

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

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Legislative Document

No. 1831

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S.P. 648

In Senate, December 22, 2021

### **An Act To Improve the Child and Family Court Process**

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 20, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

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

2 **Sec. 1. 4 MRSA §10-A** is enacted to read:

3 **§10-A. Annual training; domestic violence and child abuse issues**

4 The Chief Justice of the Supreme Judicial Court shall establish annual training and  
5 education designed to inform Justices of the Supreme Judicial Court on domestic violence  
6 and child abuse, neglect and maltreatment issues.

7 **Sec. 2. 4 MRSA §122** is enacted to read:

8 **§122. Annual training; domestic violence and child abuse issues**

9 The Chief Justice of the Superior Court shall establish annual training and education  
10 designed to inform Justices of the Superior Court on domestic violence and child abuse,  
11 neglect and maltreatment issues.

12 **Sec. 3. 4 MRSA §164, sub-§17, ¶E**, as amended by PL 1993, c. 680, Pt. A, §6, is  
13 further amended to read:

14 E. The Chief Judge, following notification to the Chief Justice of the Supreme Judicial  
15 Court or the Chief Justice's delegate, may authorize such forms and procedures as the  
16 Chief Judge considers appropriate to carry out this subsection; ~~and~~

17 **Sec. 4. 4 MRSA §164, sub-§18, ¶E**, as enacted by PL 1991, c. 635, is amended to  
18 read:

19 E. The Chief Judge, following notification to the Chief Justice of the Supreme Court  
20 or the Chief Justice's delegate, may authorize forms and procedures as the Chief Judge  
21 considers appropriate to carry out this subsection; ~~and~~

22 **Sec. 5. 4 MRSA §164, sub-§19** is enacted to read:

23 **19. Annual training; domestic violence and child abuse issues.** Establish annual  
24 training and education designed to inform District Court Judges on domestic violence and  
25 child abuse, neglect and maltreatment issues.

26 **Sec. 6. 4 MRSA §183, sub-§1**, as amended by PL 2015, c. 296, Pt. C, §1 and  
27 affected by Pt. D, §1, is further amended to read:

28 **1. Family law magistrates.** The Chief Judge of the District Court, with the approval  
29 of the Chief Justice of the Supreme Judicial Court, shall employ family law magistrates.  
30 In selecting family law magistrates, the Chief Judge shall give proper consideration to  
31 achieving statewide geographical representation in the Family Division. By August 1,  
32 2024, the Chief Judge of the District Court shall employ 24 family law magistrates.

33 A. Family law magistrates must be members of the Bar of this State and must have  
34 experience in the area of family law. Other qualifications may include interest, training  
35 or experience in mediation and other alternate dispute resolution techniques, domestic  
36 violence, child development, family dynamics and case management.

37 B. Family law magistrates shall devote themselves solely to the official duties of the  
38 position. Family law magistrates may not engage in the private practice of law or in  
39 any employment, occupation or business interfering with or inconsistent with the

1 discharge of their duties. The Chief Judge of the District Court shall determine the  
2 salaries of the family law magistrates.

3 C. Family law magistrates are governed by the Maine Code of Judicial Conduct.  
4 Family law magistrates serve at the pleasure of the Chief Judge of the District Court.

5 D. Family law magistrates shall employ appropriate case management techniques and  
6 have jurisdiction to hear and dispose of the following matters:

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

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

15 (2-A) Parental rights and responsibilities and parent-child contact orders entered  
16 pursuant to Title 19-A, section 4006, subsection 5 and section 4007, subsection 1,  
17 paragraph G to make such orders consistent with subsequently entered orders in  
18 matters included in subparagraphs (1), (2) and (3);

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

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

23 (4-A) Applications for writs of habeas corpus to facilitate the attendance of  
24 proceedings by and return of a party who is incarcerated;

25 (4-B) Requests for access to confidential Department of Health and Human  
26 Services child protective records in accordance with Title 22, section 4008. The  
27 family law magistrate may review records in camera to determine whether to grant  
28 access; and

29 (4-C) Except for final prehearing conferences, all pretrial and interim elements of  
30 a child protection proceeding brought under Title 22, chapter 1071, including child  
31 protection proceedings consolidated in an action brought under Title 19-A; and

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

33 E. Interim orders in any of the matters included in paragraph D, subparagraphs (1), (2)  
34 and (2-A) are effective immediately and are subject to de novo review by a judge at the  
35 final hearing. Final orders in any of the matters included in paragraph D,  
36 subparagraphs (3) and (4) are subject to appellate review in the same manner as any  
37 final order of the District Court. The family law magistrate shall inform the parties of  
38 the rights of review established in this paragraph.

39 F. A family law magistrate has the power to impose punitive and remedial sanctions  
40 in a summary proceeding for contempt occurring in the actual presence of the family  
41 law magistrate and seen or heard by the family law magistrate. The Maine Rules of

1 Civil Procedure relating to summary contempt proceedings apply to a family law  
2 magistrate exercising the contempt power under this paragraph.

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

5 H. The Chief Judge of the District Court may employ a retired family law magistrate  
6 to serve on a per diem basis as an active retired family law magistrate. An active retired  
7 family law magistrate employed pursuant to this paragraph has the same jurisdiction  
8 and is subject to the same restrictions as before retirement. An active retired family  
9 law magistrate serves at the direction of the Chief Judge of the District Court and is  
10 compensated at the per diem rate of \$250 per day or \$150 per half-day, as long as the  
11 total of the per diem compensation and the active retired family law magistrate's state  
12 retirement pension received in any calendar year does not exceed the annual salary of  
13 a family law magistrate. Active retired family law magistrates are entitled to receive  
14 reimbursement for any expenses actually and reasonably incurred in the performance  
15 of their duties.

16 **Sec. 7. 4 MRSA §183, sub-§2**, as enacted by PL 1997, c. 269, §1 and affected by  
17 §2, is amended to read:

18 **2. Additional staff.** The State Court Administrator shall provide other necessary staff  
19 to the Family Division, within the limits of funds available, and shall seek to take full  
20 advantage of federal funding, including reimbursements. By August 1, 2024, the State  
21 Court Administrator shall provide necessary staff for 24 family law magistrates.

22 **Sec. 8. 4 MRSA §183, sub-§5** is enacted to read:

23 **5. Annual training; domestic violence and child abuse issues.** The Chief Judge of  
24 the District Court shall establish annual training and education designed to inform family  
25 law magistrates on domestic violence and child abuse, neglect and maltreatment issues.

## 26 SUMMARY

27 This bill increases the number of family law magistrates to 24 by August 1, 2024 and  
28 increases related staff. It authorizes family law magistrates to hear and dispose of all  
29 interim orders in actions involving divorce, legal separation, parentage or parental rights  
30 regardless of whether both parents consent. It authorizes family law magistrates to hear  
31 and dispose of all pretrial and interim elements of child protection proceedings, except for  
32 final prehearing conferences. It requires the Chief Justice of the Supreme Judicial Court,  
33 the Chief Justice of the Superior Court and the Chief Judge of the District Court to establish  
34 annual training and education designed to inform justices, judges and family law  
35 magistrates on domestic violence and child abuse, neglect and maltreatment issues.