

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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See title page for effective date.

CHAPTER 224

S.P. 128 - L.D. 407

An Act to Revise Judicial Separation

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

Sec. 1. 19-A MRSA §851, sub-§1, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 2. 19-A MRSA §851, sub-§1-A is enacted to read:

1-A. Jurisdiction. The District Court and the Superior Court have jurisdiction to enter a separation decree:

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

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.

Sec. 3. 19-A MRSA §851, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed.

Sec. 4. 19-A MRSA §851, sub-§§8 to 15 are enacted to read:

8. Orders pending final separation decree. Pending a final separation decree, the court may:

A. Order either spouse to pay to the other spouse or to the attorney for the other spouse sufficient money for the defense or prosecution of the separation action;

B. Make reasonable provision for either spouse's support, on a motion for which costs and attorney's fees may be ordered;

C. Enter a decree for parental rights and responsibilities, including support of minor children in accordance with chapter 55. An order for child support under this section may include an order for the payment of all or part of the medical expenses, hospital expenses and other health care expenses of the children or an order to provide a policy or contract for coverage of those ex-

penses. Availability of public assistance to the family may not affect the decision of the court relating to the responsibility of a parent to provide child support;

D. By order, determine the possession of owned or rented real and personal property; and

E. Enforce obedience by appropriate processes on which costs and attorney's fees are taxed as in other actions.

9. Spousal support. The court may:

A. Order spousal support, which must be determined in accordance with the factors set forth in section 951;

B. Order periodic spousal support payments, payments of a specific sum or any combination of both;

C. Order either spouse to maintain a policy of health insurance for the benefit of the other spouse and to pay all or a portion of the uninsured health care expenses of the other spouse;

D. Order either spouse to maintain a policy of life insurance upon that person for the benefit of the other spouse or the couple's children;

E. Order either party to pay the costs and attorney's fees of the other party in the defense or prosecution of a judicial separation;

F. At any time, alter or amend an order for spousal support or a specific sum when it appears that justice requires it, except that a court may not increase the spousal support if the original decree prohibits an increase. In making an alteration or amendment, the court shall consider the factors set forth in section 951; and

G. Enforce an order for spousal support or attorney's fees and costs in accordance with section 952.

This subsection does not limit the court, by full or partial agreement of the parties or otherwise, from awarding spousal support for a limited period, from awarding spousal support that may not be increased regardless of subsequent events or conditions or otherwise limiting or conditioning the spousal support award in any manner or term that the court considers just.

10. Disposition of property. The court may order the disposition of the parties' property in accordance with section 953. Descent of real estate is governed by section 953.

11. Freedom from restraint and interference.

The court may order either spouse to refrain from imposing any restraint on the personal liberty of the other or interfering with the personal privacy of the other and may order other conditions necessary to ensure the peaceful coexistence of the parties.

12. Modification and termination of separation decrees. A separation decree may be modified or is terminated as follows.

A. Upon motion by either party served in accordance with the Maine Rules of Civil Procedure, Rule 4, and after notice and hearing, the court may order the modification of a separation decree upon showing of a substantial change of circumstances justifying the modification. However, that portion of the separation decree disposing of the parties' property in accordance with section 953 is not subject to modification and remains in full force.

B. Upon the filing of a written declaration signed and acknowledged by both parties stating that they have resumed marital relations, the separation decree terminates. However, that portion of the separation decree disposing of the parties' property in accordance with section 953 is not subject to termination and remains in full force.

C. Upon entry of a final judgment of divorce between the parties, the separation agreement terminates. However, that portion of the separation decree disposing of the parties' property in accordance with section 953 is not subject to termination and remains in full force.

13. Joinder with divorce action. If a complaint or counterclaim seeking a divorce pursuant to section 901 is filed in an action in which a complaint or counterclaim seeking a separation decree has also been filed, the court shall order the dismissal of the complaint or counterclaim seeking a separation decree if the court grants a divorce.

14. Inheritance not barred. A separation decree does not bar the spouses or the issue of the marriage from inheriting.

15. Fraud. The court may not grant a judicial separation when the parties seek to procure a judicial separation for fraudulent purposes.

Sec. 5. Effective date. This Act takes effect on October 1, 1997.

Effective October 1, 1997.

CHAPTER 225

H.P. 686 - L.D. 950

**An Act to Amend the Hunting Laws
As They Pertain to Antlerless Deer**

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

Sec. 1. 12 MRSA §7457, sub-§1, ¶H, as amended by PL 1993, c. 574, §21, is further amended to read:

H. The commissioner may regulate the taking of antlerless deer within any area of the State, as necessary, to maintain deer populations in balance with available habitat if the following conditions are met.

(1) The demarcation of each area must follow recognizable physical boundaries such as rivers, roads and railroad rights-of-way.

(2) The determination must be made and published prior to August 1st of each year.

(3) The application fee for a permit to take an antlerless deer may not exceed \$1. The application must include a detachable portion on which the applicant shall write the applicant's name and address and to which the applicant shall affix a stamp of adequate postage. The department shall return this portion of the application to the applicant in acknowledgement of the department's receipt of the application.

(4) The commissioner may adopt rules necessary for the administration, implementation, enforcement and interpretation of this subsection, except that there may not be an antlerless deer permit system unless otherwise specified in this paragraph.

(5) An antlerless deer permit system adopted by the commissioner pursuant to this section may include a provision giving special consideration to landowners who keep their lands open to hunting by the public. Any 2 or more areas of land owned by the same person that are open for hunting and that would be contiguous except for being divided by one or more roads are considered contiguous for the purposes of determining landowner eligibility for special consideration under this subparagraph.

See title page for effective date.