

STATE OF MAINE

—
 IN THE YEAR OF OUR LORD
 TWO THOUSAND AND SIXTEEN

—
 H.P. 609 - L.D. 890

An Act To Ensure a Continuing Home Court for Cases Involving Children

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

Sec. 1. 4 MRSA §152, sub-§5-A is enacted to read:

5-A. Actions involving minors under Title 18-A. Exclusive jurisdiction of actions for guardianship, adoption, change of name or other matters involving custody or other parental rights brought under Title 18-A if proceedings involving custody or other parental rights with respect to a minor child, including but not limited to adoption, divorce, parental rights and responsibilities, grandparents' rights, protective custody, change of name, guardianship, paternity, termination of parental rights and protection from abuse or harassment, are pending in the District Court.

A. The District Court presiding over any matter involving custody or other parental rights with respect to a minor child shall require all parties to disclose whether they have knowledge of:

- (1) Any interim or final order then in effect concerning custody or other parental rights with respect to the minor child;
- (2) Any proceeding involving custody or other parental rights with respect to the minor child currently filed or pending before any court of this State or another state, including before a probate court in this State; or
- (3) Any other related action currently filed or pending before any court of this State or another state, including before a probate court in this State.

B. If the District Court presiding over any matter involving custody or other parental rights with respect to a minor child becomes aware that a proceeding for guardianship, adoption or change of name or another matter involving custody or other parental rights with respect to the minor child is pending in a probate court in this State, the District Court shall notify the Probate Court and take appropriate action to facilitate a transfer of the matter from the Probate Court;

Sec. 2. 4 MRSA §157, sub-§1, ¶A, as amended by PL 2015, c. 377, §1, is further amended to read:

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and to confirmation by the Legislature, shall appoint to the District Court ~~38~~ 39 judges. At least one judge must be appointed from each district who is a resident of a county in which the district lies, except that in District 3 there must be 2 judges appointed who are residents of a county in which the district lies; in District 6 there must be 2 judges appointed who are residents of a county in which the district lies; and in District 9 there must be 2 judges appointed who are residents of a county in which the district lies. Each District Court Judge has a term of office of 7 years.

To be eligible for appointment as a District Judge, a person must be a member of the bar of the State. The term "District Judge" includes the Chief Judge and Deputy Chief Judge.

Sec. 3. 4 MRS §251 is amended to read:

§251. General jurisdiction

Each judge may take the probate of wills and grant letters testamentary or of administration on the estates of all deceased persons who, at the time of their death, where inhabitants or residents of ~~his~~ the judge's county or who, not being residents of the State, died leaving estate to be administered in ~~his~~ the judge's county, or whose estate is afterwards found therein; and has jurisdiction of all matters relating to the settlement of such estates. ~~He~~ A judge may grant leave to adopt children, change the names of persons, appoint guardians for minors and others according to law; and has jurisdiction as to persons under guardianship, and as to whatever else is conferred ~~on him~~ by law, except in cases in which the District Court has jurisdiction over a child pursuant to section 152, subsection 5-A.

Sec. 4. 4 MRS §251-A is enacted to read:

§251-A. Other proceedings involving parental rights; transfer to District Court

1. Disclosure of orders and proceedings. The judge of probate presiding over any matter involving guardianship, adoption or change of name or another matter involving custody or other parental rights with respect to a minor child shall require all parties to disclose whether they have knowledge of:

A. Any interim or final order then in effect concerning custody or other parental rights with respect to the minor child;

B. Any proceeding involving custody or other parental rights with respect to the minor child currently filed or pending before any court of this State or another state, including the District Court; or

C. Any other related action currently filed or pending before any court of this State or another state, including the District Court.

2. Transfer to District Court. If in a matter before the Probate Court concerning a minor child a judge of probate becomes aware that a proceeding involving custody or other parental rights with respect to the minor child is pending in the District Court, the

judge shall notify the District Court and take appropriate action to facilitate a transfer of the matter to the District Court.

Sec. 5. 18-A MRSA §1-701, sub-§(a), as enacted by PL 2001, c. 163, §1, is amended to read:

(a). If a person desires to have that person's name changed, the person may petition the judge of probate in the county where the person resides. If the person is a minor, the person's legal custodian may petition in the person's behalf. If there is a proceeding involving custody or other parental rights with respect to the minor pending in the District Court, the petition must be filed in the District Court.

Sec. 6. 18-A MRSA §5-102, sub-§(a), as enacted by PL 1979, c. 540, §1, is amended to read:

(a). ~~The~~ Subject to Title 4, section 152, subsection 5-A, the court has exclusive jurisdiction over guardianship proceedings and has jurisdiction over protective proceedings to the extent provided in section 5-402.

Sec. 7. 18-A MRSA §9-103, as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

§9-103. Jurisdiction

(a). ~~The~~ Subject to Title 4, section 152, subsection 5-A, the Probate Court has exclusive jurisdiction over the following:

- (1). Petitions for adoption;
- (2). Consents and reviews of withholdings of consent by persons other than a parent;
- (3). Surrenders and releases;
- (4). Termination of parental rights proceedings brought pursuant to section 9-204;
- (5). Proceedings to determine the rights of putative fathers of children whose adoptions or surrenders and releases are pending before the Probate Court; and
- (6). Reviews conducted pursuant to section 9-205.

(b). The District Court has jurisdiction to conduct hearings pursuant to section 9-205. The District Court has jurisdiction over any matter described in subsection (a) if the proceeding concerns a child over whom the District Court has exclusive jurisdiction pursuant to Title 4, section 152, subsection 5-A.

Sec. 8. 18-A MRSA §9-204, sub-§(a), as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

(a). A petition for termination of parental rights may be brought in Probate Court in which an adoption petition is properly filed as part of that adoption petition except when ~~a child protection proceeding is pending or is subject to review by the District Court~~ has exclusive jurisdiction over the child pursuant to Title 4, section 152, subsection 5-A.

Sec. 9. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Mental Health Services - Children 0136

Initiative: Deappropriates funding from the Department of Health and Human Services, Mental Health Services - Children account to offset the additional court costs of having all pending matters concerning a child and family unit addressed by a single District Court Judge.

GENERAL FUND	2015-16	2016-17
All Other	\$0	(\$412,750)
GENERAL FUND TOTAL	<u>\$0</u>	<u>(\$412,750)</u>

**HEALTH AND HUMAN SERVICES,
DEPARTMENT OF (FORMERLY DHS)
DEPARTMENT TOTALS**

	2015-16	2016-17
GENERAL FUND	\$0	(\$412,750)
DEPARTMENT TOTAL - ALL FUNDS	<u>\$0</u>	<u>(\$412,750)</u>

JUDICIAL DEPARTMENT

Courts - Supreme, Superior and District 0063

Initiative: Provides funds for one Judge position, one Deputy Marshal position and one Assistant Clerk position due to an anticipated increase in the number of district court cases involving children.

GENERAL FUND	2015-16	2016-17
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$297,950
All Other	\$0	\$114,800
GENERAL FUND TOTAL	<u>\$0</u>	<u>\$412,750</u>

**JUDICIAL DEPARTMENT
DEPARTMENT TOTALS**

	2015-16	2016-17
GENERAL FUND	\$0	\$412,750

DEPARTMENT TOTAL - ALL FUNDS	<u> </u> \$0	<u> </u> \$412,750
SECTION TOTALS	2015-16	2016-17
GENERAL FUND	\$0	\$0
SECTION TOTAL - ALL FUNDS	<u> </u> \$0	<u> </u> \$0