendant's**
48 **right to indictment by grand jury and the defendant's right**
to a jury trial; and

2 C. The defendant has indicated the defendant's intention to
3 enter a plea of guilty to the charges pending against the
4 defendant.

5 When exercising such jurisdiction, the District Court possesses
6 all of the powers of the Superior Court. The District Court
7 shall exercise that jurisdiction in the manner that the Supreme
8 Judicial Court by rule provides. Any person sentenced under this
9 subsection is entitled to the rights provided by Title 15,
10 chapter 306-A.

11 The District Court has jurisdiction to bind over for the grand
12 jury all other crimes.

13 4. Issue process. The District Court has jurisdiction to
14 issue process with respect to any violation over which the
15 Passamaquoddy Tribe or the Penobscot Nation exercises exclusive
16 jurisdiction under Title 30, section 6209-A or 6209-B.

17 5. Power to sentence. The District Court may impose any
18 authorized sentencing alternative.

19 Sec. 6. 4 MRSA §1157, as amended by PL 1977, c. 694, §11, is
20 further amended to read:

21 **§1157. Judicial review**

22 Judicial review of an Administrative Court decision may be
23 had in the Superior Supreme Judicial Court sitting as the Law
24 Court in the manner provided by rules adopted for this purpose by
25 the Supreme Judicial Court. ~~The resulting Superior Court~~
26 ~~Decision may be appealed by any party thereto, in the same manner~~
27 ~~as in other civil cases, to the Supreme Judicial Court sitting as~~
28 ~~the law court.~~

29 Sec. 7. 14 MRSA §1901, as repealed and replaced by PL 1993,
30 c. 675, Pt. B, §10, is amended to read:

31 **§1901. Supreme Judicial Court; exceptions**

32 1. Appeals from District Court. Except as provided in
33 subsection 2 3 or by court rule, an appeal may be taken from the
34 District Court to the Superior Supreme Judicial Court sitting as
35 the Law Court ~~for the county embracing the division in which the~~
36 ~~judgment was rendered~~ within 30 days after judgment. Within
37 those 30 days, the appellant must pay to the court the required
38 fees for the appeal and in that case no execution issues and the
39 clerk may enter the appeal in the Superior Law Court as a new
40 entry.

41

2 ~~2. -- Exceptions. -- The following requirements apply to appeals~~
3 ~~from the District Court.~~

4 ~~A. -- A party must appeal from a District Court judgment in an~~
5 ~~action of foreclosure and sale directly to the Supreme~~
6 ~~Judicial Court within 30 days of the judgment.~~

7 ~~B. -- If all parties agree, a final appeal from civil matters,~~
8 ~~including family matters, originating in the District Court~~
9 ~~may be made to the Superior Court in lieu of a 2nd appeal to~~
10 ~~the Supreme Judicial Court.~~

11 3. Exceptions. An appeal from the District Court is to the
12 Superior Court in the case of:

13 A. An appeal in a forcible entry and detainer case,
14 pursuant to section 6008 and the Maine Rules of Civil
15 Procedure, Rule 80D(f); and

16 B. An appeal in a small claims case brought pursuant to
17 chapter 738 and the Maine Rules of Civil Procedure, Rule 80L.

18 **Sec. 8. 14 MRSA §6051, sub-§9,** as amended by PL 1995, c. 694,
19 Pt. D, §21 and affected by Pt. E, §2, is repealed.

20 **Sec. 9. 15 MRSA §1,** as amended by PL 1985, c. 179, is
21 repealed and the following enacted in its place:

22 §1. Superior Court: criminal jurisdiction

23 1. Jurisdiction. The Superior Court has original
24 jurisdiction, exclusive or concurrent, of all crimes.

25 2. Appellate and review jurisdiction. The Superior Court
26 has jurisdiction to hear appeals and petitions of only the
27 following:

28 A. Petitions pursuant to section 1028;

29 B. Petitions pursuant to section 1029;

30 C. Appeals pursuant to section 1097;

31 D. Appeals pursuant to section 3402;

32 E. Appeals pursuant to section 2111 and Maine Rules of
33 Criminal Procedure, Rule 35(f); and

2 F. Appeals pursuant to Title 17-A, section 1207 and Maine
3 Rules of Criminal Procedure, Rule 37F.

4 3. Location of post-arraignment proceedings. The Supreme
5 Judicial Court may by rule provide that, with the consent of the
6 defendant, post-arraignment proceedings in criminal cases may be
7 conducted at locations other than those provided by statute. The
8 Supreme Judicial Court may by rule provide that, without the
9 consent of the defendant, post-arraignment proceedings in
10 criminal cases may be conducted at locations other than those
11 provided by statute, provided that the location is in an
12 adjoining county and that it is in the vicinity of where the
13 offense was committed.

14 4. No jurisdiction, powers, duties or authority of Law
15 Court. The Superior Court does not have and may not exercise the
16 jurisdiction, powers, duties or authority of the Supreme Judicial
17 Court sitting as the Law Court.

18 **Sec. 10. 15 MRSA §1028, sub-§3** is enacted to read:

19 3. No further relief. The determination by the Superior
20 Court under this section is final and no further relief is
21 available.

22 **Sec. 11. 15 MRSA §1029, sub-§4** is enacted to read:

23 4. No further relief. The review under this section is
24 final and no further relief is available.

25 **Sec. 12. 15 MRSA §1051, sub-§§5 and 6,** as enacted by PL 1987,
26 c. 758, §20, are amended to read:

27 5. Appeal by defendant. A defendant may appeal to a single
28 Justice of the Supreme Judicial Court a denial of bail, the kind
29 or amount of bail set or the conditions of release imposed by
30 which the defendant is aggrieved. The single justice shall may
31 not conduct a hearing de novo respecting bail, but shall review
32 the lower court's order. The defendant has the burden of showing
33 that there is no rational basis in the record for the lower
34 court's denial of bail, the kind or amount of bail set or the
35 conditions of release imposed of which the defendant complains.
36 The determination by the single justice is final and no further
37 relief is available.

38 6. Appeal by State. The State may appeal to a single
39 Justice of the Supreme Judicial Court the granting of bail, the
40 kind or amount of bail set or the lower court's failure to impose
41 a condition of release. The single justice shall may not conduct
42 a hearing de novo respecting bail, but shall review the lower
43 court's order. The State has the burden of showing that there is
44

no rational basis in the record for the lower court's granting of
2 bail, the kind or amount of bail set or the omission of the
conditions of which the State complains. The determination by
4 the single justice is final and no further relief is available.

6 **Sec. 13. 15 MRSA §1097, sub-§3**, as enacted by PL 1995, c. 356,
§19, is amended to read:

8
3. **Appeal.** A defendant in custody as a result of an order
10 issued under this section by the District Court may appeal to the
Superior Court and a defendant in custody as a result of an order
12 issued under this section by the Superior Court may appeal to a
single Justice of the Supreme Judicial Court. The appeal must be
14 in accordance with the procedures set forth in section 1028, as
far as applicable, except that the review is limited to a review
16 of the record to determine whether the order was rationally
supported by the evidence. The determination by the court or
18 single justice is final and no further relief is available.

20 **Sec. 14. 15 MRSA §1099-A, sub-§2**, as enacted by PL 1995, c.
356, §19, is amended to read:

22
2. **Appeal.** A defendant in custody as a result of an order
24 issued under this section may appeal to a single Justice of the
Supreme Judicial Court who shall review the revocation pursuant
26 to the procedures set forth in section 1051, subsection 5. The
determination by the single justice is final and no further
28 relief is available.

30 **Sec. 15. 15 MRSA §2111**, as repealed and replaced by PL 1987,
c. 166, §1, is repealed and the following enacted in its place:

32 **§2111. Appeals from the District Court**

34
1. **Appeal of judgment of conviction or order to the Law**
36 **Court.** Except as otherwise specifically provided, in any
criminal proceeding in the District Court, a defendant aggrieved
38 by a judgment of conviction or order may appeal to the Supreme
Judicial Court sitting as the Law Court.

40
2. **Appeal to the Superior Court.** If an appeal from the
42 District Court must be taken to the Superior Court, the appeal
must be to the Superior Court in the county where the offense on
44 which the judgment of conviction or order was rendered is alleged
to have been committed. Venue may be transferred at the
46 discretion of the Chief Justice of the Superior Court.

2 3. Time for taking of appeal. The Supreme Judicial Court
4 shall provide by rule the time for taking the appeal and the
5 manner and any conditions for the taking of the appeal.

6 **Sec. 16. 15 MRSA §2114**, as repealed and replaced by PL 1981,
7 c. 487, §1, is amended to read:

8 **§2114. Defendant may make election of trial**

10 In all Class D and E criminal proceedings, the defendant may
11 waive his the defendant's right to jury trial and elect to be
12 tried in the District Court, as provided by rule of the Supreme
13 Judicial Court. ~~An appeal to the Superior Court following trial
14 and conviction in the District Court shall be only on questions
15 of law.~~

16 **Sec. 17. 15 MRSA §2115, first ¶**, as repealed and replaced by PL
17 1987, c. 166, §3, is amended to read:

18 In any criminal proceeding in the Superior Court, any
19 defendant aggrieved by a judgment of conviction, ruling or order
20 may appeal to the Supreme Judicial Court, sitting as the Law
21 Court. ~~The time for taking the appeal and the manner and any
22 conditions for the taking of the appeal shall be as the Supreme
23 Judicial Court provides by rule.~~ The Supreme Judicial Court
24 shall provide by rule the time for taking the appeal and the
25 manner and any conditions for the taking of the appeal.

26 **Sec. 18. 15 MRSA §2115-A, sub-§§1 and 2**, as amended by PL 1979,
27 c. 541, Pt. B, §22, are further amended to read:

28 **1. Appeals prior to trial.** An appeal may be taken by the
29 State in criminal cases on questions of law from the District
30 Court and from the Superior Court to the ~~law-court~~ Supreme
31 Judicial Court sitting as the Law Court: From an order of the
32 court prior to trial which suppresses any evidence, including,
33 but not limited to, physical or identification evidence or
34 evidence of a confession or admission; from an order which
35 prevents the prosecution from obtaining evidence; from a pretrial
36 dismissal of an indictment, information or complaint; or from any
37 other order of the court prior to trial which, either under the
38 particular circumstances of the case or generally for the type of
39 order in question, has a reasonable likelihood of causing either
40 serious impairment to or termination of the prosecution.

41 **2. Appeals after trial.** An appeal may be taken by the State
42 from the Superior Court or the District Court to the ~~law-court~~
43 Supreme Judicial Court sitting as the Law Court after trial and
44 after a finding of guilty by a jury or the court from the
45 granting of a motion for a new trial, from arrest of judgment,
46

2 from dismissal or from other orders requiring a new trial or
3 resulting in termination of the prosecution in favor of the
4 accused, when an appeal of the order would be permitted by the
5 double jeopardy provisions of the Constitution of the United
6 States and the Constitution of Maine.

7 **Sec. 19. 15 MRSA §2115-A, sub-§2-A**, as enacted by PL 1987, c.
8 234, §1, is repealed.

9 **Sec. 20. 15 MRSA §2115-A, sub-§2-B**, as enacted by PL 1995, c.
10 47, §1, is amended to read:

11 **2-B. Appeal from the denial of a Rule 35 motion.** If a
12 motion for correction or reduction of a sentence brought by the
13 attorney for the State under Rule 35 of the Maine Rules of
14 Criminal Procedure is denied in whole or in part, an appeal may
15 be taken by the State from the adverse order of the trial court
16 to the Supreme Judicial Court sitting as the Law Court.

17 **Sec. 21. 15 MRSA §2115-A, sub-§3**, as amended by PL 1991, c.
18 223, is further amended to read:

19 **3. When defendant appeals.** When the defendant appeals from
20 a judgment of conviction, it is not necessary for the State to
21 appeal. It may argue that error in the proceedings at trial in
22 fact supports the judgment. The State may also establish that
23 error harmful to it was committed prior to trial or in the trial
24 resulting in the conviction from which the defendant has
25 appealed, which error should be corrected in the event that the
26 ~~law-court~~ Law Court reverses on a claim of error by the defendant
27 and remands the case for a new trial. If the case is so reversed
28 and remanded, the ~~law-court~~ Law Court shall also order correction
29 of the error established by the State.

30 **Sec. 22. 15 MRSA §2115-A, sub-§4**, as amended by PL 1995, c.
31 47, §2, is further amended to read:

32 **4. Time.** An appeal taken pursuant to subsection 1, 2, 2-A
33 or 2-B must be taken within 20 days after the entry of the order
34 or such further time as may be granted by the court pursuant to a
35 rule of court, and an appeal taken pursuant to subsection 1 must
36 also be taken before the defendant has been placed in jeopardy.
37 An appeal taken pursuant to this subsection must be diligently
38 prosecuted.

39 **Sec. 23. 15 MRSA §2115-A, sub-§5**, as amended by PL 1995, c.
40 47, §3, is further amended to read:

41 **5. Approval of Attorney General.** In any appeal taken
42 pursuant to subsection 1, 2, 2-A or 2-B, the written approval of
43

2 the Attorney General is required; provided that if the attorney
3 for the State filing the notice of appeal states in the notice
4 that the Attorney General has orally stated that the approval
5 will be granted, the written approval may be filed at a later
6 date.

7 **Sec. 24. 15 MRSA §2115-B**, as enacted by PL 1997, c. 317, Pt.
8 B, §1, is amended to read:

10 **§2115-B. Appeal by aggrieved contemnor**

12 1. **Summary contempt proceedings involving punitive**
13 **sanctions.** In a summary contempt proceeding involving punitive
14 sanctions, accompanied or unaccompanied by remedial sanctions,
15 instituted under either the Maine Rules of Criminal Procedure,
16 Rule 42 or the Maine Rules of Civil Procedure, Rule 66, before a
17 Judge of the District Court, Probate Court or Administrative
18 Court or a Justice of the Superior Court or the Supreme Judicial
19 Court, a contemnor who is aggrieved by an order and imposition of
20 a punitive sanction may appeal, ~~as provided under section 2111~~
21 ~~and the applicable Maine Rules of Criminal Procedure, to the~~
22 ~~Superior Court and, if unsuccessful, to the Supreme Judicial~~
23 ~~Court, sitting as the Law Court, as provided under section 2111~~
24 ~~or 2115 and the applicable Maine Rules of Criminal Procedure. In~~
25 ~~a like proceeding, instituted under either the Maine Rules of~~
26 ~~Criminal Procedure, Rule 42 or the Maine Rules of Civil~~
27 ~~Procedure, Rule 66, before a Justice of the Superior Court or a~~
28 ~~Justice of the Supreme Judicial Court, any contemnor aggrieved by~~
29 ~~an order and imposition of a punitive sanction may appeal to the~~
30 ~~Supreme Judicial Court, sitting as the Law Court, as provided~~
31 ~~under section 2115 and the applicable Maine Rules of Criminal~~
32 ~~Procedure.~~

34 2. **Plenary contempt proceedings involving punitive**
35 **sanctions.** In a plenary contempt proceeding involving punitive
36 sanctions, accompanied or unaccompanied by remedial sanctions,
37 instituted under either the Maine Rules of Criminal Procedure,
38 Rule 42 or the Maine Rules of Civil Procedure, Rule 66, any
39 contemnor aggrieved by an adjudication and imposition of a
40 punitive sanction ~~tried other than in the Superior Court or~~
41 ~~Supreme Judicial Court~~ may appeal, ~~as provided under section 2111~~
42 ~~and the applicable Maine Rules of Criminal Procedure, to the~~
43 ~~Superior Court, and if unsuccessful, to the Supreme Judicial~~
44 ~~Court, sitting as the Law Court, as provided under section 2111~~
45 ~~or 2115 and the applicable Maine Rules of Criminal Procedure. In~~
46 ~~a like proceeding instituted under either the Maine Rules of~~
47 ~~Criminal Procedure, Rule 42 or the Maine Rules of Civil~~
48 ~~Procedure, Rule 66, any contemnor aggrieved by an adjudication~~
49 ~~and imposition of a punitive sanction tried in the Superior Court~~
50 ~~or Supreme Judicial Court, may appeal to the Supreme Judicial~~

2 ~~Court, sitting as the Law Court, as provided under section 2115~~
3 ~~and the applicable Maine Rules of Criminal Procedure.~~

4 **Sec. 25. 15 MRSA §2151, sub-§§1 and 2**, as enacted by PL 1997,
5 c. 354, §1, are amended to read:

6
7 **1. Different term could not be imposed.** In any case in
8 which a different term of imprisonment could not have been
9 imposed; ~~or~~

10
11 **2. Plea agreements.** In any case in which the particular
12 disposition involving imprisonment was imposed as a result of a
13 court accepting a recommendation of the type specified in the
14 Maine Rules of Criminal Procedure, Rule 11A, subsection (a)(2) or
15 (a)(4); ~~or~~

16 **Sec. 26. 15 MRSA §2151, sub-§3** is enacted to read:

17 **3. Restitution.** As limited by Title 17-A, section 1330-A.

18
19 **Sec. 27. 17-A MRSA §1207, sub-§1**, as enacted by PL 1997, c.
20 273, §3, is amended to read:

21
22 **1. District Court proceeding.** In a probation revocation
23 proceeding in the District Court, a person whose probation is
24 revoked may appeal to the Superior Court under Title 15, section
25 2111 and the applicable Maine Rules of Criminal Procedure. ~~An~~
26 ~~appeal to the Law Court, from an adverse decision of the Superior~~
27 ~~Court sitting as an intermediate appellate court, is not an~~
28 ~~appeal of right. The time, manner and specific conditions for~~
29 ~~taking that appeal to the Law Court are as the Supreme Judicial~~
30 ~~Court provides in the Maine Rules of Criminal Procedure. The~~
31 ~~determination by the Superior Court is final and no further~~
32 ~~relief is available.~~

33
34 **Sec. 28. 19-A MRSA §103**, as enacted by PL 1995, c. 694, Pt.
35 B, §2 and affected by Pt. E, §2, is amended to read:

36 **§103. Jurisdiction**

37
38 Except as otherwise expressly provided, the District Court
39 has original jurisdiction, ~~concurrent with the Superior Court,~~ of
40 all actions under this Title.

41
42 **Sec. 29. 19-A MRSA §851, sub-§1-A**, as enacted by PL 1997, c.
43 224, §2 and affected by §5, is amended to read:

44
45 **1-A. Jurisdiction.** The District Court ~~and the Superior~~
46 ~~Court have~~ has jurisdiction to enter a separation decree:

2 A. Upon the petition of a married person who lives apart or
who desires to live apart from that person's spouse for a
period in excess of 60 continuous days; or

4
6 B. Upon joint petition of a married couple who live apart
or who desire to live apart for a period in excess of 60
continuous days.

8
10 **Sec. 30. 19-A MRSA §852, sub-§1**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended by amending
the first paragraph to read:

12
14 **1. Issue of preliminary injunction.** In all actions for
judicial separation the clerk of the court, pursuant to order of
the District Court ~~ex-Superior-Court~~, shall issue a preliminary
16 injunction in the following manner.

18 **Sec. 31. 19-A MRSA §901, sub-§1**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

20
22 **1. Filing of complaint; grounds.** A person seeking a
divorce may file a complaint for divorce in the ~~Superior-Court-or~~
the District Court if:

24
26 A. The plaintiff has resided in good faith in this State
for 6 months prior to the commencement of the action;

28 B. The plaintiff is a resident of this State and the
parties were married in this State;

30
32 C. The plaintiff is a resident of this State and the
parties resided in this State when the cause of divorce
accrued; or

34
36 D. The defendant is a resident of this State.

38 The complaint must state one or more grounds listed in section
902, subsection 1.

40 **Sec. 32. 19-A MRSA §903, sub-§1**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended by amending
42 the first paragraph to read:

44 **1. Issue of preliminary injunction.** In all actions for
divorce or for spousal or child support following divorce by a
46 court that lacked personal jurisdiction over the absent spouse,
the clerk of the court, pursuant to order of the District Court
48 ~~ex-Superior-Court~~, shall issue a preliminary injunction in the
following manner.

50

2 **Sec. 33. 19-A MRSA §1510**, as enacted by PL 1997, c. 537, §15
and affected by §62, is amended to read:

4 **§1510. Statewide jurisdiction**

6 In child support and paternity cases, the jurisdiction of
the District Court, ~~the Superior Court~~ and the department extends
8 to all parts of the State. Once an action has been commenced, a
case may be transferred between local jurisdictions in the State
10 without need for an additional filing by the petitioner or
service of process on the respondent to retain jurisdiction over
12 the parties.

14 **Sec. 34. 19-A MRSA §1556**, as enacted by PL 1995, c. 694, Pt.
B, §2 and affected by Pt. E, §2, is amended to read:

16 **§1556. Remedies**

18 The ~~Superior Court or~~ District Court has jurisdiction over
20 an action under this subchapter and all remedies for the
enforcement of judgments for expenses of pregnancy and
22 confinement for a wife or for education, support or funeral
expenses for legitimate children apply. The court has continuing
24 jurisdiction to modify or revoke a judgment for future education
and support. All remedies under the Uniform Interstate Family
26 Support Act are available for enforcement of duties of support
under this subchapter.

28 **Sec. 35. 19-A MRSA §1652, sub-§1**, as enacted by PL 1995, c.
30 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

32 1. **Petition.** If a parent, spouse or child resides in this
State, a parent, a spouse, a guardian or a municipality providing
34 maintenance may petition the ~~Superior Court~~, District Court or
Probate Court to order a nonsupporting parent or spouse to
36 contribute to the support of the nonsupporting person's spouse or
child. The petition may be brought in the court in the ~~county or~~
38 district or county where the parent, spouse or child resides or
in the ~~county or~~ district or county in which the nonsupporting
40 person may be found.

42 **Sec. 36. 19-A MRSA §1654, first ¶**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

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

2 **Sec. 37. 19-A MRSA §1805, first ¶**, as enacted by PL 1995, c.
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

4 An action may be commenced in the ~~Superior Court or the~~
District Court for the district in which the minor child
6 resides. If a child protective proceeding pursuant to Title 22,
chapter 1071 that involves the minor child is ~~under the~~
8 ~~jurisdiction of the District Court~~ pending, ~~an action filed under~~
~~this chapter must be brought in the District Court and~~ the court
10 may consolidate the ~~proceedings~~ action filed under this chapter
with that child protection proceeding.

12 **Sec. 38. 19-A MRSA §2802, sub-§24**, as enacted by PL 1995, c.
14 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

16 **24. Tribunal of this State.** A "tribunal of this State"
means the District Court, ~~the Superior Court~~ or the Department of
18 Human Services.

20 **Sec. 39. 19-A MRSA §3502**, as enacted by PL 1995, c. 694, Pt.
B, §2 and affected by Pt. E, §2, is amended to read:

22 **§3502. Jurisdiction**

24 The ~~Superior Court and the~~ District Court ~~have~~ has
26 jurisdiction over all proceedings brought under this chapter.

28 **Sec. 40. 29-A MRSA §2602, sub-§3**, as enacted by PL 1993, c.
683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

30 **3. Class C or greater.** For Class C or greater crimes, the
32 District Court jurisdiction is subject to Title 4, section ~~152~~
165 and Title 17-A, section 9.

34 **Sec. 41. 33 MRSA §153** is repealed and the following enacted
36 in its place:

38 **§153. Sale or mortgage of estates subject to contingent remainders**

40 **1. Sale or mortgage.** When real estate is subject to a
contingent remainder, executory devise or power of appointment,
42 the Superior Court, the District Court or the Probate Court for
the district or county in which the real estate is situated, upon
44 the petition of any person who has an estate in possession in the
real estate and after notice and other proceedings as required,
46 may appoint one or more trustees and authorize the trustee or
trustees:

48

2 In revising the jurisdiction of the District Court and the
Superior Court to carry out recommendations I and II, this bill
4 rewrites several statutory sections to clarify the civil,
criminal and appellate jurisdiction of each court.

6 This bill addresses one piece of recommendation III of the
task force's report, removing the \$30,000 damages limitation from
8 District Court actions, thus treating civil nonjury actions
equally in the District Court and the Superior Court. Other
10 components of recommendation III are not appropriately addressed
through legislation, but by the Judicial Department directly.

12 This bill carries out recommendation VI, vesting the
14 District Court with jurisdiction, concurrent with the Superior
Court, to partition real property by sale. This addresses a
16 discrepancy identified in Boyer v. Boyer, 1999 ME 128 (August 5,
1999).

18 Recommendations IV, V, VII and VIII are not appropriately
20 addressed through legislation, but by the Judicial Department
directly.