

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 657

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H.P. 478

House of Representatives, February 7, 2019

### An Act To Reorganize the Probate Courts

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative CARDONE of Bangor.  
Cosponsored by Senator CARPENTER of Aroostook and  
Representatives: BAILEY of Saco, BRADSTREET of Vassalboro, DENNO of Cumberland,  
DeVEAU of Caribou, HARNETT of Gardiner, MOONEN of Portland, Senator: KEIM of  
Oxford.

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

2 **CONCEPT DRAFT**

3 **SUMMARY**

4 This bill is a concept draft pursuant to Joint Rule 208.

5 Maine voters amended the Constitution of Maine in 1967 and conditionally repealed  
6 the office of Probate Judge and Register. The repeal is to become effective when the  
7 Legislature reforms the probate court system and provides it with full-time judges. Many  
8 legislative changes have been made to this system since that time. Most recently, the  
9 128th Legislature passed Legislative Document 123, An Act To Recodify and Revise the  
10 Maine Probate Code, Public Law 2017, chapter 402. This was a comprehensive effort to  
11 update each area of the law that involved the probate courts. While these changes to the  
12 Probate Code and similar changes since 1967 have made the system different, there have  
13 been a number of unsuccessful legislative efforts to address the need for full-time judges  
14 as envisioned by the constitutional amendment. This bill proposes to honor the will of  
15 the voters and complete that task by:

16 1. Bringing the probate judge function into the state judicial branch by eliminating  
17 the existing office of probate judge and creating a number of new full-time state court  
18 judges who specialize in adjudicating probate law matters;

19 2. Ensuring that Maine residents in all counties have equal and improved access to  
20 the services of a judge in probate law matters by reasonably calculating the number of  
21 new judge positions needed to fully meet this need; providing that judicial hearings will  
22 be held in existing county probate courtrooms so long as these spaces are accessible to all  
23 parties; and supplying recording devices and any other equipment necessary for the  
24 administration of justice by a state court judge. The judicial branch will be responsible  
25 for providing any needed items and compensating the county for the use of the  
26 courtrooms. This bill proposes to provide the judicial branch the funding needed for  
27 these purposes;

28 3. Ensuring that all probate law records in all counties are contained in a  
29 computerized system with a searchable database that is part of the judicial branch case  
30 management system. This bill proposes to provide a reasonable effective date for the  
31 accomplishment of that goal and a General Fund appropriation sufficient to cover the  
32 cost;

33 4. Ensuring that Maine law provides that each county has an elected register of  
34 probate with an office, staff and authority to deliver informal probate services that do not  
35 require a judicial order to the public in a uniform manner. This bill proposes to transfer  
36 existing judicial oversight of the register to the state court judge having responsibility for  
37 probate law matters in that county; and

38 5. Providing continuing education through the judicial branch to each register of  
39 probate to ensure a common understanding of the law and the responsibilities of a

1 register. This bill proposes to ensure the participation of current registers in the planning,  
2 development and presentation of these programs.