

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 973

H.P. 683

House of Representatives, February 24, 2005

An Act To Make Certain Changes in the Laws Concerning the Family Division of District Court

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative TARDY of Newport.
Cosponsored by Senator HOBBS of York and
Representative: SHERMAN of Hodgdon.

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

4 **Sec. 1. 4 MRSA §183**, as amended by PL 2003, c. 688, Pt. C,
5 §1 and c. 689, Pt. B, §6, is further amended to read:

6 **§183. Family Division of District Court**

7
8 There is established within the District Court a Family
9 Division that has jurisdiction over family matters filed in
10 District Court. The Family Division shall provide a system of
11 justice that is responsive to the needs of families and the
12 support of their children. The Supreme Judicial Court may adopt
13 administrative orders and court rules governing the practice,
14 procedure and administration of the Family Division. These
15 practices and procedures must include, but are not limited to,
16 education for the parties, case management and referral services
17 to mediation and other alternate dispute resolution techniques.

18
19 **1. Family law magistrates.** The Chief Judge of the District
20 Court, with the approval of the Chief Justice of the Supreme
21 Judicial Court, shall employ family ~~ease-management-officers~~ law
22 magistrates. In selecting family ~~ease-management-officers~~ law
23 magistrates, the Chief Judge shall give proper consideration to
24 achieving statewide geographical representation in the Family
25 Division.

26
27 A. Family ~~ease-management-officers~~ law magistrates must be
28 members of the Bar of this State and must have experience in
29 the area of family law. Other qualifications may include
30 interest, training or experience in mediation and other
31 alternate dispute resolution techniques, domestic violence,
32 child development, family dynamics and case management.

33
34 B. Family ~~ease-management-officers~~ law magistrates shall
35 devote themselves solely to the official duties of the
36 position. ~~They~~ Family law magistrates may not engage in the
37 private practice of law or in any employment, occupation or
38 business interfering with or inconsistent with the discharge
39 of their duties. The Chief Judge of the District Court
40 shall determine the ~~salary~~ salaries of the family ease
41 ~~management-officers~~ law magistrates.

42
43 C. Family ~~ease--management--officers~~ law magistrates are
44 governed by the Maine Code of Judicial Conduct. Family ease
45 ~~management-officers~~ law magistrates serve at the pleasure of
46 the Chief Judge of the District Court.

47
48 D. Family ~~ease-management-officers~~ law magistrates shall
49 employ appropriate case management techniques and have
50 jurisdiction to hear and dispose of the following matters:

2 (1) Interim orders in actions involving the
establishment, modification or enforcement of child
4 support;

6 (2) Interim orders in actions involving divorce, legal
separation, paternity or parental rights, including
8 interim orders in postjudgment proceedings arising out
of these actions, except that a contested motion
10 concerning interim parental rights and
responsibilities, excluding interim child support
12 orders, may be determined by the family ease-management
~~officer~~ law magistrate only if both parties consent to
14 determination of the issue or issues in dispute by the
family ease-management-officer law magistrate;

16 (2-A) Parental rights and responsibilities and
parent-child contact orders entered pursuant to Title
18 19-A, section 4006, subsection 5 and section 4007,
20 subsection 1, paragraph G to make such orders
consistent with subsequently entered orders in matters
22 included in subparagraphs (1), (2) and (3);

24 (3) Final orders in any of the matters included in
subparagraphs (1) and (2) when the proceeding is
26 uncontested;

28 (4) Final orders in a contested proceeding when child
support is the only contested issue;

30 (4-A) Applications for writs of habeas corpus to
32 facilitate the attendance of proceedings by and return
of a party who is incarcerated;

34 (4-B) Requests for access to confidential Department
36 of Health and Human Services child protective records
in accordance with Title 22, section 4008. The family
38 ease--management--officer law magistrate may review
records in camera to determine whether to grant access;
40 and

42 (5) Other actions assigned by the Chief Judge of the
District Court.

44 E. Interim orders in any of the matters included in
46 paragraph D, subparagraphs (1), (2) and (2-A) are effective
immediately and are subject to de novo review by a judge at
48 the final hearing. Final orders in any of the matters
included in paragraph D, subparagraphs (3) and (4) and
50 (4-C) are subject to appellate review in the same manner as

2 any final order of the District Court. The family ease
management-officer law magistrate shall inform the parties
4 of the rights of review established in this paragraph.

6 F. ~~A family case management officer has the power to impose~~
punitive and remedial sanctions in a summary proceeding for
8 contempt occurring in the actual presence of the family ease
management-officer and seen or heard by the family ease
10 management-officer. ~~The Maine Rules of Civil Procedure~~
relating to summary contempt proceedings apply to a family
12 case management officer exercising the contempt power under
this paragraph Family law magistrates have the same
14 contempt powers as judges and justices of the Judicial
Department.

16 G. The Chief Judge of the District Court may allow family
law magistrates to wear robes when presiding over any
18 proceeding.

20 2. **Additional staff.** The State Court Administrator shall
provide other necessary staff to the Family Division, within the
22 limits of funds available, and shall seek to take full advantage
of federal funding, including reimbursements.

24 3. **Reports.** The State Court Administrator shall keep
26 statistical records relating to the cases handled by the Family
Division and report this information to the Supreme Judicial
28 Court annually and to the joint standing committee of the
Legislature having jurisdiction over judiciary matters by January
30 15th of each odd-numbered calendar year.

32 A. The State Court Administrator shall evaluate the
functioning of the family ease--management--officers law
34 magistrates in providing a system of justice that is
responsive to the needs of families and the support of their
36 children in light of the jurisdiction given to the family
ease--management--officers law magistrates under this
38 section. The State Court Administrator shall report to the
joint standing committee of the Legislature having
40 jurisdiction over judiciary matters no later than January
15, 1999 with recommendations, if any, for changing the
42 duties provided in subsection 1, paragraph D.

44 B. The State Court Administrator shall report to the joint
standing committee of the Legislature having jurisdiction
46 over judiciary matters by January 15, 1999 explaining the
justification for the particular geographic assignments of
48 the family ease-management-officers law magistrates.

50

SUMMARY

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4 This bill makes several changes to the law governing the
4 Family Division of the District Court.

6

6 It revises the title of family case management officer to
6 family law magistrate.

8

10 The Chief Judge of the District Court may authorize family
10 law magistrates to wear robes when presiding over any
10 proceeding. A family law magistrate is given the power of
12 contempt that judges and justices currently have.