

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1785

H. P. 1571

House of Representatives, May 18, 1977

Reported by Mr. Spencer from Committee on Judiciary. Sent up for concurrence and ordered printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Improve Prosecution Services.

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

Sec. 1. 15 MRSA § 708, as last amended by PL 1973, c. 567, § 20, is repealed and the following enacted in its place:

§ 708. Preparation of complaints

The clerk may, in the absence or unavailability of a complaint justice or of a prosecuting attorney or any of his assistants, prepare and draft complaints upon the request of any law enforcement officer, except that no complaint shall issue to any person who is not a law enforcement officer or for any criminal homicide or Class A, B or C crime unless approved by the district attorney or his designee or the Attorney General or his designee.

Except in prosecutions instituted by the Attorney General or his designee, the district attorney or his designee shall, whenever practical, prepare all complaints for criminal homicide and Class A, B and C crimes and for all complainants who are not law enforcement officers. No complaint shall be filed nor process issued until such time as the complainant has made oath to the complaint or process before the proper official.

Each district attorney shall establish written guidelines for the approval of issuance of complaints pursuant to this section. In those guidelines, the district attorney may extend the above procedure to Class D and E crimes, provided that the approval of the district attorney shall not be necessary for any complaint issued with the approval of the Attorney General or his designee.

Whenever a complaint is not approved for prosecution by the district attorney or his designee, or the Attorney General or his designee, he shall, if requested, inform the complainant, orally or in writing, of the reasons therefor.

Sec. 2. 30 MRSA § 554-A, sub-§ 1, 1st sentence, as enacted by PL 1973, c. 567, § 19, is repealed and the following enacted in its place:

Each district attorney shall appoint assistant district attorneys, one or more of whom may be full-time, to serve at his pleasure. The assistants shall take the oath prescribed for district attorneys and assist the district attorney in the ordinary duties of his office, in the drawing of indictments, in the hearing of complaints before the grand juries and in the preparation and trial of criminal causes.

Sec. 3. 30 MRSA § 554-A, sub-§ 1, 2nd ¶, as enacted by PL 1975, c. 411, is repealed and the following enacted in its place:

Each district may designate one full-time assistant district attorney or, if there is no full-time district attorney, one part-time district attorney to be his deputy. The deputy shall, in the absence of the district attorney, act in his stead and have the authority, duties and responsibilities of the district attorney. Notwithstanding any other provision of law, any full-time assistant district attorney designated as a deputy district attorney may receive a salary up to 80% of the salary designated for the district attorney.

Sec. 4. 30 MRSA § 554-A, sub-§ 3, as enacted by PL 1973, c. 567, § 19, is repealed and the following enacted in its place:

3. Assistant district attorneys shall be paid salaries set by the district attorney. Salaries for full-time assistants shall not exceed 70% of the salary designated for the district attorney. Salaries for part-time assistants shall not exceed 40% of the salary designated for the district attorney or \$10,000, whichever is greater. Salaries for assistant district attorneys shall be on an annual basis and shall be paid in the same manner as is provided for the payment of salaries for district attorneys.

Sec. 5. 30 MRSA § 554-A, sub-§§ 4, 5 and 6, as enacted by PL 1973, c. 567, § 19, are repealed and the following enacted in their place:

4. Each district attorney shall be allowed sufficient sums to assure an adequate staff of assistants to screen, process and investigate complaints, to assist law enforcement agencies, to conduct trials in the District and Superior Courts, to prosecute appeals in the Supreme Judicial Court and to carry out all other duties and responsibilities.

5. For the compensation of assistant district attorneys, the district attorneys shall be allowed annually sums up to the limit as specified in the following schedule:

Prosecutorial District 1	\$46,000
Prosecutorial District 2	\$67,500
Prosecutorial District 3	\$75,000
Prosecutorial District 4	\$67,500
Prosecutorial District 5	\$67,500
Prosecutorial District 6	\$36,000
Prosecutorial District 7	\$36,000
Prosecutorial District 8	\$46,000

Sec. 6. 30 MRSA § 555-A is enacted to read:

County commissioners shall allow to the district attorney serving the county sufficient funds for all office expense, clerk hire and travel, including, but not limited to, funds for consultation and services of experts, rendition of prisoners, training and reference books and treatises which may aid the district attorney and his staff in prosecution of criminal matters.

The county commissioners shall also provide to the district attorney serving the county office space suitable for the performance of his duties, including sufficient private area for research, conferences and meetings with officers, witnesses, complainants and citizens. If such office space is not available on county property, the county commissioners shall provide to the district attorney serving the county sufficient funds for rental or lease of suitable quarters at locations convenient to courthouses within the county.

Sec. 7. **Appropriation.** There is appropriated from the General Fund to the Department of the Attorney General the sum of \$441,500 for the payment of salaries of assistant district attorneys. The breakdown shall be as follows:

1977-78

ATTORNEY GENERAL, DEPARTMENT OF

Personal Services

\$441,500

STATEMENT OF FACT

The basic purposes of the new draft are the same as those of the original bill. The present appropriation for assistant district attorneys, statewide, is \$285,000, the same amount provided as the statutory limit since the enactment of the full-time district attorney law in 1973.

Since the establishment of the full-time district attorney system, substantial changes have been made in court schedules, including more frequent Superior Court sessions which require more prosecutorial time. In 2 years of operating under the full-time system demands upon prosecutors have increased greatly. The new criminal code has added to the workload of the prosecutor as has the new traffic code. The turnover rate among assistant prosecutors is such that experienced prosecutors cannot be retained due to inadequate salaries and salary scales which offer them no hope of advancement. At least 6 of the present prosecution offices are operating and maintaining their present level of services with the direct or indirect assistance of federal grants or other outside means.

The provisions of the new draft are as follows:

Section 1 of the bill has been amended to include reference to assistant attorney generals, since they have responsibility for many criminal cases;

Sections 2 and 3 of the new draft change the requirement that at least one assistant be full-time. Some district attorneys have found that it would be more efficient to act with a staff that is wholly part-time;

The remainder of section 3, along with section 4, establishes percentage limits on the salaries of assistants;

Section 5 of the new draft provides an increase, in the amount allotted to each prosecutorial district for salaries of assistants, that is slightly more than half the increase provided in the original bill. The bill would have increased the present amount of \$285,000 to \$550,000, an increase of \$270,000. The new draft provides an increase of \$156,500 for a new total of \$441,500. Under the present law, districts 2, 3 and 5 receive \$45,000. Districts 1, 4 and 8 receive \$32,000. Districts 6 and 7 receive \$27,000; and

Section 6 requires each county to allot to the district attorney for the county sufficient funds for clerk hire, office space and other expenses. Those items, as most of them are now, would be included in the county budgets.