

MAINE STATE LEGISLATURE

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E I G H T Y - E I G H T H L E G I S L A T U R E

Legislative Document

No. 214

H. P. 669

House of Representatives, February 3, 1937.

Referred to Committee on Judiciary. Sent up for concurrence and 500 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Dow of Norway by request.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-SEVEN

AN ACT Relating to Insanity as Cause of Divorce.

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

R. S., c. 73, additional. Chapter 73 of the revised statutes is hereby amended by adding thereto the following new sections to be numbered as follows:

‘Sec. 1-A. Insanity as cause; residence. A divorce may be granted forthwith when either husband or wife has become incurably insane; provided, that no divorce shall be granted under these provisions unless such insane person shall have been duly and regularly confined in an insane asylum of this state or of a sister state or territory for at least 5 years next preceding the commencement of the action for divorce; nor unless it shall appear to the court that such insanity is incurable; and provided further, that no action shall be maintained under the provisions hereof unless the libellant is an actual resident of this state and shall have resided herein for 2 years next preceding the commencement of such action.

‘Sec. 1-B. Venue; guardian service. The superior court shall have jurisdiction of such an action as set forth in the preceding section, and it

shall be brought in the county in which the libellant resides. The court in which such action is about to commence shall, upon the filing by the libellant of a petition duly verified, showing that such cause of action exists, appoint some person to act as guardian ad litem of such insane person in such action; and the summons and complaint in such action shall be served upon the libellant by delivering a copy of such summons and complaint to such guardian, and by delivering a copy thereof to the county attorney of the county in which such action is brought.

‘Sec. 1-C. Duty of the county attorney. The county attorney upon whom the summons and complaint in such actions shall be served shall appear for such libellee and defend the same, and no divorce shall be granted unless the provisions of this section have been complied with.

‘Sec. 1-D. Support of libellee. The court may, when a divorce is granted on the grounds of incurable insanity, at the time of granting such divorce, or any time thereafter, on application of either party, the guardian of the insane spouse or any other person, town or municipality charged with the support of the insane spouse, make such orders requiring support of the libellee, or security for such support, as may be proper, and such orders for the division of property held by the parties as tenants by the entirety as may be proper; but no orders shall be made providing for continued support of a sane wife from the estate of an insane husband after the re-marriage of such wife.

‘Sec. 1-E. Review; enforcement; certified copy filed. An order relating to the support of such libellee may at any time thereafter, on application of either party or of the guardian of the insane spouse, or of any person, town or municipality charged with such support be reviewed and altered in such manner as to the court may seem just and proper.

Any order providing for the support of the insane party shall be enforceable in the same manner as orders relating to alimony.

If the insane person was committed by a court of competent jurisdiction, then the clerk of the court shall file with such court which committed such insane person a certified copy of all orders entered in proceedings brought under these provisions.

‘Sec. 1-F. General powers. In actions brought for the cause of insanity the courts and the judges thereof shall possess all the powers relative to payment of alimony, the distribution of property and the care and custody of the children of the parties, that such courts now have or may hereafter have, in other actions for divorce.

'Sec. 1-G. Cost and expenses. All the costs in such actions, as well as the actual expenses of the county attorney therein, together with the expenses and fee of the guardian therein, shall be paid by the libellant, and such expenses of the county attorney and the expenses and fee of the guardian shall be fixed and allowed by the court, and the court or the judge thereof may make such order as to the payment of such fees and expenses as to the court or judge may seem proper.'