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STATE OF MAINE
112TH LEGISLATURE
SECOND REGULAR SESSION

FINAL REPORT OF THE
COMMISSION TO STUDY
FAMILY MATTERS IN COURT

MARCH 1986

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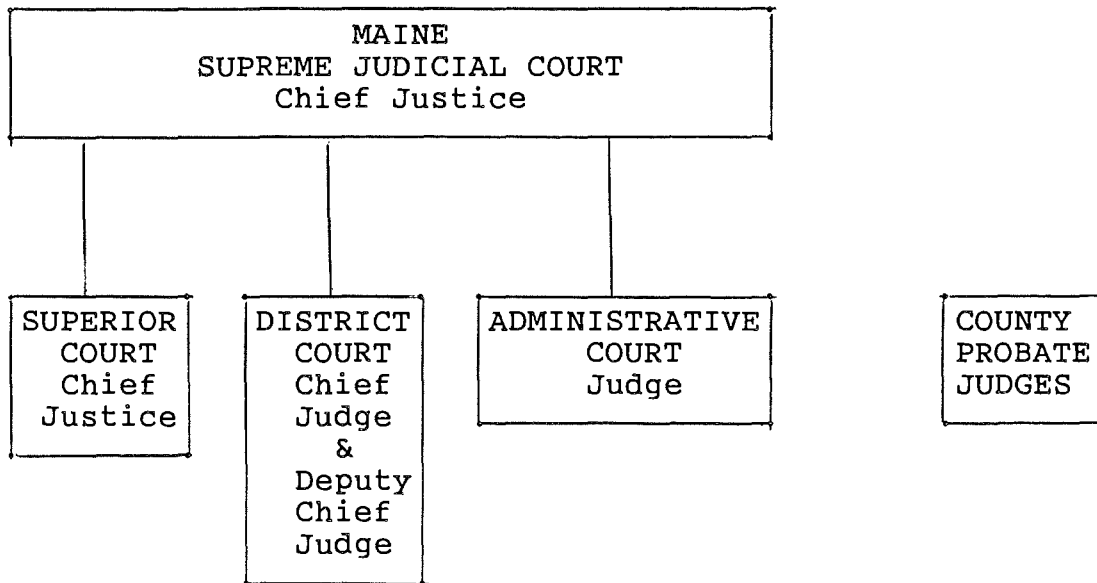
PREFACE

The First Regular Session of the 112th Maine Legislature established the Commission to Study Family Matters in Court to examine how cases involving family disputes and problems are handled in Maine courts.¹ The Commission conducted its study from October 1985 to February 1986.

In preparing its recommendations and report, the Commission drew upon the experience and knowledge of its members; information and suggestions from members of the Judicial Department, the Bar, and those who bring their family matters before the courts for resolution; and work done by other study groups on family matters and family courts in Maine and other states. Along with inviting interested persons to attend Commission meetings, Commission members attended other gatherings of interested persons to explain the Commission's work and listen to comments.

The Commission wishes to thank all those who provided information, attended meetings, and offered suggestions. This report represents the efforts of not only the Commission, but of many others who care about the handling of family matters in Maine courts.

CURRENT COURT SYSTEM



INTRODUCTION

Maine people care about the experience of all citizens who must appear before a court on some matter touching their family relationships. Two recent accomplishments illustrate this well.

In 1983, the Commission to Study the Matter of Child Custody in Domestic Relations Cases issued a report calling for a less adversarial forum for the handling of divorces involving minor children. As a result of that report, the Maine Legislature enacted a requirement of mediation of contested divorces involving children. After more than a year's experience with mandatory mediation of these cases, Maine litigants, lawyers, and judges applaud the success of this approach.

In 1984, the Governor's Working Group on Child Abuse and Neglect Legal Proceedings recommended revisions in Maine law to ease the experience of abused and neglected children with court proceedings. These recommendations resulted in the passage of legislation that has expedited the handling of child protective cases and brought greater sensitivity to bear in these matters.

These recent efforts of Maine government represent only two in a long line of efforts concerned with improving the handling of family matters in Maine courts. The enactment of the

Juvenile Code in 1977, the 1980 Blaine House Conference on Families, the 1983 report of the Maine Children in the Courts Committee, the 1985 report to the Judicial Council of the Committee for the Study of Court Structure in Relation to Probate and Family Matters, are expressions of wide and continuing interest in a better approach to family cases.

This report seeks to draw together concerns about the handling of family matters in Maine courts. The recommendations presented here recognize the existing resources currently serving families well within our court system. The Commission does not recommend a radical departure from our current approach to family matters. However, the Commission does believe the time has arrived to organize our court system so that family matters receive the special attention so clearly desired and deserved.

FINDINGS

Maine's Family Courts

Family cases include "all cases involving children presently handled by the juvenile courts; all cases arising from conflict between family members, primarily in their intra-family and interpersonal relationships; and all cases involving adults which arise from laws designed for the protection of children."²

Maine, then, has several family courts. The District Court handles juvenile offenses.³ The Superior Court hears actions under the Uniform Reciprocal Enforcement of Support Act.⁴ Probate judges act on adoption petitions.⁵ The District Court grants divorces and annulments, as does the Superior Court.⁶ The District Court and probate judges hear child protection petitions.⁷ When parents are living apart and seek a decree of parental rights and responsibilities, they may petition either the District Court, Superior Court, or a probate court.⁸

This scattered jurisdiction over family cases prevents the most efficient use of Maine's judicial resources in serving troubled parents and children:

Lack of uniformity: A District Court judge may be adjudicating the case of a teenager charged with a juvenile crime of drunk driving.⁹ At the same time, that teenager's parents may be involved in a divorce dispute in Superior Court. While the judge in each case may know of the related action in the other court, each judge may consider only a piece of the family's problems. If some effort is made to consolidate judicial actions concerning the family in the District Court,¹⁰ that consolidation may be bought at the price of delay and increasing tension in the divorce dispute.

Similarly, a probate judge may be in the midst of determining the parental rights and responsibilities for a child of never-married parents, when a child protective petition alleging abuse of the child by one parent is filed in District Court. No formal mechanism for consolidation of these cases exists.¹¹ At the same time, one of the parents may seek a protection from abuse order in Superior Court, claiming that the other parent must be restrained from abuse of his or her former housemate. Again, no mechanism exists for the transfer of this action to another court.¹²

The circumstances set out above may be infrequent occurrences, but they are possible under Maine's current system for hearing family cases. Each judge above has only a few pieces of the family's puzzle. No uniform solution to the family's problems can be fashioned by a judge lacking the whole picture.

Similarly, with no clear focus for family cases in Maine, uniform information about the handling of family matters in court is difficult to find. Uniform approaches to the handling of family cases, to the degree uniformity is desirable, cannot be developed when family matter jurisdiction is scattered among courts and judges, when family's problems are heard by judges who must next turn their attention to traffic infractions, a felony criminal case, or a will contest.

Delay: Two divorcing parties may file their action in Superior Court due to a desire for a more private hearing of their divorce contest than is available in District Court, or for a hearing by a Superior Court justice having a better reputation for handling divorce cases than the available District Court judge. To accomplish their desire, these divorcing parties, and their children, may have to endure a wait of months before a hearing date.¹³

A District Court judge scheduled for an afternoon of child protective proceedings in a particular division may conclude the afternoon having heard only the State's case. The judge will return in a week, from hearings in another division, to hear the other side.¹⁴ Meanwhile the custody of an allegedly abused child remains uncertain.

Understandably, the hearing of family cases demands a proportionately greater amount of a judge's time than the hearing of other types of actions.¹⁵ An unresolved family

case may cause the most fundamental aspects of spouses', parents', and children's lives -- including where they live and who they live with -- to remain uncertain. Unnecessarily prolonged uncertainty in the outcome of a family case can only increase anxiety and do greater damage to a troubled family. While the complex, emotional issues presented in some family cases take time to resolve, resolutions should not be delayed because courtrooms are unavailable or judges are overburdened.

Facilities: Administrative Court judges are permitted by statute to hear Superior and District Court cases.¹⁶ In Cumberland County, where the Administrative Court sits, parties in family cases benefit not only from the abilities of the Administrative Court judges, but from the availability of the Administrative Court courtrooms. These facilities are freer from the pressures of heavy nonfamily caseloads experienced by other courts.

Facilities conducive to the sensitive resolution of a family dispute are difficult for many parties to find. The District Court, with its burgeoning dockets, must schedule courtroom use for arraignments, drunk driving hearings, small claims actions, and landlord-tenant disputes, along with family cases. The Superior Court, with its prolonged jury trials, has little time for family cases. The result is that family cases involving the details of the dissolution of a marriage,

personal problems involving drug and alcohol abuse or mental illness, abused children as witnesses, or personal finances, cannot easily be insulated from unrelated cases, unrelated eyes and ears.¹⁷

Expertise: Some people choose social work as a career, others find the business world more satisfying. Some attorneys specialize in family law, while others choose criminal work. Similarly, some judges dislike hearing family cases, not because they are insensitive, but because they find frustration in their inability to solve the problems a family faces. Other judges enjoy the challenge of family law, the opportunity to improve the lives of children and parents.

Judges are people, with the different personalities and interests one finds in any group. Maine's current approach to family cases does not take advantage of these differences. All probate judges, all District Court judges, all Superior Court justices must hear some family cases. Yet some approach these hearings with hope, while others approach them with resignation. Families, and judges, will be better served if we encourage and permit judges with energy and interest for family cases to concentrate on those matters, freeing other judges to focus on the important and large nonfamily caseloads. In this way, judges with an inclination for family matters can use their talents, and develop more expertise, through a deeper involvement with family problems.

Adversariness: Maine has taken significant steps toward reducing the adversary posture of family cases. In 1977, the enactment of the Maine Juvenile Code established a system of juvenile caseworkers to divert juvenile offenders from dispositions involving formal court adjudications.¹⁸ Approximately forty-four percent of each year's juvenile cases are diverted in this way.¹⁹ In 1983, the Legislature mandated mediation of contested divorces, annulments, and separations involving minor children.²⁰ In 1984, the Court Mediation Service resolved more than one half of the domestic cases referred for mediation.²¹ In 1985, the District Court began a pilot program in three counties to train and use Court Appointed Special Advocates as representatives of children in child protective proceedings.²² The successful use of these lay volunteers to protect children's rights has resulted in a current proposal to establish the program in statute and extend its use to all District Courts.²³

Still, the adversary approach predominates in family cases because we are accustomed to a system using that approach for the resolution of legal conflicts. Family cases are heard by some courts having no experience with mediation. Family cases are scheduled in between nonfamily civil and criminal cases in which adversarial adjudications are appropriate. This system makes it difficult for the courts and parties to explore alternative methods of family conflict resolution, to see the

links between family cases we now recognize as appropriate for nonadversarial approaches and those in which we still rely on the adversary system.

All of Maine's trial courts act as family courts. These separate, sometimes overlapping, jurisdictions over family cases result in a lack of coordination and continuity in the handling of family conflicts. Problems exist of nonuniform approaches, delay, insufficient use and development of judicial expertise, inadequate facilities, and insufficient use of nonadversarial dispute resolution mechanisms. Consolidation of jurisdiction over family matters within one Maine court can address these problems. However, before this consolidation can occur, Maine's current probate court system must be revamped.

The Probate Courts

This report concerns the handling of family matters in Maine courts. However, a study of family cases in Maine, and any attempt to consolidate family matter jurisdiction, cannot avoid addressing the structure of the current probate court system. Probate judges operate often as family judges. The present probate court arrangement is applauded for permitting judges to deal more informally with people and to be more

available to parties, attributes beneficial to family cases.²⁴ However, as currently structured, the probate court cannot be integrated into a unified approach to family matters in the Maine courts.

Probate judges are the only elected judges in Maine. As county officers, probate judges are the only judges not supervised by the Judicial Department. As part-time judges, probate judges may, during their nonjudicial working hours, engage in the practice of law.

The Maine people years ago expressed their desire to replace the system of elected, part-time probate judges with a system of full-time judges. At referendum in 1967, the voters supported the repeal of the provision of the Maine Constitution requiring the election of probate judges and registers of probate.²⁵ The repeal of this provision is effective when the Legislature establishes "a different Probate Court system with full-time judges."²⁶

Yet, a Probate Court system with appointed, full-time judges is still not in effect. In 1980, the Maine Probate Law Revision Commission, having completed the work that resulted in the Probate Code, turned its attention to probate court structure. The Commission noted again the undesirability of part-time, elected probate judges.²⁷ In 1985, the Committee

for the Study of Court Structure in Relation to Probate and Family Law Matters emphasized the serious potential conflict of interest existing when part-time probate judges are also part-time practicing attorneys.²⁸

To integrate Maine's handling of family matters in court, to permit probate court judges to serve this unified approach, to increase the availability of the currently recognized benefits of the probate courts to all family cases, the Probate Court must become an equal member of the Judicial Department. A continued system of elected, part-time, county-employed judges is not compatible with the creation of a Family Division of the District Court and consolidation of family matter jurisdiction recommended in this report.

However, it is impractical for the State to take over from the counties the elected register of probate system. The expense and mechanics of such an assimilation would be too burdensome for the State at present. The registers perform a great deal of informal probate work,²⁹ and thus their county location is beneficial. The registers also maintain adoption records.³⁰ Until other arrangements are in place for the storage, retrieval, and maintenance of confidentiality of these records, the county registers of probate are best-suited to remain their guardians.

Similarly, jurisdiction over guardianships and adoptions must remain in the Probate Court at this time.³¹ While these proceedings are in many senses family cases, they have traditionally been part of the probate system only. Consolidating jurisdiction over guardianships and adoptions with other family cases may be appropriate at a later date. For now, the specialized procedures used in guardianships and adoptions, procedures uniquely familiar to registers and judges of probate, argue for retaining Probate Court jurisdiction over these cases as the best use of current resources.

The District Court

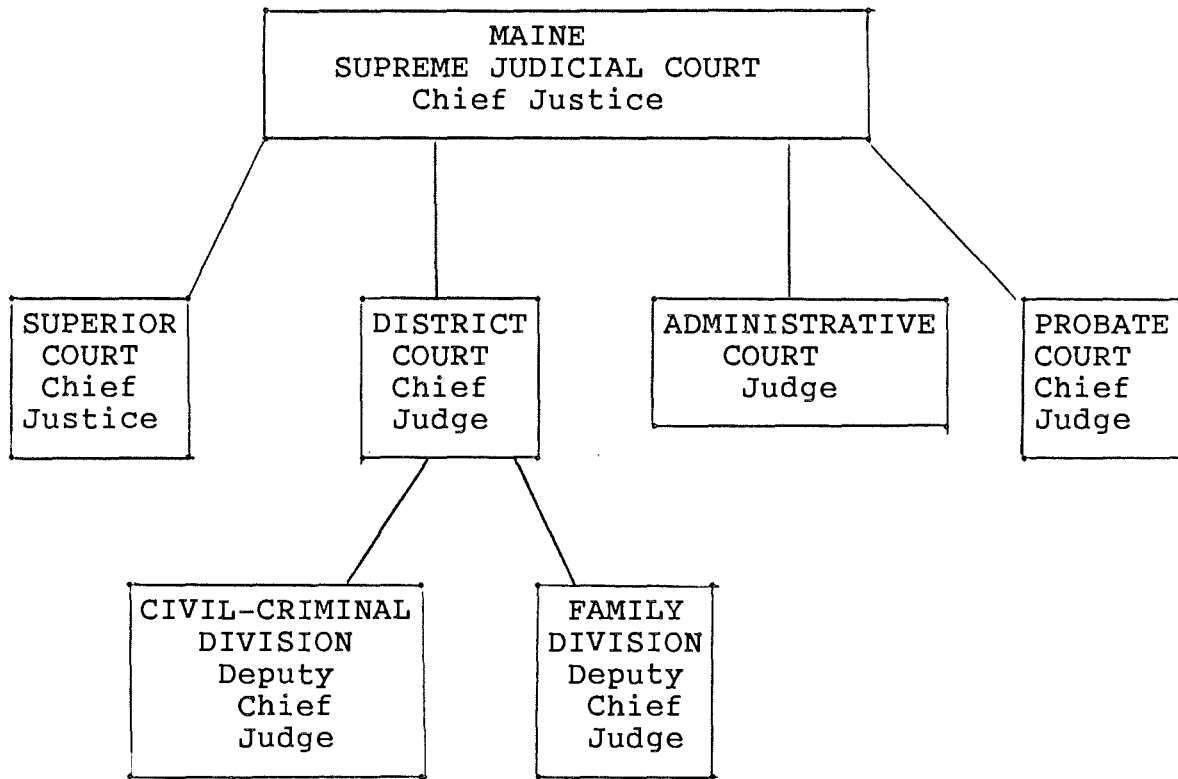
The Maine District Court resembles a family court in several respects. The majority of family matter jurisdiction is placed in the District Court, though other courts have concurrent, and sometimes exclusive, jurisdiction over some family cases. The District Court has the most experience with the Court Mediation Service and social service providers. Yet, the District Court is Maine's most crowded court with the most problematic facilities.³²

This is a time of fiscal restraint in Maine, with many important social concerns -- from corrections to education --

competing for State dollars. The Judicial Department and Legislature are adjusting to the budgetary requirements of a new judicial retirement system and the first collective bargaining by Judicial Department employees.

A sweeping, expensive proposal to reform Maine's handling of family matters in court is not practical, nor is it needed. A realignment of existing resources within the judicial branch, coupled with the implementation of the repeal of the system of elected probate judges, can do much for Maine families subject to court procedures. Through adoption of the recommendations presented here we can insulate family cases from other civil and criminal cases; encourage expedition, uniformity, and continuity in the handling of family disputes; promote nonadversarial resolution of family problems, judicial expertise in family matters, and coordination of social services for families; and provide appropriate facilities for the hearing of family cases. The cornerstone of this proposal is the establishment of a Family Division of the District Court.

RECOMMENDED COURT SYSTEM



RECOMMENDATIONS

Jurisdiction

The Commission recommends that the District Court have exclusive jurisdiction over the following general family matters:

- divorce, annulment, separation, parenting and support decreed when parents live apart
- paternity
- Uniform Reciprocal Enforcement of Support Act (URESA), and other similar uniform acts pertaining to families
- protection from domestic abuse
- child protection and termination of parental rights
- marriage consents and waivers
- emancipation of minors
- juvenile offenses
- name changes
- involuntary commitments of the mentally ill and mentally retarded
- sterilizations without informed consent
- truancy enforcement.

Under the Commission's recommendation, this jurisdiction is exercised by the Family Division of the District Court. Some authority to act on emergency petitions is placed in other courts in cases where these emergency powers are important to families.

The Family Division of the District Court

The Commission recommends the organization of family matter jurisdiction under the Family Division of the District Court, headed by a Deputy Chief Judge chosen from among existing District Court judges. The Deputy Chief Judge of the Family Division will have primary responsibility for recommending to the Chief Justice of the Supreme Judicial Court the assignment of judges to the Family Division. The Deputy Chief Judge will be a member of the Judicial Council, having an equal voice in the policy formulation for the judicial system conducted by that group. A committee composed of professionals and other persons involved in family cases will advise the Deputy Chief Judge in the functioning of the Family Division.

Family Division Judges

The Commission recommends that the Chief Justice of the Supreme Judicial Court assign judges and justices from the District, Superior, Probate, and Administrative Courts to sit for two-year terms in the Family Division of the District Court. The Chief Justice must seek out judges expressing or demonstrating an affinity for and ability in family matters. Ideally, judges and justices assigned to the Family Division will spend the majority of their time on that assignment, with the option of reassignment to other types of cases for at least six months after the completion of a two-year Family Division stint. The mix of justices and judges assigned to the Family Division is to be tailored to meet the caseload and geographic needs of each district. Family Division judges are to explore the appropriateness of mediation and other services in cases coming before them. All Family Division judges will attend an annual conference to receive continuing education in family matters.

Family Division Docket

The Commission recommends that existing personnel within the Administrative Office of the Courts design and implement a

uniform method for docketing family cases within the Family Division of the District Court. The District Court clerks will specifically assign assistant clerks in each clerk's office to the Family Division docket.

Courtrooms

The Commission recommends that all courtrooms of the District, Superior, Probate, and Administrative Courts be available for the scheduling of hearings for Family Division cases. Existing personnel of the State Court Administrator's Office will work with the District Court clerks and registers of probate to facilitate this scheduling.

An Appointed Probate Court

The Commission recommends the establishment of a Probate Court with full-time judges appointed by the Governor to seven year terms, as are all other Maine judges. The Probate Court will be within the Judicial Department, and Probate Court judges will receive salaries equal to those of District Court judges.

The system of full-time, appointed Probate Court judges will be phased in over two years. On January 1, 1987, the current terms of the elected probate judges for seven counties end. Those seven judges will be replaced at that time by three appointed Probate Court judges. The appointed judges will serve three regions composed of the seven counties that lose elected judges in 1987.

On January 1, 1989, the current terms of the elected probate judges for the remaining nine counties expire. At that time, three more appointed Probate Court judges will begin to serve their seven year terms. Each of the six appointed Probate Court judges serving by 1989 will be assigned to one of the following regions:

- Cumberland County - Sagadahoc County region
- York County - Oxford County region
- Kennebec County - Androscoggin County - Lincoln County region
- Waldo County - Knox County - Hancock County - Washington County region
- Aroostook County - Penobscot County region
- Franklin County - Somerset County - Piscataquis County region.

In 1989, the Chief Justice of the Supreme Judicial Court will designate one Probate Court judge to serve as Chief Judge of the Probate Court.

In several of the Probate Court regions, the Probate Court judges will have time available for assignment to the Family Division of the District Court. Probate Court courtrooms will also be available for the hearing of family cases. While Probate Court judges become state employees under the new system, the registers of probate remain elected county officials.

Funding

The Commission recommends increasing filing fees for court actions to fund the creation of the Family Division of the District Court and an appointed Probate Court. Both filing fees for family cases and probate proceedings must be raised. The final figures on how much these fees must be increased to finance this proposal have not been calculated. However, the new fees should approximate the following recommendations:

- For divorce actions, a \$65 filing fee. Currently, the filing fee for a divorce initiated in District Court is \$25. If filed in Superior Court, the divorce fee is \$50.

- For adoptions, a \$65 filing fee. The current filing fee for adoption proceedings in Probate Court is \$10.

-- For seeking to waive the marriage waiting period after receipt of a license, \$40. The current filing fee is \$10.

-- For probating a will, the filing fees are increased \$40 or \$50.

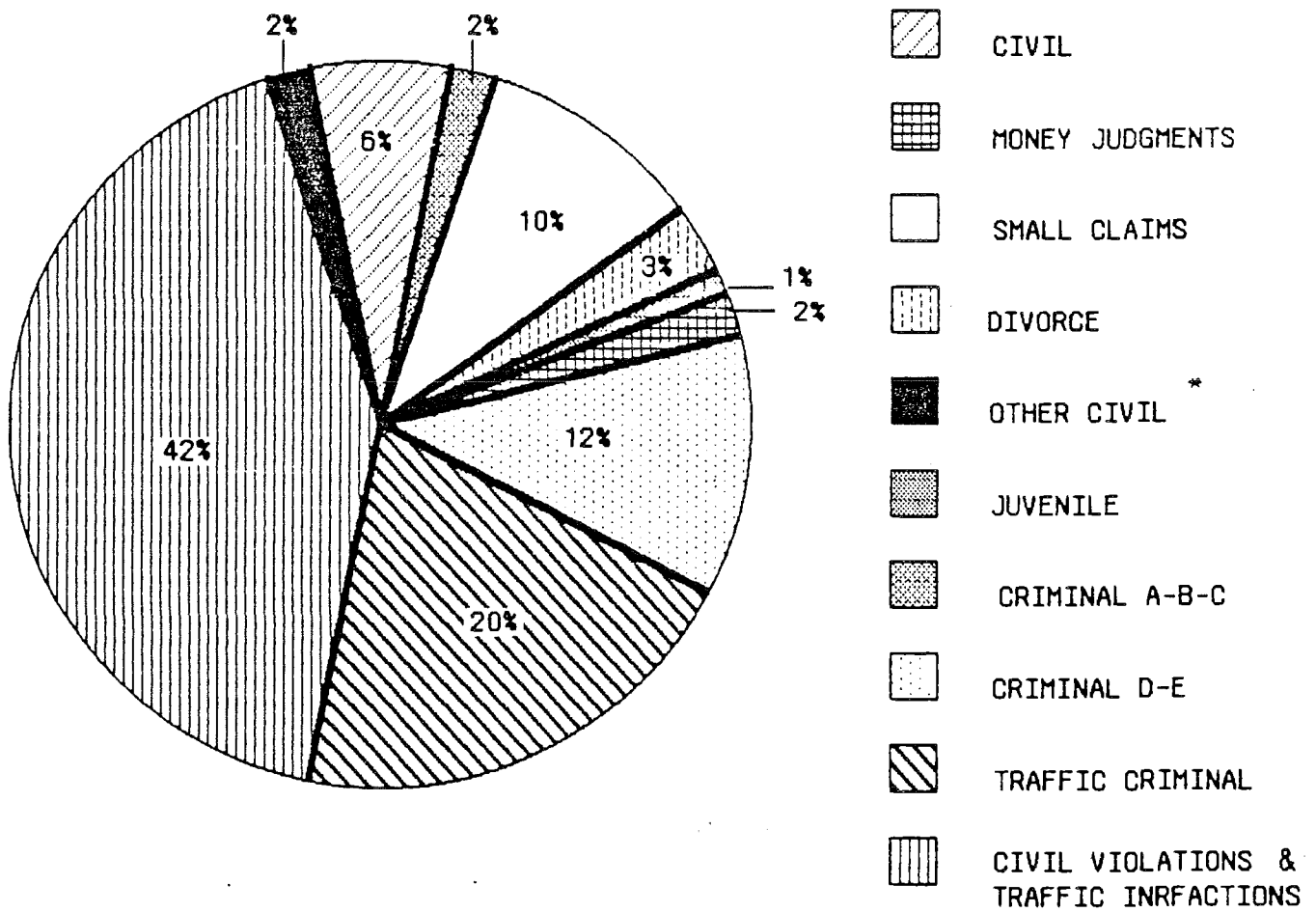
Under this recommendation, all Family Division filing fees are returned to the State's General Fund. The probate filing fees are no longer retained by the county: most of the fees will be credited to the General Fund, with a small percentage retained by the counties for funding the offices of the registers of probate.

CONCLUSION

Families with problems they must bring before Maine courts deserve the most caring treatment we can offer them. Knowledgeable, sensitive, expeditious handling of a family case by our court system may help forestall future troubles for the family and its individual members.

The Commission to Study Family Matters in Court recommends elimination of the scattered jurisdiction over family matters existing in Maine courts, and proposes the creation of a Family Division of the District Court. The Commission also recommends the establishment of a Probate Court within the Judicial Department. Implementation of these proposals will focus the appropriate judicial resources on Maine's family cases.

1984 DISTRICT COURT CASELOAD



* INCLUDES FAMILY ABUSE AND MENTAL HEALTH

FOOTNOTES

1. Private and Special Law 1985, chapter 65.
2. M. Loper & J. Chapman, "History and Nature of the Family Court Movement: An Introductory Summary," Committee for the Study of Court Structure in Relation to Probate and Family Law Matters 2 (July 1984).
3. ME. REV. STAT. tit. 15, §3101 (West 1980).
4. ME. REV. STAT. tit. 19, §393 (West 1981). Though section 393 gives concurrent jurisdiction over URESA actions to the District Court, the Superior Court appears to be the only court exercising jurisdiction in this area. See STATE OF MAINE JUDICIAL DEPARTMENT, 1984 ANNUAL REPORT 105-108.
5. ME. REV. STAT. tit. 19, §531 (West Supp. 1985-86).
6. ME. REV. STAT. tit. 19, §635, 664.
7. ME. REV. STAT. tit. 22, §4031 (West Supp. 1985-86).
8. ME. REV. STAT. tit. 19, §214 (West Supp. 1985-86).
9. ME. REV. STAT. tit. 15, §3103, sub-§1, ¶F (West Supp. 1985-86).
10. ME. R. CIV. PRO. 80 (k) permits transfer of divorce and annulment actions from the Superior Court to the District Court.
11. The Maine Revised Statutes, Title 19, Section 214, does not provide for transfer of parental rights and responsibilities actions from the Probate Court to the District Court. The Maine Revised Statutes, Title 22, section 4031, does not provide for transfer of child protective proceedings from District Court to Probate Court, though the section does permit transfer of these proceedings from Probate Court to District Court. The District Court Civil Rules and Rules of Probate Procedure only contemplate removal of cases to the Superior Court. See, e.g., ME. DIST. CT. DIV. R. 73 and ME. R. PROB. PRO. 71A.
12. ME. REV. STAT. tit. 19, c. 14 (West 1981 & West Supp. 1985-86).
13. In 1984, the statewide Superior Court average for time from pre-trial conference to trial in a non-jury civil case was 253 days. STATE OF MAINE JUDICIAL DEPARTMENT, 1984 ANNUAL REPORT 54.

14. District Court Judge Susan W. Calkins has had this experience, which she reported to the Commission at its November 18, 1985 meeting. See minutes in the Commission's files (Office of Policy and Legal Analysis, State House, Augusta, Maine).
15. See Appendix B of this report.
16. ME. REV. STAT. tit. 4, §§157-C & 1158 (West Supp. 1985-86).
17. Though child protective proceedings are closed to the public unless the court orders otherwise, ME. REV. STAT. tit. 22, §4007, sub-§1 (West Supp. 1985-86), divorce proceedings may be closed to the public upon the request of a party and the acquiescence of the other, ME. REV. STAT. tit. 19, §695, sub-§1 (West Supp. 1985-86), and commitment hearings for the mentally ill are confidential, ME. REV. STAT. tit. 34-B, §§3864, sub-§5, ¶H (West Supp. 1985-86), persons involved in these cases in the District Court still do not obtain appropriate privacy in crowded courthouses where the wait for a delayed hearing must be done in public.
18. ME. REV. STAT. tit. 15, §3301 (West Supp. 1985-86).
19. From 1981 to 1984 an average of 44% of juvenile cases that went beyond simply an arrest were disposed of through informal adjustments. See MAINE CRIMINAL JUSTICE DATA CENTER, JUVENILE CRIME DATA BOOK 1980-1984 (May 1985).
20. ME. REV. STAT. tit. 19, §§214, 581 & 752 (West Supp. 1985-86).
21. Mediators resolved 51% of the domestic cases mediated in the District and Superior Courts in 1984. See STATE OF MAINE JUDICIAL DEPARTMENT, 1984 ANNUAL REPORT 175-76.
22. D. Olken, Background Information Memo for LD 1885 (in files of Judiciary Committee, 112th Legislature, 2nd Regular Session).
23. LD 1885, 112th Legislature, 2nd Regular Session.
24. Committee for the Study of Court Structure in Relation to Probate and Family Law Matters, Report to the Judicial Council 3 (Jan. 18, 1985); Mary L. Schendel, President, Maine State Bar Association, "Don't abolish Maine's probate courts" letter to the editor, Maine Sunday Telegram, April 28, 1985; Maine Association of Registers of Probate, Memo to Judiciary Committee on LD 1250 (in files of the Judiciary Committee, 112th Legislature, 1st Regular Session).
25. See Note to ME. CONST. art. VI, §6 (West 1985).
26. Resolves 1967, c. 77.

27. MAINE PROBATE LAW REVISION COMMISSION, REPORT TO THE LEGISLATURE AND RECOMMENDATIONS CONCERNING PROBATE COURT STRUCTURE 8-10 (Feb. 21, 1980).
28. Committee for the Study of Court Structure, supra n. 24 at, 4.
29. MAINE PROBATE LAW REVISION COMMISSION, REPORT OF THE COMMISSION'S STUDY AND RECOMMENDATIONS CONCERNING MAINE PROBATE LAW 164-72 (Oct. 1978); Appendix F of this report.
30. See ME. REV. STAT. tit. 19, §534 (West Supp. 1985-86).
31. ME. REV. STAT. tit. 18-A, §5-102 (West 1981); ME. REV. STAT. tit. 19, §531 (West Supp. 1985-86).
32. See STATE OF MAINE JUDICIAL DEPARTMENT, 1984 ANNUAL REPORT 5, 23-25.

APPENDIX A

Excerpts from Commission's Recommended Legislation

Sec. 6. 4. MRSA §152-A is enacted to read:

§152-A. Family Division of the District Court

1. Legislative findings and purpose. The Legislature finds that establishment of a Family Division of the District Court will enhance the sensitive handling of family matters through insulation of family cases from other civil and criminal court cases, more expeditious resolution of family cases and increased uniformity and continuity in the handling of family disputes and problems. Through establishment of a Family Division of the District Court the Legislature seeks to encourage nonadversarial resolutions of family disputes, development of judicial expertise in family matters, coordination of services for families and provision of appropriate facilities for the hearing of family cases.

2. Family Division; jurisdiction. There is established within the District Court a Family Division having jurisdiction over the following actions:

A. Actions for divorce or annulment of marriage under Title 19, chapter 13;

B. Actions for judicial separation under Title 19, chapter 11;

C. Actions for parenting and support when parents live apart under Title 19, section 214;

D. Actions to determine paternity under Title 19, chapter 5, subchapter III;

E. Actions for support of a spouse or child under Title 19, chapter 7, subchapter I;

F. Actions under the Uniform Reciprocal Enforcement of Support Act of Title 19, chapter 7, subchapter II;

G. Actions under the Uniform Civil Liability for Support Act of Title 19, chapter 7, subchapter III;

H. Actions under the Uniform Child Custody Jurisdiction Act of Title 19, chapter 16;

I. Actions for protection from abuse under Title 19, chapter 14;

- J. Actions to waive marriage intentions under Title 19, section 61;
- K. Actions for consent to the marriage of a minor under Title 19, section 62;
- L. Actions concerning a caution to marriage under Title 19, section 92;
- M. Actions for change of name under Title 19, section 781;
- N. Actions to protect children under Title 22, chapter 1071, subchapter IV;
- O. Actions to terminate parental rights under Title 22, chapter 1071, subchapter VI;
- P. Actions for a medical treatment order under Title 22, chapter 1071, subchapter VIII;
- Q. Actions for emancipation of a juvenile under Title 15, section 3506-A;
- R. Adjudications of juvenile crimes under Title 15, chapter 501;
- S. Actions for involuntary hospitalization of mentally ill persons under Title 34-B, chapter 3, subchapter IV, article III;
- T. Actions for involuntary admissions of mentally retarded persons under Title 34-B, chapter 5, subchapter III, article III;
- U. Actions for sterilizations under Title 34-B, chapter 7; and
- V. Actions to enforce truancy laws under Title 20-A, section 5053.

In actions for protection from abuse under Title 19, chapter 14, the Superior Court shall have the limited emergency jurisdiction authorized in Title 19, section 765, subsection 2. In actions to protect children under Title 22, chapter 1071, subchapter IV, the Superior Court shall have the limited emergency jurisdiction authorized in Title 22, section 4031, subsection 1, paragraph C. In actions to waive marriage intentions under Title 19, section 61, the Supreme Judicial, Superior, and Probate Courts shall have the emergency jurisdiction authorized in that section. In actions for involuntary hospitalization of mentally ill persons under Title 34-B, chapter 3, subchapter IV, article III, the Superior Court and Probate Court shall have the emergency jurisdiction authorized in Title 34-B, section 3863, subsection 3.

3. Deputy Chief Judge of the Family Division. The Deputy Chief Judge of the Family Division shall present to the Chief Justice of the Supreme Judicial Court recommendations for the assignment of Superior Court justices, District Court judges, Probate Court judges and Administrative Court judges to the Family Division of the District Court. The Deputy Chief Judge of the Family Division of the District Court shall consult with the Chief Justice of the Superior Court, the Chief Judge and other Deputy Chief Judge of the District Court, the Chief Judge of the Probate Court and the Administrative Court Judge in the preparation of these recommendations. The Deputy Chief Judge of the Family Division of the District Court shall have the administrative responsibility for the Family Division of the District Court delegated to that judge by section 162 and the Chief Judge of the District Court.

4. Family Division judges. The Chief Justice of the Supreme Judicial Court shall assign justices and judges of the Superior, District, Probate and Administrative Courts as Family Division judges. The Chief Justice shall assign as Family Division judges those judges having an interest or demonstrated ability in the handling of sensitive family matters.

In making these assignments, the Chief Justice shall consider the unique needs of each district of the District Court and the caseloads of all the judges available to serve as Family Division judges within a district. The Chief Justice shall seek to assign judges to the Family Division who can devote full-time or a majority of their time to hearing cases within that Division, though in some districts certain Family Division judges may need to devote less than half of their time to hearing cases within that Division. Assignment of Family Division judges shall be done so as to maintain the system of resident District Court judges established by section 157, subsection 1, paragraph A. Assignment as a Family Division judge shall be for a 2-year term with, if requested by the judge, at least a 6-month assignment completely outside of the Family Division after the expiration of the 2-year term.

5. Family Division docket. The Administrative Office of the Courts shall establish a uniform method for docketing all cases filed within the Family Division of the District Court to be used by all offices of the divisions of the District Court where Family Division cases are filed. Assistants of the State Court Administrator assigned to the District Court shall assist the District Court with implementation of the Family Division docket, training of clerks or deputy clerks to handle the Family Division docket, and familiarization of the clerks handling the Family Division docket with the social service agencies that may be involved in Family Division cases.

6. Courtrooms. The courtrooms of the Superior, District, Probate and Administrative Courts shall be available for the hearing of cases of the Family Division of the District Court.

Assistants of the State Court Administrator assigned to the District Court shall work with the clerks of all courts and the registers of probate to assist with the scheduling of the use of courtrooms by the Family Division of the District Court. The Family Division shall seek to use courtrooms providing the most privacy possible for the hearing of family cases.

7. Mediation. The Family Division of the District Court may at any time, in any case under its jurisdiction, refer the parties to mediation on any issues.

8. Other services. The Family Division shall assure that assessments and dispositions of family cases include appropriate social and other services available to families. The Family Division may appoint a guardian ad litem or court-appointed special advocate in any family case. When a custody study is necessary in any family case, the Family Division shall encourage parties who can afford to pay for the study to agree, for the purpose of reducing delay, upon the use of an independent mental health professional, educator, family practice attorney or other qualified professional to conduct the study.

9. Continuing education. All judges assigned to the Family Division of the District Court, any other interested judges and all members of the advisory committee established under subsection 10 shall meet annually at a conference sponsored by the Judicial Department to discuss and receive continuing education in family matters and services available to families. Other court personnel, family practice attorneys, social service providers, mediators and others involved with family cases may be included in the conference.

10. Advisory Committee on Family Matters. The Chief Justice of the Supreme Judicial Court shall appoint a committee to advise the Deputy Chief Judge of the Family Division. The Chief Justice shall appoint not less than 10 nor more than 15 members to the committee. Committee membership shall include family practice attorneys, mediators, court personnel, social service providers and others involved with family cases. Committee members shall serve at the pleasure of the Chief Justice or for whatever terms the Chief Justice sets. Committee members shall not receive any compensation for their committee work.

The advisory committee shall meet when a meeting is called by the Deputy Chief Judge of the Family Division of the District Court. The committee shall advise the Deputy Chief Judge on the overall functioning of the Family Division of the District Court, including the usage of mediation, guardians ad litem, court-appointed special advocates and other non-judicial services.

Sec. 16. 4 MRSA §301-A is enacted to read:

§301-A. Full-time, appointed Probate Court judges; regions; salaries

1. Full-time probate judges. There is established a Probate Court system for the State of Maine with full-time, appointed Probate Court judges. The Probate Court judges appointed under this section shall be members of the Judicial Department and subject to supervision under section 1.

The enactment of this section effectuates the repeal of Article VI, section 6 of the Constitution of Maine by Amendment CVI as provided in Resolves 1967, chapter 77. Elected judges of probate whose terms expire on January 1, 1987, and January 1, 1989, may complete these terms though Article VI, section 6 is repealed when this section becomes effective. A vacancy occurring in any of these offices, prior to the expiration of the officeholder's term, by death, resignation or otherwise, shall be filled by the Governor by appointment, and the person so appointed shall serve until the expiration of the term of the officeholder replaced.

2. Appointment. Probate Court judges shall be appointed as follows:

A. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, shall appoint to the Probate Court so that they may begin their terms on January 1, 1987, 3 judges, one to serve each of the following regions from January 1, 1987 through December 31, 1988:

(1) Region 1 consisting of Cumberland County and York County.

(2) Region 2 consisting of Kennebec County and Androscoggin County.

(3) Region 3 consisting of Franklin County, Penobscot County and Hancock County.

B. Beginning on January 1, 1989, and thereafter, the Probate Court judges appointed under paragraph A shall serve the following regions in the following manner:

(1) The judge appointed to serve Region 1 in paragraph A shall serve a Region 1 consisting of Cumberland County.

(2) The judge appointed to serve Region 2 in paragraph A shall serve a Region 3 consisting of Kennebec County, Androscoggin County and Lincoln County.

(3) The judge appointed to serve Region 3 in paragraph A shall serve a Region 5 consisting of Aroostook County and Penobscot County.

C. The Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary and to confirmation by the Legislature, shall appoint to the Probate Court after January 7, 1987, so that they may begin their terms on January 1, 1989, 3 judges, one to serve each of the following regions:

(1) Region 2 consisting of York County and Oxford County.

(2) Region 4 consisting of Waldo County, Knox County, Hancock County and Washington County.

(3) Region 6 consisting of Franklin County, Somerset County and Piscataquis County.

2. Regions. On and after January 1, 1989, the State is divided into 6 probate regions with one Probate Court judge serving each region as described in subsection 1:

A. Region 1 consisting of Cumberland County and Sagadahoc County.

B. Region 2 consisting of York County and Oxford County.

C. Region 3 consisting of Kennebec County, Androscoggin County and Lincoln County.

D. Region 4 consisting of Waldo County, Knox County, Hancock County and Washington County.

E. Region 5 consisting of Aroostook County and Penobscot County.

F. Region 6 consisting of Franklin County, Somerset County and Piscataquis County.

3. Chief Judge. After January 1, 1989, the Chief Justice of the Supreme Judicial Court shall designate one of the Probate Court judges as Chief Judge of the Probate Court. He shall serve at the pleasure and under the supervision of the Chief Justice of the Supreme Judicial Court and shall be responsible for the operation of the Probate Court. The Chief Judge of the Probate Court shall also perform such additional duties as may be assigned to him from time to time by the Chief Justice of the Supreme Judicial Court.

4. Salaries. The Probate Court judges appointed under this section shall receive salaries equal to those and following the periods for District Court judges established in

section 157, subsection 4. The Chief Judge of the Probate Court shall receive a salary equal to 105% of the salary of a Probate Court judge. Other than for the purposes of this subsection, the term "Probate Court judge" includes the Chief Judge of the Probate Court.

APPENDIX B

COMPILED BY COMMISSION FROM DISTRICT COURT CLERK SURVEY

What % of the cases initiated in your District Court during 1985 will be / What % of the judge time assigned to your District Court will be devoted during 1985 to

District Court	Divorce?	Child Protection?	Juvenile Offenses?	Paternity?	Protection from Abuse?	Commitment of Ment. Ill.?	Family* Cases?
Augusta	34%/30%	1%/10%	17%/15%		12%/25%	36%/20%	
Bangor	6%/4%	1%/2%	2.5%/2.5%	.5%/	3%/	2%/	/5%
Belfast	5%/20%	1%/5%	4%/2%		2%/1%		
Biddeford	/30%	/40%	/20%		/10%		
Calais	3%/15%	1%/15%	2%/20%				
Caribou	6%/20%	.5%/10%	2%/10%		2%/3.2%		
Ellsworth	25%/	5%/	10%/		5%/		
Farmington	18%/35%	2%/10%	2%/5%		4%/10%		
Fort Kent			1%/3%				
Houlton	3%/25%	1%/40%	1%/5%				1%/1%
Kittery	50%/50-75%	10%/15%	5%/5-10%		25%/25-30%		
Lewiston	10%/20%	15%/8%	8%/20%		15%/20%		
Lincoln	25%/15%	3%/2%	6%/3%				6%/2%
Machias	35%/	45%/	15%/		5%/		
Madawaska	/20%	/20%	/5%				1%/1%
Portland							10%/46%*
Presque Isle	4%/22%	.003%/11%	1%/11%	.003%/1%	.007%/5%		
Rockland	4%/10%	.25%/20%	1.5%/20%		1.25%/1%		
Rumford	20%/20%	5%/5%	20%/20%	1%/1%	4%/4%		
Skowhegan	15%/10%	5%/25%	5%/15%				5%/15%
Waterville	3%/10%	.25%/5%	3%/2%		1%/1%		
Wiscasset	<u>50%/20%</u>	<u>5%/15%</u>	<u>30%/20%</u>				<u>15%/5%</u>
Averages	18%/22%	6%/14%	7%/11%	.5%/1%	6%/10%	19%/20%	6%/5%

* Family cases other than divorce, child protection, juvenile offenses.

** Represents all types of family cases: 1,200 divorce cases, 80 child protection cases, 450 juvenile offense cases, 400 protection from abuse cases, 200 commitment of mentally ill cases, 25 paternity cases.

APPENDIX C

Reprinted from 1984 Annual Report of the Judicial Department

DISTRICT COURT
FILINGS AND DISPOSITIONS
BY TYPE OF CASE

STATE TOTAL	F I L I N G S					% CHANGE 1983-1984
	1980	1981	1982	1983	1984	
Civil	14,013	14,542	13,324	12,481	12,263	-1.8
Family Abuse (b)	0	0	1,574	2,107	2,556	21.3
Money Judgments	6,821	5,530	4,705	4,463	3,883	-13.0
Small Claims	20,132	21,063	22,174	24,051	22,718	-5.5
Divorce	7,591	7,742	6,992	7,001	7,511	7.3
Mental Health	899	882	811	720	1,054	46.4
Sub Total	49,456	49,559	49,580	50,823	49,985	-1.7
Juvenile	3,961	3,864	3,405	3,240	3,065	-5.4
Criminal A,B,C	3,035	2,962	3,338	3,399	3,556	4.6
Criminal D,E	26,279	26,521	27,287	27,017	27,418	1.5
Traffic Criminal	56,074	60,860	52,078	51,291	44,278	-13.7
Sub Total	89,349	94,207	86,108	84,947	78,317	-7.8
Civil Violations and Traffic Infractions	92,352	84,757	79,783	92,150	92,415	.3
TOTAL FILINGS	231,157	228,523	215,471	227,920	220,717	-3.2

STATE TOTAL	D I S P O S I T I O N S					% CHANGE 1983-1984
	1980	1981	1982	1983	1984	
Civil	12,457	15,063	14,034	12,781	12,829	.4
Family Abuse (b)	0	0	1,422	1,954	2,064	5.6
Money Judgments	6,570	5,675	4,559	4,349	3,576	-17.8
Small Claims	17,509	18,713	20,742	23,093	20,977	-9.2
Divorce	7,526	8,454	6,751	6,990	6,840	-2.2
Mental Health	897	737	760	722	990	37.1
Sub Total	44,959	48,642	48,268	49,889	47,276	-5.2
Juvenile	3,939	3,795	3,148	3,325	2,920	-12.2
Criminal A,B,C	2,543	2,871	3,120	3,137	3,113	-.8
Criminal D,E	25,027	26,368	27,646	26,915	24,664	-8.4
Traffic Criminal	49,485	58,420	52,827	51,813	44,071	-14.9
Sub Total	80,994	91,454	86,741	85,190	74,768	-12.2
Civil Violations and Traffic Infractions	96,308	85,996	80,261	89,417	91,173	2.0
TOTAL DISPOSITIONS	222,261	226,092	215,270	224,496	213,217	-5.0

Footnotes appear on page 170 of this report
Case type definitions appear on page 171 of this report

APPENDIX D

Reprinted from 1984 Annual Report of the Judicial Department

SUPERIOR COURT
CASELOAD SUMMARY

STATE TOTAL	1980	1981	1982	1983	1984	% CHANGE 1980-1984	% CHANGE 1983-1984
CIVIL:							
PENDING JANUARY 1	8,958	9,199	9,369	9,203	8,840	-1.3	-3.9
FILINGS	6,446	6,370	6,083	5,834	5,431	-15.7	-6.9
DISPOSITIONS	6,205	6,200	6,249	6,197	5,764	-7.1	-7.0
PENDING DECEMBER 31	9,199	9,369	9,203	8,840	8,507	-7.5	-3.8
CASELOAD CHANGE	241	170	-166	-363	-333		
URES:							
PENDING JANUARY 1	1,244	1,707	1,845	1,958	2,204	77.2	12.6
FILINGS	1,944	1,749	1,538	1,565	1,344	-30.9	-14.1
DISPOSITIONS	1,481	1,611	1,425	1,319	1,705	15.1	29.3
PENDING DECEMBER 31	1,707	1,845	1,958	2,204	1,843	8.0	-16.4
CASELOAD CHANGE	463	138	113	246	-361		
CRIMINAL:							
PENDING JANUARY 1	4,458	4,440	4,836	5,985	5,874	31.8	-1.9
FILINGS	8,866	9,190	9,291	9,305	8,712	-1.7	-6.4
DISPOSITIONS	8,884	8,794	8,142	9,416	8,939	.6	-5.1
PENDING DECEMBER 31	4,440	4,836	5,985	5,874	5,647	27.2	-3.9
CASELOAD CHANGE	-18	396	1149	-111	-227		
TOTAL CASELOAD:							
PENDING JANUARY 1	14,660	15,346	16,050	17,146	16,918	15.4	-1.3
FILINGS	17,256	17,309	16,912	16,704	15,487	-10.3	-7.3
DISPOSITIONS	16,570	16,605	15,816	16,932	16,408	-1.0	-3.1
PENDING DECEMBER 31	15,346	16,050	17,146	16,918	15,997	4.2	-5.4
CASELOAD CHANGE	686	704	1096	-228	-921		

- * - Includes cases filed and refiled
- All cases counted by docket number

APPENDIX E

Reprinted from 1984 Annual Report of the Judicial Department

DISTRICT COURT CASES
HEARD BY ADMINISTRATIVE COURT JUDGES

	1983		1984	
	HEARINGS HELD	CASES DISPOSED	HEARINGS HELD	CASES DISPOSED
DIVORCE	231	149	99	124
CIVIL	172	90	70	43
SMALL CLAIMS	268	268	137	113
DISCLOSURES	110	110	36	36
FORCEABLE ENTRY AND DETAINER	14	14	2	2
FAMILY ABUSE	2	2	-	-
PROTECTIVE CUSTODY	96	96	1	1
CRIMINAL ARRAIGNMENTS	10	10	-	-
TOTAL	903	739	345	319

SUPERIOR COURT CASES
HEARD BY ADMINISTRATIVE COURT JUDGES

	1984	
	HEARINGS HELD	CASES DISPOSED
DIVORCE	221	145
CIVIL	39	30
PROTECTION FROM ABUSE	1	1
TOTAL	261	176

APPENDIX F

Compiled by the Maine Registers of Probate Association

PROBATE STATISTICS FOR 1984

Type of Proceeding	Cumberland (215,789)	York (139,666)	Penobscot (137,015)	Kennebec (109,889)	Androscoggin (99,657)	Aroostook (91,331)	Oxford (48,968)	Somerset (45,028)	Hancock (41,781)	Washington (34,963)	Knox (32,941)	Sagadahoc (28,795)	Waldo (28,414)	Franklin (27,098)	Lincoln (25,691)	Piscataquis (17,634)
Informals	1016	932	461	406	349	248	253	211	300	140	352	172	85	119	190	97
Formals	31	25	37	30	12	17	11	10	12	11	7	2	11	5	11	6
Guardians (Minors)	35	32	5	11	27	4	9	12	0	9	4	9	2	3	4	3
Guardians (Adults)	39	26	57	38	23	10	6	5	7	7	5	1	3	5	3	5
Conservators	29	40	15	39	6	6	6	5	12	3	5	2	3	2	3	2
Joined Petitions	96	65	73	54	39	35	16	28	9	15	17	20	21	9	9	4
N-116 Foreign P.R.	0	0	0	13	0	6	6	6	0	0	0	0	0	0	28	0
Sworn Statements	0	60	134	200	105	94	45	62	19	16	42	61	53	28	119	1
Closing Statements	0	6	13	42	3	13	0	5	12	10	16	0	2	0	0	0
Adoptions	150	135	89	63	71	51	41	41	34	22	16	31	30	17	24	18
Change of Names and non-code matters	221	152	95	99	70	46	26	22	30	13	0	17	30	10	19	17
Appeals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Court Reporters (Devices)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Supervised Administra- tion	0	2	0	0	2	0	1	5	2	3	0	0	0	0	0	1
Trusts Registered	12	0	3	0	2	2	4	2	2	0	3	2	2	5	0	2
Totals	1629	1475	982	995	709	532	424	414	439	249	467	317	242	203	410	156