

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1766

S.P. 684

In Senate, April 23, 2025

An Act to Incorporate Probate Judges into the Maine Judicial Branch

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CARNEY of Cumberland.
Cosponsored by Representative WHITE of Ellsworth and
Senator: GROHOSKI of Hancock, Representatives: BISHOP of Bucksport, KUHN of
Falmouth, LEE of Auburn, MILLIKEN of Blue Hill.

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

2 **PART A**

3 **Sec. A-1. Legislative intent.** In 1967, the Legislature finally passed Resolve 1967,
4 chapter 77, which proposed to amend the Constitution of Maine by repealing Article VI,
5 Section 6, "effective at such time as the Legislature by proper enactment shall establish a
6 different Probate Court system with full-time judges." The constitutional amendment in
7 Resolve 1967, chapter 77 was approved by a majority of the voters of Maine on November
8 7, 1967. It is the intent of the Legislature that the enactment of this Act, which creates a
9 statewide Probate Court with full-time judges, triggers the repeal of the Constitution of
10 Maine, Article VI, Section 6 pursuant to Resolve 1967, chapter 77 and will eliminate the
11 ethical issues that arise when part-time probate judges are permitted to engage in the
12 practice of law.

13 **PART B**

14 **Sec. B-1. 4 MRSA §9-A, first ¶**, as amended by PL 1987, c. 736, §2, is further
15 amended to read:

16 The Supreme Judicial Court ~~shall have~~ has the power and authority to prescribe, repeal,
17 add to, amend or modify rules of evidence with respect to any and all civil actions or other
18 proceedings; and any and all proceedings in criminal cases before justices of the peace,
19 District Courts, ~~probate courts~~ Probate Courts, Superior Courts and the Supreme Judicial
20 Court.

21 **Sec. B-2. 4 MRSA §9-B**, as amended by PL 1999, c. 547, Pt. B, §3 and affected by
22 §80, is further amended to read:

23 **§9-B. Committee on judicial responsibility and disability**

24 The Supreme Judicial Court has the power and authority to prescribe, repeal, add to,
25 amend or modify rules relating to a committee to receive complaints, make investigations
26 and make recommendations to the Supreme Judicial Court in regard to discipline,
27 disability, retirement or removal of justices of the Supreme Judicial Court and the Superior
28 Court and judges of the District Court and the ~~probate courts~~ Probate Courts.

29 **Sec. B-3. 4 MRSA §57, first ¶**, as amended by PL 1999, c. 731, Pt. ZZZ, §2 and
30 affected by §42, is further amended to read:

31 The following cases only come before the court as a court of law: Cases on appeal from
32 the District Court, the Superior Court or a single Justice of the Supreme Judicial Court or
33 from the ~~probate courts~~ Probate Court; questions of law arising on reports of cases,
34 including interlocutory orders or rulings of such importance as to require, in the opinion of
35 the justice, review by the Law Court before any further proceedings in the action; agreed
36 statement of facts; cases presenting a question of law; all questions arising in cases in which
37 equitable relief is sought; motions to dissolve injunctions issued after notice and hearing or
38 continued after a hearing; questions arising on habeas corpus, mandamus and certiorari;
39 and questions of state law certified by the federal courts. They must be marked "law" on
40 the docket of the county or district where they are pending, and there continued until their
41 determination is certified by the Clerk of the Law Court to the Register of Probate or clerk
42 of courts of the county and the court shall immediately after the decision of the question
43 submitted to it make such order, direction, judgment or decree as is fit and proper for the

1 disposal of the case, and cause a rescript in all civil actions, briefly stating the points therein
2 decided, to be filed therein, which rescript must be certified by the Clerk of the Law Court
3 to the Register of Probate or clerk of courts of the county or district where the action is
4 pending and to the Reporter of Decisions. If no further opinion is written out, the reporter
5 shall publish in the next volume of reports thereafter issued the case, together with such
6 rescript, if the reporter deems the same of sufficient importance for publication.

7 **Sec. B-4. 4 MRSA §105, sub-§2, ¶A**, as enacted by PL 1999, c. 731, Pt. ZZZ, §3
8 and affected §42, is amended to read:

9 A. Concurrent or exclusive jurisdiction is vested in the District Court or the Probate
10 Court; or

11 **Sec. B-5. 4 MRSA §152, sub-§4**, as repealed and replaced by PL 2013, c. 21, §1,
12 is amended to read:

13 **4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the
14 Superior Court or Probate Court, of mental health commitment hearings under Title 34-B,
15 chapter 3, subchapter 4; habitual truancy actions under Title 20-A, chapters 119 and 211
16 under which equitable relief may be granted; and small claims actions under Title 14,
17 chapter 738;

18 **Sec. B-6. 4 MRSA §152, sub-§5-A, ¶A**, as amended by PL 2023, c. 63, §1, is
19 further amended by amending subparagraph (2) to read:

20 (2) Any proceeding under the Maine Juvenile Code brought against the minor
21 child pending in the District Court or any proceeding involving custody or other
22 parental rights with respect to the minor child pending before any court of this State
23 or another state, including before ~~a probate court in this State~~ the Probate Court; or

24 **Sec. B-7. 4 MRSA §152, sub-§5-A, ¶A**, as amended by PL 2023, c. 63, §1, is
25 further amended by amending subparagraph (3) to read:

26 (3) Any other related action pending before any court of this State or another state,
27 including before ~~a probate court in this State~~ the Probate Court.

28 **Sec. B-8. 4 MRSA §152, sub-§5-A, ¶B**, as amended by PL 2023, c. 63, §1, is
29 further amended to read:

30 B. Except as provided in paragraph C, if the District Court presiding over any matter
31 under the Maine Juvenile Code brought against a minor child and any matter involving
32 custody or other parental rights with respect to a minor child becomes aware that a
33 proceeding for guardianship, adoption or change of name or another matter involving
34 custody or other parental rights with respect to the minor child under Title 18-C is
35 pending in ~~a probate court in this State~~ the Probate Court, the District Court shall notify
36 the Probate Court and take appropriate action to facilitate a transfer of the matter from
37 the Probate Court. If a matter is transferred to the District Court under this paragraph,
38 the District Court has continuing, exclusive jurisdiction over the matter and over any
39 future proceedings for guardianship, adoption or change of name or other matter
40 involving custody or other parental rights with respect to the minor child brought under
41 Title 18-C, except to the extent that the District Court's jurisdiction is precluded by the
42 Uniform Child Custody Jurisdiction and Enforcement Act.

1 **Sec. B-9. 4 MRSA §152, sub-§5-A, ¶C**, as enacted by PL 2023, c. 63, §1, is
2 amended to read:

3 C. Notwithstanding any provision of law to the contrary, ~~a probate court~~ the Probate
4 Court shall retain jurisdiction over an action for guardianship, adoption, change of
5 name or other matter involving custody or other parental rights with respect to a minor
6 child brought under Title 18-C that would otherwise be within the exclusive,
7 continuing jurisdiction of the District Court under this subsection and may not transfer
8 that matter to the District Court under paragraph B if:

9 (1) At the time the proceeding under the Maine Juvenile Code or the proceeding
10 involving custody or other parental rights with respect to the minor child that would
11 otherwise trigger the District Court's continuing, exclusive jurisdiction is initiated,
12 the testimonial hearing on the Title 18-C matter has concluded and the Probate
13 Court has that matter under advisement; and

14 (2) The Probate Court has not determined that the District Court is the more
15 appropriate forum for the Title 18-C proceeding;

16 **Sec. B-10. 4 MRSA §201** is repealed.

17 **Sec. B-11. 4 MRSA §201-A** is enacted to read:

18 **§201-A. Establishment; court of record; seal; process; contempt power**

19 **1. Definition.** As used in this Title, unless the context otherwise indicates, "Probate
20 Court" includes:

21 A. Prior to January 1, 2029, each county Probate Court for which the term of the
22 county's Probate Court Judge elected or appointed under the former Constitution of
23 Maine, Article VI, Section 6 or elected under section 301-A, subsection 1 has not yet
24 expired. This paragraph does not include any county probate court in which a vacancy
25 occurs after January 1, 2027 due to the death, resignation, removal from the county or
26 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of the elected
27 county Probate Court Judge; and

28 B. Beginning January 1, 2027, the Probate Court established under subsection 2,
29 paragraph B in each county in which the term of the most recent county Probate Court
30 Judge elected under the former Constitution of Maine, Article VI, Section 6 or under
31 section 301-A, subsection 1 has expired or in which a vacancy occurs after January 1,
32 2027 due to the death, resignation, removal from the county or permanent incapacity
33 as defined in Title 30-A, section 1, subsection 2-A of the elected county Probate Court
34 Judge.

35 **2. Establishment; court of record; seal.** The provisions of this section govern the
36 Probate Court.

37 A. Each county Probate Court described in subsection 1, paragraph A, as heretofore
38 established, is a court of record. The Register of Probate shall maintain custody of the
39 official seal of the county Probate Court.

40 B. A Probate Court for the State is established on January 1, 2027 as a court of record
41 in the counties described in subsection 1, paragraph B. The Chief Judge of the Probate
42 Court shall establish the official seal of the court and provide the official seal to the
43 Register of Probate in each county described in subsection 1, paragraph B.

1 **3. Process; contempt power.** The Probate Court may issue any process necessary for
2 the discharge of official duties and may punish for contempt of the court's authority.

3 **Sec. B-12. 4 MRSA §202**, as amended by PL 1981, c. 456, Pt. A, §5, is further
4 amended to read:

5 **§202. Oaths and acknowledgments**

6 All oaths required to be taken by personal representatives, trustees, guardians; or
7 conservators, or of any other persons in relation to any proceeding in the ~~probate court~~
8 Probate Court, or to perpetuate the evidence of the publication of any order of notice, may
9 be administered by the ~~judge Probate Court Judge or register of probate~~ Register of Probate
10 or any notary public. A certificate thereof, when taken out of court, ~~shall~~ must be returned
11 into the registry of probate and there filed. When any person of whom such oath is required,
12 including any parent acknowledging consent to an adoption, resides temporarily or
13 permanently ~~without~~ outside of the State, the oath or acknowledgment may be taken before
14 and be certified by a notary public ~~without the State~~ in another state, a commissioner for
15 the State of Maine or a United States Consul.

16 **Sec. B-13. 4 MRSA §203** is amended to read:

17 **§203. Rights of claimants under heir**

18 Any person claiming under an heir at law has the same rights as the heir in all
19 proceedings in ~~probate courts~~ Probate Court, including rights of appeal.

20 **Sec. B-14. 4 MRSA §251**, as corrected by RR 2015, c. 2, §1, is further amended to
21 read:

22 **§251. General jurisdiction**

23 Each ~~judge Probate Court~~ may take the probate of wills and grant letters testamentary
24 or of administration on the estates of all deceased persons who, at the time of their death,
25 were inhabitants or residents of the ~~judge's county in which the Probate Court is located~~ or
26 who, not being residents of the State, died leaving an estate to be administered in the ~~judge's~~
27 ~~that~~ county, or whose estate is afterwards found therein; and has jurisdiction of all matters
28 relating to the settlement of such estates. ~~A judge may grant leave to adopt children, change~~
29 ~~the names of persons, appoint guardians for minors and others according to law and has~~
30 ~~jurisdiction as to persons under guardianship, and as to whatever else is conferred by law,~~
31 ~~except in cases in which the District Court has jurisdiction over a child pursuant to section~~
32 ~~152, subsection 5-A. Except in cases in which the District Court has exclusive jurisdiction~~
33 ~~over a child pursuant to section 152, subsection 5-A, each Probate Court has jurisdiction to~~
34 ~~the extent authorized in Title 18-C over adoptions, name change petitions, guardianships,~~
35 ~~conservatorships and other protective arrangements; has jurisdiction to the extent~~
36 ~~authorized in Title 18-C as to persons under guardianship, conservatorship or other~~
37 ~~protective arrangements; and has jurisdiction over any other matter as provided by law.~~

38 **Sec. B-15. 4 MRSA §251-A**, as amended by PL 2023, c. 63, §2, is further amended
39 to read:

40 **§251-A. Other proceedings involving parental rights; transfer to District Court**

41 **1. Disclosure of orders and proceedings.** ~~The judge of probate presiding over any~~
42 ~~matter involving guardianship, adoption or change of name or another matter involving~~

1 ~~eustody or other parental rights with respect to a minor child~~ Probate Court shall require
2 all parties in any matter involving guardianship, adoption or change of name or another
3 matter involving custody or other parental rights with respect to a minor child to disclose
4 whether they have knowledge of:

5 A. Any interim or final order then in effect concerning custody or other parental rights
6 with respect to the minor child, including any order of the District Court terminating
7 parental rights; appointing a guardian, including a permanency, emergency or interim
8 guardian; awarding parental rights to a 3rd party; or granting an adoption;

9 B. Any proceeding under the Maine Juvenile Code brought against the minor child
10 pending in District Court or any proceeding involving custody or other parental rights
11 with respect to the minor child pending before any court of this State or another state,
12 including the District Court; or

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

15 **2. Transfer to District Court.** Except as provided in subsection 3, if in a matter
16 before the Probate Court concerning a minor child a ~~judge of probate~~ Probate Court
17 becomes aware that a proceeding under the Maine Juvenile Code brought against the minor
18 child or a proceeding involving custody or other parental rights with respect to the minor
19 child is pending in the District Court or that the minor child is or was the subject of a
20 District Court order terminating parental rights, appointing a guardian, including a
21 permanency, emergency or interim guardian, awarding parental rights to a 3rd party or
22 granting an adoption, the ~~judge~~ Probate Court shall notify the District Court and take
23 appropriate action to facilitate a transfer of the matter to the District Court. If a matter is
24 transferred to the District Court under this subsection, the District Court has continuing,
25 exclusive jurisdiction over the matter and over any future proceedings for guardianship,
26 adoption or change of name or other matter involving custody or other parental rights with
27 respect to the minor child brought under Title 18-C, except to the extent that the District
28 Court's jurisdiction is precluded by the Uniform Child Custody Jurisdiction and
29 Enforcement Act.

30 **3. Exception to transfer.** Notwithstanding any provision of law to the contrary, a
31 ~~probate court~~ the Probate Court shall retain jurisdiction over an action for guardianship,
32 adoption, change of name or other matter involving custody or other parental rights with
33 respect to a minor child brought under Title 18-C that would otherwise be within the
34 exclusive, continuing jurisdiction of the District Court under section 152, subsection 5-A
35 and may not transfer that matter to the District Court under subsection 2 if:

36 A. At the time the proceeding under the Maine Juvenile Code or the proceeding
37 involving custody or other parental rights with respect to the minor child that would
38 otherwise trigger the District Court's continuing, exclusive jurisdiction is initiated, the
39 testimonial hearing on the Title 18-C matter has concluded and the Probate Court has
40 that matter under advisement; and

41 B. The Probate Court has not determined that the District Court is the more appropriate
42 forum for the Title 18-C proceeding.

1 For purposes of this section, a proceeding is pending if a complaint, petition or post-
2 judgment motion has been filed and the final judgment or final order on that complaint,
3 petition or post-judgment motion has not yet been issued.

4 **Sec. B-16. 4 MRSA §252** is amended to read:

5 **§252. Equity jurisdiction**

6 The ~~courts of probate shall have~~ Probate Court has jurisdiction in equity, concurrent
7 with the Superior Court, of all cases and matters relating to the administration of the estates
8 of deceased persons, to wills and to trusts ~~which that~~ that are created by will or other written
9 instrument. Such jurisdiction may be exercised upon complaint according to the usual
10 course of proceedings in civil actions in which equitable relief is sought.

11 **Sec. B-17. 4 MRSA §253**, as amended by PL 2017, c. 402, Pt. C, §4 and affected
12 by PL 2019, c. 417, Pt. B, §14, is further amended to read:

13 **§253. Jurisdiction in court where proceedings originate**

14 Subject to Title 18-C, sections 1-303 ~~and~~ 3-201, 5-106 and 9-104, and except as
15 otherwise provided in Title 18-C, section 5-105, when a case is originally within the
16 jurisdiction of the ~~probate court~~ Probate Court in 2 or more counties, the one that first
17 commences proceedings ~~therein~~ retains the same exclusively throughout. The jurisdiction
18 assumed in any case, except in cases of fraud, so far as it depends on the residence of any
19 person or the locality or amount of property, may not be contested in any proceeding
20 ~~whatever~~, except on an appeal or removal from the ~~probate court~~ Probate Court in the
21 original case or when the want of jurisdiction appears on the same record.

22 **Sec. B-18. 4 MRSA §301**, as amended by PL 1995, c. 683, §1, is repealed.

23 **Sec. B-19. 4 MRSA §301-A** is enacted to read:

24 **§301-A. Judges; election or appointment; term; qualifications; salary; expenses; full-**
25 **time duties**

26 **1. Election; term.** Probate Court Judges are elected to the county Probate Courts
27 described in section 201-A, subsection 2, paragraph A as follows.

28 A. A county Probate Court Judge elected or appointed under the former Constitution
29 of Maine, Article VI, Section 6 may serve until the expiration of that judge's term of
30 office.

31 (1) A vacancy occurring during the term of a county Probate Court Judge elected
32 on November 8, 2022 due to the death, resignation, removal from the county or
33 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of the
34 judge may be filled by the Governor by appointment. In the case of a vacancy in
35 the term of a county Probate Court Judge who was nominated by primary election
36 before the general election, the individual appointed by the Governor to fill the
37 vacancy must be enrolled in the same political party as the judge whose term is
38 vacant. In making the appointment, the Governor shall choose from any
39 recommendations submitted to the Governor by the county committee of the
40 political party from which the appointment is to be made. The term of the
41 successor judge appointed by the Governor under this paragraph ends on December
42 31, 2026.

1 (2) A vacancy occurring before January 1, 2027 during the term of a county Probate
2 Court Judge elected on November 5, 2024 due to the death, resignation, removal
3 from the county or permanent incapacity as defined in Title 30-A, section 1,
4 subsection 2-A of the judge must be filled by election under paragraph B; in the
5 meantime, the Governor may fill such a vacancy by appointment. In the case of a
6 vacancy in the term of a county Probate Court Judge who was nominated by
7 primary election before the general election, the individual appointed by the
8 Governor to fill the vacancy must be enrolled in the same political party as the
9 judge whose term is vacant. In making the appointment, the Governor shall choose
10 from any recommendations submitted to the Governor by the county committee of
11 the political party from which the appointment is to be made. The term of the
12 successor judge appointed by the Governor under this paragraph ends on December
13 31, 2026.

14 (3) Vacancies occurring after January 1, 2027 during the term of any county
15 Probate Court Judge elected under the former Constitution of Maine, Article VI,
16 Section 6 due to the death, resignation, removal from the county or permanent
17 incapacity as defined in Title 30-A, section 1, subsection 2-A of the judge may not
18 be filled.

19 B. A county Probate Court Judge must be elected in Androscoggin, Franklin, Knox and
20 Penobscot counties, and in any county in which a vacancy described in paragraph A,
21 subparagraph (2) occurs, by a plurality of the votes cast in the respective county at an
22 election on the Tuesday following the first Monday of November in 2026. Each county
23 Probate Court Judge elected under this subsection has a term of office of 2 years,
24 commencing January 1, 2027. Vacancies occurring in offices governed by this
25 paragraph due to the death, resignation, removal from the county or permanent
26 incapacity as defined in Title 30-A, section 1, subsection 2-A of the county Probate
27 Court Judge may not be filled.

28 **2. Appointment; term.** Probate Court Judges are appointed to the state Probate Court
29 established in section 201-A, subsection 2, paragraph B as follows.

30 A. The Governor, subject to review by the joint standing committee of the Legislature
31 having jurisdiction over judiciary matters and to confirmation by the Legislature, shall
32 appoint 4 judges for terms that commence no earlier than January 1, 2027. Each Probate
33 Court Judge appointed under this paragraph has a term of office of 7 years.

34 B. Beginning January 1, 2027, if the Chief Justice of the Supreme Judicial Court
35 determines that the number of Probate Court Judges appointed under paragraph A is
36 insufficient to provide for the efficient administration of justice in the Probate Court
37 established in section 201-A, subsection 2, paragraph B, the Chief Justice may request
38 that the Governor appoint an additional judge. Upon receipt of a request from the Chief
39 Justice under this paragraph, the Governor, subject to review by the joint standing
40 committee of the Legislature having jurisdiction over judiciary matters and to
41 confirmation by the Legislature, may appoint an additional judge to the Probate Court
42 established in section 201-A, subsection 2, paragraph B. In no event may more than 9
43 Probate Court Judges be appointed to the Probate Court established in section 201-A,
44 subsection 2, paragraph B. Each Probate Court Judge appointed under this paragraph
45 has a term of office of 7 years.

1 **3. Qualifications.** To be eligible for election or appointment as a Probate Court Judge,
2 an individual must be a member of the bar of the State.

3 **4. Salary; expenses.** Each Probate Court Judge elected under subsection 1 or elected
4 or appointed under the former Constitution of Maine, Article VI, Section 6 is entitled to
5 receive an annual salary as established by the judge's county pursuant to Title 30-A, chapter
6 3 and the fees provided in section 304. Beginning January 1, 2027 and except as provided
7 in subsection 5 for the Chief Judge of the Probate Court, each Probate Court Judge
8 appointed under subsection 2 is entitled to receive a salary equivalent to the salary of an
9 Associate Judge of the District Court under section 157, subsections 4 and 4-A and to
10 reimbursement by the State for expenses to the same extent that a District Court Judge is
11 entitled to reimbursement by the State for expenses under section 157, subsection 5.

12 **5. Designation of Chief Judge; salary; expenses.** Beginning January 1, 2027, the
13 Chief Justice of the Supreme Judicial Court shall designate one Probate Court Judge
14 appointed under subsection 2 as the Chief Judge of the Probate Court. The Chief Judge is
15 entitled to receive a salary equivalent to the salary of the Chief Judge of the District Court
16 under section 157, subsection 2 and to reimbursement by the State for expenses to the same
17 extent that a District Court Judge is entitled to reimbursement by the State for expenses
18 under section 157, subsection 5.

19 **6. Full-time duties.** Beginning January 1, 2027, a Probate Court Judge appointed
20 under subsection 2 shall devote full time to that Probate Court Judge's judicial duties.
21 During that Probate Court Judge's term of office, that judge may not practice law or be the
22 partner or associate of any person in the practice of law.

23 **7. Exception.** Subsection 6 does not apply to a county Probate Court Judge elected
24 under subsection 1 or elected or appointed under the former Constitution of Maine, Article
25 VI, Section 6.

26 **Sec. B-20. 4 MRSA §302**, as corrected by RR 2021, c. 1, Pt. B, §8, is amended to
27 read:

28 **§302. Officers execute processes and attend courts**

29 Sheriffs, their deputies and constables shall execute all legal processes directed to them
30 by ~~any such judge of probate~~ a Probate Court Judge, who may, when necessary, require
31 such officer, when not in attendance upon any other court, to attend during the sitting of
32 the ~~probate court~~ Probate Court, for which that officer must be paid as in other courts for
33 similar services.

34 **Sec. B-21. 4 MRSA §303**, as amended by PL 1965, c. 238, is further amended to
35 read:

36 **§303. Continuous session; return day for matters requiring public notice**

37 ~~The Probate court~~ Court shall always be open in each county for all matters over which
38 it has jurisdiction, except upon days on which by law no court is held, but it shall have
39 certain fixed days and places to be made known by public notification thereof in their
40 respective counties to which all matters requiring public notice ~~shall~~ must be made
41 returnable, except as otherwise ordered by the judge Probate Court Judge. In case of the
42 absence of the judge ~~or vacancy in the office~~ at the time of holding any court, the register

1 Register of Probate or acting register may adjourn the same until the judge can attend or
2 some other probate judge another Probate Court Judge can be notified and attend.

3 **Sec. B-22. 4 MRSA §304**, as corrected by RR 2021, c. 1, Pt. B, §9, is amended to
4 read:

5 **§304. Equity and contested cases; time and place of hearing**

6 ~~Judges of probate~~ The Probate Court may hold hearings for matters in equity and
7 contested cases at such time and place in the county as the ~~judge of probate~~ Probate Court
8 may appoint and make all necessary orders and decrees relating thereto, ~~and when hearings~~
9 ~~are held at other places than those fixed for holding the regular terms of court, the judge is~~
10 ~~allowed, in addition to that judge's regular salary, \$5 per day and actual expenses, which~~
11 ~~must be paid by the State unless otherwise provided by law.~~

12 When a Probate Court in a county described in section 201-A, subsection 1, paragraph
13 A holds a hearing in a place other than the place fixed for holding the regular terms of the
14 court, the Probate Court Judge is allowed, in addition to that judge's regular salary, \$5 per
15 day and actual expenses, which must be paid by the State unless otherwise provided by
16 law.

17 **Sec. B-23. 4 MRSA §305**, as repealed and replaced by PL 1979, c. 41, is amended
18 to read:

19 **§305. Term of Fort Kent and Caribou probate court**

20 ~~The judge of probate~~ Probate Court in and for the County of Aroostook shall hold a
21 court ~~of probate~~ at least twice in each year at Fort Kent and at least 4 times each year at
22 Caribou in the county. The time for holding the court shall must be appointed by the judge
23 ~~and~~ made known by public notification as provided in section 303.

24 **Sec. B-24. 4 MRSA §306**, as corrected by RR 2021, c. 1, Pt. B, §10, is amended to
25 read:

26 **§306. Interchange of judicial duties; expenses**

27 ~~During the~~ With respect to a Probate Court Judge in a county described in section
28 201-A, subsection 1, paragraph A, during a period of sickness, or absence from the State
29 or inability of any the judge of probate to hold the regular terms of that judge's court, such
30 the terms, at the judge's request or that of the register Register of Probate of the county,
31 may be held by the judge of any other county any other Probate Court Judge. The judges
32 Probate Court Judges in counties described in section 201-A, subsection 1, paragraph A
33 may interchange service or perform each others' other's duties when they find it necessary
34 or convenient, and in case of a vacancy in the office of a judge, all necessary terms of the
35 probate court for the county may, at the request of the register, be held by the judge of
36 another county until the vacancy is filled. The orders, decrees and decisions of the judge
37 Probate Court Judge holding such terms have the same force and validity as if made by the
38 judge Probate Court Judge of the county in which such terms are held.

39 When any judge of probate Probate Court Judge in a county described in section 201-A,
40 subsection 1, paragraph A holds court or a hearing in any probate matter, or in equity, in
41 any county other than the one in which that judge resides, that judge must be reimbursed
42 by the county in which such court or hearing is held for that judge's expenses actually and

1 reasonably incurred, upon presentation to the county commissioners of that county of a
2 detailed statement of such expenses.

3 **Sec. B-25. 4 MRSA §307**, as amended by PL 2023, c. 4, §1, is further amended to
4 read:

5 **§307. Conflict of interest; transfer of case**

6 When a ~~judge~~ Probate Court Judge or ~~register~~ Register of ~~probate~~ Probate is interested
7 in that judge's or ~~register of probate's~~ register's own right, trust, or in any other manner, or
8 is within the degree of kindred, by which in law that judge or register ~~of probate~~ may, by
9 possibility, be heir to any part of the estate of the person deceased, or is named as executor,
10 trustee or guardian of minor children in the will of any deceased resident of the county,
11 such estate must be settled in the ~~probate court~~ Probate Court of any adjoining county,
12 which has as full jurisdiction thereof as if the deceased had died in that adjoining county.
13 If the judge's or ~~register of probate's~~ register's interest arises after jurisdiction of such estate
14 has been regularly assumed or existed at the time of the judge's or ~~register of probate's~~
15 register's appointment to office, and in all cases ~~where~~ when an executor, administrator,
16 guardian or trustee, whose trust is not fully executed, becomes judge or register ~~of probate~~
17 for the county in which that judge's or ~~register of probate's~~ register's letters were granted,
18 further proceedings in that county must be transferred to the ~~probate court~~ Probate Court
19 in any adjoining county and there remain until completed, as if such court had had original
20 jurisdiction thereof, unless said disability is removed before that time. Whenever in any
21 case under this section the disability of the judge or register is removed before the
22 proceedings have been fully completed, the proceedings must then be transferred to the
23 ~~probate court~~ Probate Court in the county of original jurisdiction or to the ~~probate court~~
24 Probate Court that otherwise would have had jurisdiction. In all such cases the register in
25 such adjoining county shall transmit copies of all records relating to such estate to the
26 probate office of the county where such estate belongs, to be there recorded. If there are
27 fewer than 4 counties adjoining the county of a ~~probate court~~ the Probate Court that is
28 required to transfer proceedings to an adjoining county under this section, the proceedings
29 must be transferred to a ~~probate court~~ the Probate Court in one of the 4 counties nearest to
30 the transferring ~~probate court~~ Probate Court, as measured by the shortest distance along
31 paved roads between the building in which the registry of probate is located in the
32 transferring county and the building in which the registry of probate is located in the other
33 county.

34 This section may not be construed to require removal to another county by reason of
35 the ~~judge~~ Probate Court Judge or ~~register~~ Register of ~~probate~~ Probate having been named
36 as executor, trustee or guardian of minor children in a will, as long as the judge or register
37 ~~of probate~~ does not receive a benefit from the will and the record of the court discloses the
38 filing of the judge's or ~~register of probate's~~ register's declination to act as such executor,
39 trustee or guardian, if no objection is raised by any interested party at the hearing on the
40 petition for probate of the will.

41 A ~~judge~~ Probate Court Judge in a county described in section 201-A, subsection 1,
42 paragraph A is considered to be interested in an estate or other probate proceeding,
43 including adoptions, if the judge or a person with whom the judge practices law represents
44 a party in the proceeding. When such representation begins, the judge shall transfer the
45 matter as provided in this section, after which transfer the judge or the person with whom

1 the judge practices law may continue such representation, except that, after a formal
2 probate proceeding has been initiated before a judge, that judge is forever barred from
3 assuming representation of a party in that same proceeding without regard to whether or
4 not the proceeding has been transferred. A petition requesting a transfer and the petition
5 related to the matter being transferred filed simultaneously are not considered formal
6 probate proceedings for the purposes of this paragraph.

7 **Sec. B-26. 4 MRSA §308**, as corrected by RR 2021, c. 1, Pt. B, §12, is amended to
8 read:

9 **§308. Certification of unfinished acts of predecessor judge**

10 Every ~~judge~~ Probate Court Judge in a county described in section 201-A, subsection 1,
11 paragraph A, upon entering on the duties of that judge's office, shall examine the records,
12 decrees, certificates and all proceedings connected therewith that the judge's predecessor
13 left unsigned or unauthenticated. If the judge finds them correct, the judge shall sign and
14 authenticate them and they are then as valid to all intents and purposes as if such duty had
15 been done by the judge's predecessor while in office.

16 **Sec. B-27. 4 MRSA §309**, as corrected by RR 2021, c. 1, Pt. B, §13, is amended to
17 read:

18 **§309. Judge not to counsel or draft documents**

19 A ~~judge of probate~~ Probate Court Judge may not have a voice in judging and
20 determining or be attorney or counselor in or out of court in any civil action or matter that
21 depends on or relates to any sentence or decree made by that judge ~~of probate~~ in that ~~judge~~
22 ~~of probate's~~ judge's office, or in any civil action for or against any executor, administrator,
23 guardian or trustee under any last will and testament, as such, within that ~~judge of probate's~~
24 judge's county. Any process or proceeding commenced by a ~~judge of probate~~ Probate Court
25 Judge in the probate court for that judge of probate's county Probate Court in violation of
26 this section is void, and that judge ~~of probate~~ is liable to the party injured in damages. A
27 ~~judge of probate~~ Probate Court Judge may not draft or aid in drafting any document or
28 paper that the judge ~~of probate~~ is by law required to pass upon.

29 **Sec. B-28. 4 MRSA §310** is amended to read:

30 **§310. Perpetual care of cemetery lots by order**

31 ~~Judges of probate, in~~ In any case in which an estate is under ~~their~~ the Probate Court's
32 jurisdiction for probate, shall have the power to the Probate Court exercising jurisdiction
33 over the estate may order that an appropriate amount out of the estate be set aside for
34 perpetual care and suitable memorials for the cemetery lot in which the deceased is buried,
35 and to order special care of such lots when the conditions and size of the estate seem to
36 warrant such order.

37 **Sec. B-29. 4 MRSA §311**, as enacted by PL 1969, c. 434, is amended to read:

38 **§311. Contracts for support**

39 All contracts for support for life ~~shall~~ must be approved by the Probate Court in the
40 county in which the support for life is to be rendered. The Probate Court shall grant
41 approval after such reasonable notice as the court ~~shall determine~~ determines to be

1 appropriate, if the court ~~shall find~~ finds, after hearing, that the contract is just and equitable
2 under all of the circumstances.

3 A contract or agreement for support for life without such Probate Court approval ~~shall~~
4 may not be received in evidence unless the person offering the contract or agreement ~~shall~~
5 establish ~~establishes~~ by a preponderance of the evidence that the contract or agreement is
6 just and equitable under all of the circumstances.

7 This section ~~shall~~ does not apply to ~~such~~ contracts or agreements for support for life
8 under persons related within the 3rd degree.

9 **Sec. B-30. 4 MRSA §312**, as enacted by PL 1993, c. 695, §1, is amended to read:

10 **§312. Political activities of judges of probate**

11 As a candidate for the elective office of ~~judge of probate~~ Probate Court Judge or as an
12 elected ~~judge~~ Probate Court Judge in a county described in section 201-A, subsection 1,
13 paragraph A, a person seeking or holding the office of ~~judge of probate~~ Probate Court Judge
14 in a county described in section 201-A, subsection 1, paragraph A may engage in any
15 political activity that would be lawful for a candidate for any other elected county office or
16 for an incumbent elected county official. Any such judge may hold any other elected office
17 or offices not made incompatible by the Constitution of Maine.

18 This section does not apply to a Probate Court Judge appointed under section 301-A,
19 subsection 2.

20 **Sec. B-31. 4 MRSA c. 7, sub-c. 4**, as amended, is repealed.

21 **Sec. B-32. 4 MRSA §567**, as corrected by RR 2021, c. 1, Pt. B, §17, is amended to
22 read:

23 **§567. No recording officer to be attorney or sue in own court nor draft nor aid in**
24 **drafting paper to be recorded**

25 A clerk, register as defined in Title 18-C, section 1-201, subsection 48 or recording
26 officer of any court of the State may not be attorney or counselor in any civil action or
27 matter pending in that court; neither may that person commence actions to be entered
28 therein, or draft or aid in drafting any document or paper that that person is by law required
29 to record, in full or in part. Violation of this section is a civil violation for which a fine not
30 to exceed \$100 may be adjudged. Notwithstanding provisions of this section, clerks may
31 aid litigants in the preparation of small claims filings and registers may provide the
32 assistance described in Title 18-C, section 1-510, subsection 2. Nothing prevents the clerk
33 from rendering assistance of a general nature to the bar or the public.

34 **Sec. B-33. 4 MRSA §751**, as corrected by RR 2021, c. 1, Pt. B, §19, is amended to
35 read:

36 **§751. Duties of reporters**

37 ~~The judge of any court of probate or court of insolvency~~ Probate Court may appoint a
38 reporter to report the proceedings at any hearing or examination in that ~~judge's~~ court,
39 whenever ~~that judge~~ the court considers it necessary or advisable. Such reporter must be
40 sworn to a faithful discharge of that reporter's duty and, under the direction of the judge,
41 shall take full notes of all oral testimony at such hearing or examination and such other
42 proceedings at such hearing or examination as the judge directs; and when required by the

1 judge shall furnish for the files of the court a correct typewritten transcript of that reporter's
2 notes of the oral testimony of any person testifying at such hearing or submitting to such
3 examination, and in making that transcript the reporter shall transcribe that reporter's notes
4 in full by questions and answers.

5 **Sec. B-34. 4 MRSA §752**, as corrected by RR 2021, c. 1, Pt. B, §20, is amended to
6 read:

7 **§752. Reading and signing transcript of testimony**

8 In cases when the person testifying or submitting to examination is required by law to
9 sign that person's testimony or examination, the transcript made as provided in section 751
10 must be read to the person whose testimony or examination it is, at a time and place to be
11 appointed by the ~~judge~~ Probate Court, unless such person or that person's counsel in writing
12 waives such reading. If it is found to be accurate, or if it contains errors or mistakes or
13 alleged errors or mistakes and such errors or mistakes are either corrected or the
14 proceedings had in relation to the same as provided, such transcript must be signed by the
15 person whose testimony or examination it is. When the reading of a transcript is waived as
16 provided by this section, such transcript must be considered correct. In all other cases the
17 transcript need not be signed but must be considered to be complete and correct without
18 signing and has the same effect as if signed.

19 **Sec. B-35. 4 MRSA §754**, as corrected by RR 2021, c. 1, Pt. B, §21, is amended to
20 read:

21 **§754. Correction of mistakes in transcript**

22 Manifest errors or mistakes in any transcript may be corrected, under the direction of
23 the ~~judge~~ Probate Court, according to the facts. When an error or mistake is alleged by the
24 party conducting the hearing or examination or by that party's counsel, or by the person
25 testifying or submitting to examination or by that person's counsel, and those parties cannot
26 agree whether or not there is such an error or mistake as alleged, or what correction should
27 be made, the judge shall decide whether or not such an error or mistake exists, and may
28 allow or disallow a correction according as the judge may find the fact. In such case the
29 judge shall annex to the transcript a certificate signed by the judge stating the alleged error
30 or mistake and by whom alleged, and the correction allowed or disallowed. In case such
31 parties mutually agree that there is an error or mistake in the transcript, and in like manner
32 agree what the correction should be, the transcript may be corrected according to such
33 agreement, but such correction must be stated and made in the presence of the judge.
34 Changes or alterations may not be made in any transcript except in the presence of the
35 judge or the person appointed by the judge to take the examination.

36 **Sec. B-36. 4 MRSA §755** is amended to read:

37 **§755. Appointment of reporter by judge court**

38 When an examination is taken before ~~some~~ a person appointed by the ~~judge~~ Probate
39 Court to take it, the ~~judge~~ court may appoint a reporter to attend such examination for the
40 purposes mentioned in section 751, and the duties of such reporter ~~shall be~~ are the same as
41 in examinations before the ~~judge~~ Probate Court Judge. The powers and duties of any person
42 appointed by the ~~judge~~ court to take an examination ~~shall be~~ are the same at such
43 examination as those of the judge, and the same proceedings for the correction or alteration
44 of transcripts may be had before such person as before the judge.

1 **Sec. B-37. 4 MRSA §756** is amended to read:

2 **§756. Transcripts deemed original papers**

3 All transcripts made and signed as provided ~~shall be~~ in this subchapter are deemed
4 original papers.

5 **Sec. B-38. 4 MRSA §757** is enacted to read:

6 **§757. Applicability; repeal**

7 **1. Applicability.** This subchapter applies to the Probate Court in each county
8 described in section 201-A, subsection 1, paragraph A and does not apply to the state
9 Probate Court established in section 201-A, subsection 2, paragraph B.

10 **2. Repeal.** This subchapter is repealed January 1, 2029.

11 **Sec. B-39. 18-C MRSA §1-201, sub-§8**, as enacted by PL 2017, c. 402, Pt. A, §2
12 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

13 **8. Court.** ~~"Court"~~ Prior to January 1, 2029, "court" means any one of the several
14 courts of probate of this State established as provided in Title 4, ~~sections 201 and 202~~
15 section 201-A, subsection 2.

16 This subsection is repealed January 1, 2029.

17 **Sec. B-40. 18-C MRSA §1-303**, as enacted by PL 2017, c. 402, Pt. A, §2 and
18 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

19 **§1-303. Venue; multiple proceedings; transfer**

20 **1. Court in county where proceeding first commenced.** If a proceeding under this
21 Code could be maintained in more than one ~~court~~ county in this State, the court located in
22 the county in which the proceeding is first commenced has the exclusive right to proceed.

23 **2. Multiple proceedings.** If proceedings concerning the same estate, protected person,
24 ward or trust are commenced in ~~more than one court~~ courts located in more than one county
25 of this State, the court located in the county in which the proceeding was first commenced
26 shall continue to hear the matter, and the ~~other~~ other courts located in the other counties shall
27 hold the matter in abeyance until the question of venue is decided. If the ruling court
28 determines that venue is properly in another court, it shall transfer the proceeding to the
29 other court.

30 **3. Transfer in the interest of justice.** If a court finds that in the interest of justice a
31 proceeding or a file should be ~~located in~~ transferred to the court located in another ~~court~~
32 county of this State, the court making the finding may transfer the proceeding or file to the
33 ~~other court in the other county.~~

34 **Sec. B-41. 18-C MRSA §1-309**, as enacted by PL 2017, c. 402, Pt. A, §2 and
35 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

36 **§1-309. Judges**

37 A judge of the court must be chosen and shall serve as provided in Title 4, sections ~~301~~
38 301-A to 312.

39 This section is repealed January 1, 2029.

1 **Sec. B-42. 18-C MRSA §1-501**, as enacted by PL 2017, c. 402, Pt. A, §2 and
2 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

3 **§1-501. Election; bond; vacancies; salaries; copies; term**

4 **1. Election.** ~~Registers of probate are~~ The Register of Probate in each county is elected
5 ~~or appointed as provided in the Constitution of Maine by a plurality of the votes cast in the~~
6 ~~respective county at the election on the Tuesday following the first Monday of November~~
7 ~~in the even-numbered year next preceding the expiration of the term of the incumbent~~
8 ~~register. The register shall hold office for 4 years, commencing on January 1st following~~
9 ~~the register's election. A Except to the extent inconsistent with this section, a register's~~
10 ~~election is effected and determined as is provided for county commissioners by Title 30-A,~~
11 ~~chapter 1, subchapter 2, and a register's term commences on the first day of January~~
12 ~~following the register's election, except that the term of a register appointed to fill a vacancy~~
13 ~~commences immediately.~~

14 **2. Bond.** ~~A register~~ Register of Probate, before acting, shall give bond to the treasurer
15 of the register's county with sufficient sureties in the sum of \$2,500, except that this sum
16 must be \$10,000 for Cumberland County. ~~A The~~ register, having executed the bond, shall
17 file the bond in the office of the county commissioners of the register's county, to be
18 presented to the county commissioners at the next meeting for approval. After the bond is
19 approved, the county commissioners shall retain a copy of the bond and deliver the original
20 bond to the register, who shall deliver the original bond to the treasurer of the county within
21 10 days after the bond's approval. Surety and fidelity insurance coverage provided by a
22 public sector self-funded risk pool organized pursuant to Title 30-A, section 2253 in the
23 sum ordered by the commissioners is deemed to comply with the requirements of this
24 section.

25 **3. Vacancies.** ~~Vacancies~~ A vacancy caused by a Register of Probate's death,
26 resignation, removal from the county, permanent incapacity as defined in Title 30-A,
27 section 1, subsection 2-A or any other reason must be filled as provided in the Constitution
28 ~~of Maine by a plurality of the votes cast in the affected county at the next general election.~~
29 The term of a register elected to fill a vacancy is 4 years, commencing on January 1st
30 following the election. In the meantime, the Governor may fill such vacancy by
31 appointment, and the register so appointed shall take office immediately and shall hold
32 office until the commencement of the term of the successor elected to fill the vacancy under
33 this subsection. In the case of a vacancy in the term of a register who was nominated by
34 primary election before the general election, the register appointed by the Governor to fill
35 the vacancy until a successor is chosen at election must be enrolled in the same political
36 party as the register whose term is vacant. In making the appointment, the Governor shall
37 choose from any recommendations submitted to the Governor by the county committee of
38 the political party from which the appointment is to be made.

39 **4. Salary.** A register is entitled to receive an annual salary as established by the
40 register's county pursuant to Title 30-A, chapter 3. The salary of the register must be in
41 full compensation for the performance of all duties required of the register.

42 **5. Copies and fees.** Registers may make copies of wills, accounts, inventories,
43 petitions and decrees and furnish the copies to the persons requesting the copies and may
44 charge a reasonable fee for that service, which is considered a fee for the use of the county.
45 Fees for exemplified copies of the records of the probate of wills and the granting of

1 administrations, guardianships and conservatorships; fees for copies of petitions and orders
2 of notice for personal service; fees for appeal copies; and the statutory fees for abstracts
3 and copies of the waivers of wills and other copies required to be recorded in the registry
4 of deeds are considered official fees for the use of the county. This subsection may not be
5 construed to change or repeal any provisions of law requiring the furnishing of certain
6 copies without charge.

7 **Sec. B-43. 18-C MRSA §1-510, sub-§1, ¶A**, as enacted by PL 2017, c. 402, Pt.
8 A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

9 A. Be an attorney or counselor in or out of court in an action or matter pending in the
10 court ~~of~~ located in the county in which the register is register or in an appeal in such
11 action or matter;

12 **Sec. B-44. 18-C MRSA §1-510, sub-§1, ¶B**, as enacted by PL 2017, c. 402, Pt.
13 A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

14 B. Be an administrator, guardian, commissioner of insolvency, appraiser or divider of
15 an estate, in a case within the jurisdiction of the court ~~of~~ located in the county in which
16 the register is register, except as provided in Title 4, section 307, or be in any manner
17 interested in the fees and emoluments arising from such an estate in that capacity;~~or~~.

18 This paragraph is repealed January 1, 2029; or

19 **Sec. B-45. 18-C MRSA §1-510, sub-§2**, as enacted by PL 2017, c. 402, Pt. A, §2
20 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

21 **2. Assistance in drafting.** Except as otherwise provided in this section, a register may
22 not draft or aid in drafting documents or paper that the register is by law required to record
23 in full or in part. A register may aid in drafting applications in informal proceedings,
24 petitions or sworn statements relating to the closing of decedents' estates that have not been
25 contested prior to closing, applications for change of name and petitions for guardians of
26 minors. A register or an employee of a court may not charge fees or accept anything of
27 value for assisting in the drafting of documents to be used or filed in the court ~~of~~ located in
28 the county in which the person is the register or an employee.

29 **Sec. B-46. 18-C MRSA §1-511**, as enacted by PL 2017, c. 402, Pt. A, §2 and
30 affected by PL 2019, c. 417, Pt. B, §14, is amended by enacting a new first paragraph to
31 read:

32 Each county shall provide all necessary printed blanks and record books for the court
33 located in that county, and the record books may be printed to correspond with the printed
34 blanks.

35 PART C

36 **Sec. C-1. 4 MRSA §17, sub-§2**, as amended by PL 1983, c. 269, §§1 and 9, is
37 further amended to read:

38 **2. Examine the status of dockets.** Examine the status of dockets of all courts so as
39 to determine cases and other judicial business that have been unduly delayed. From such
40 reports, the administrator shall indicate which courts are in need of additional judicial
41 personnel and make recommendations to the Chief Justice, to the Chief Justice of the
42 Superior Court ~~and~~, to the Chief Judge of the District Court and to the Chief Judge of the

1 Probate Court concerning the assignment or reassignment of personnel to courts that are in
2 need of such personnel. The administrator shall also carry out the directives of the Chief
3 Justice as to the assignment of personnel in these instances;

4 **Sec. C-2. 4 MRSA §17, sub-§5**, as amended by PL 1983, c. 269, §§2 and 9, is
5 further amended to read:

6 **5. Prescribe uniform administrative and business methods, etc.** Prescribe uniform
7 administrative and business methods, systems, forms, docketing and records to be used in
8 the Supreme Judicial Court, in the Superior Court ~~and~~, in the District Court and in the
9 Probate Court;

10 **Sec. C-3. 4 MRSA §17, sub-§7, ¶D**, as amended by PL 1997, c. 24, Pt. II, §1, is
11 further amended to read:

12 D. Collects statistical and other data and makes reports to the Chief Justice, to the
13 Chief Justice of the Superior Court ~~and~~, to the Chief Judge of the District Court and to
14 the Chief Judge of the Probate Court relating to the expenditures of public money for
15 the maintenance and operation of the Judicial Department;

16 **Sec. C-4. 4 MRSA §17, sub-§7, ¶E**, as amended by PL 1997, c. 24, Pt. II, §1, is
17 further amended to read:

18 E. Develops and implements a uniform set of accounting and budgetary accounts,
19 based on generally accepted fiscal and accounting procedures, for the Supreme Judicial
20 Court, for the Superior Court ~~and~~, for the District Court and for the Probate Court; and

21 **Sec. C-5. 4 MRSA §17, sub-§17**, as amended by PL 2021, c. 684, §2, is further
22 amended to read:

23 **17. Statement of fiscal effect on judicial system.** Apply the following requirements
24 when the State Court Administrator prepares statements pertaining to the impact that
25 executive orders and proposed legislation have upon judicial system resources, including
26 the cost or savings to the judicial system. The State Court Administrator, in preparing such
27 impact statements, shall make inquiry of the Chief Justice of the Superior Court, the Chief
28 Judge of the District Court, the Chief Judge of the Probate Court, a statewide association
29 of prosecuting attorneys, a statewide association of criminal defense attorneys, a statewide
30 association of trial attorneys and any other parties, as appropriate, in order to provide the
31 most accurate estimate of the judicial branch impact of such legislation, by fiscal year.

32 A. The State Court Administrator shall furnish the statements to the legislative staff
33 office designated to collect and assemble fiscal information for use of legislative
34 committees under Title 3, section 163-A, subsection 10 and to:

35 (1) The Governor for judicial impact statements on executive orders; and

36 (2) The appropriate committee of the Legislature for the information of its
37 members for proposed legislation.

38 B. The statement on a particular executive order prepared by the State Court
39 Administrator must be included in the executive order if the executive order has a fiscal
40 impact on the judicial system, as determined by the State Court Administrator.

41 C. The statement on proposed legislation prepared by the State Court Administrator
42 must be considered in the preparation of the fiscal note included in a committee

1 amendment or other amendment if the legislation or amendment has a fiscal impact on
2 the judicial system, as determined by the State Court Administrator; and

3 **Sec. C-6. 4 MRSA §17-A, sub-§1**, as amended by PL 2017, c. 284, Pt. YYYY, §1,
4 is further amended to read:

5 **1. Informational publications and record searches.** ~~The~~ Except as provided in Title
6 18-C, section 1-511, the State Court Administrator may establish a fee schedule to cover
7 the cost of printing and distribution of publications and forms, the procedures for the sale
8 of these publications and forms and record searches performed by Judicial Department
9 employees.

10 **Sec. C-7. 4 MRSA §18-A, sub-§3-A, ¶A**, as amended by PL 2019, c. 509, §2, is
11 further amended to read:

12 A. For all fees collected by the Judicial Department after October 1, 2019, 9% must
13 be deposited in the fund. This paragraph does not apply to fees imposed by the Probate
14 Court or to fees dedicated under section 17-A or section 18-B, subsection 8 or to
15 surcharges imposed pursuant to paragraph C.

16 **Sec. C-8. 4 MRSA §18-A, sub-§3-A, ¶B**, as amended by PL 2005, c. 361, §3, is
17 further amended to read:

18 B. A surcharge of \$10 must be imposed by a court on each civil fine; ~~or penalty or~~
19 ~~forfeiture~~ imposed by the court and deposited in the fund. This paragraph does not
20 apply to civil fines or penalties imposed by the Probate Court.

21 **Sec. C-9. 4 MRSA §18-B, sub-§6, ¶C-1** is enacted to read:

22 C-1. The Chief Judge of the Probate Court or a designee;

23 **Sec. C-10. 4 MRSA §18-B, sub-§6, ¶F**, as enacted by PL 1995, c. 560, Pt. I, §3,
24 is amended to read:

25 F. A Judge of the District Court, who is appointed by and serves at the pleasure of the
26 Chief Justice of the Supreme Judicial Court; ~~and~~

27 **Sec. C-11. 4 MRSA §18-B, sub-§6, ¶F-1** is enacted to read:

28 F-1. A Probate Court Judge, who is appointed by and serves at the pleasure of the
29 Chief Justice of the Supreme Judicial Court; and

30 **Sec. C-12. 4 MRSA §24, first ¶**, as amended by PL 1993, c. 675, Pt. C, §10, is
31 further amended to read:

32 The State Court Administrator shall, subject to the approval of the Chief Justice,
33 prepare biennially a consolidated operating budget for all courts in the State to be known
34 as the Judicial Department operating budget. The Judicial Department operating budget
35 may not include expenses related to the operation of county registries of probate or revenue
36 from fees, fines or penalties collected by the Probate Court and allocated to the county
37 pursuant to Title 18-C, sections 1-501, 1-511, 1-603 and 1-607 or any other provision of
38 law. The administrator may be assisted in this task by the Chief Justice of the Superior
39 Court ~~and~~, the Chief Judge of the District Court and the Chief Judge of the Probate Court.

40 **Sec. C-13. 4 MRSA §115, first ¶**, as corrected by RR 2009, c. 1, §4, is amended
41 to read:

1 ~~In~~ Except as provided in section 301-C, in each county, the place for holding court is
2 located in a building designated by the Chief Justice of the Supreme Judicial Court or the
3 Chief Justice's designee, who, with the advice and approval of the Department of
4 Administrative and Financial Services, Bureau of General Services, is empowered to
5 negotiate, on behalf of the State, the leases, contracts and other arrangements the Chief
6 Justice considers necessary, within the limits of appropriations and other funds available to
7 the Supreme Judicial, Superior and District Courts, to provide suitable quarters, adequately
8 furnished and equipped, for the Supreme Judicial, Superior or District Court in each county.
9 The county commissioners in each county shall continue to provide for the use of the
10 Supreme Judicial, Superior and District Courts such quarters, facilities, furnishings and
11 equipment in existing county buildings as were in use by the Supreme Judicial and Superior
12 Courts on January 1, 1976, without charge. The county commissioners are not required to
13 provide without charge those quarters, facilities, furnishings and equipment in existing
14 county buildings that were in use by the District Courts and were subject to a charge prior
15 to January 1, 1976.

16 **Sec. C-14. 4 MRSA §301-B** is enacted to read:

17 **§301-B. Duties of Chief Judge**

18 The Chief Judge of the Probate Court is responsible to and under the supervision of the
19 Chief Justice of the Supreme Judicial Court for the operation of the Probate Court and shall
20 serve as Chief Judge at the pleasure of the Chief Justice. The Chief Judge shall:

21 **1. Hold court when necessary.** Hold court in any county described in section 201-A,
22 subsection 1, paragraph B when the Chief Judge determines it necessary by reason of
23 illness, absence or disability of the Probate Court Judge regularly assigned or by reason of
24 an excessive case load in any county;

25 **2. Assign judges.** Assign Probate Court Judges to hold court in any county described
26 in section 201-A, subsection 1, paragraph B where, in the judgment of the Chief Judge,
27 they are needed;

28 **3. Days and hours for holding court.** Subject to the requirements of section 305, fix
29 the days and hours for holding court in each county described in section 201-A, subsection
30 1, paragraph B and provide public notification of such days and hours as provided in section
31 303;

32 **4. Vacations.** Determine the time for the taking of vacations by each Probate Court
33 Judge appointed under section 301-A, subsection 2;

34 **5. Records and reports.** Prescribe, subject to the approval of the Chief Justice of the
35 Supreme Judicial Court or the Chief Justice's designee, the records to be kept and destroyed
36 and the reports to be made by each Probate Court Judge appointed under section 301-A,
37 subsection 2;

38 **6. Statistics.** Collect such statistics and other information pertaining to the business of
39 the Probate Court as are requested by the Chief Justice of the Supreme Judicial Court or
40 the Chief Justice's designee;

41 **7. Budget.** Utilizing such assistance from the Administrative Office of the Courts as
42 the Chief Judge may request, prepare and submit a proposed annual budget for the Probate
43 Court established in section 201-A, subsection 2, paragraph B to the Chief Justice of the
44 Supreme Judicial Court or the Chief Justice's designee. The proposed annual budget for

1 the Probate Court may not include expenses related to the operation of county registries of
2 probate or revenue from fees, fines or penalties collected by the Probate Court and allocated
3 to the county pursuant to Title 18-C, sections 1-501, 1-511, 1-603 and 1-607 or any other
4 provision of law;

5 **8. Report.** Render to the Chief Justice of the Supreme Judicial Court an annual report
6 on the state of business in the Probate Court and on the conferences held pursuant to
7 subsection 10;

8 **9. Courtroom facilities.** Pursuant to section 301-C, make necessary arrangements for
9 safe and accessible courtroom facilities in each county described in section 201-A,
10 subsection 1, paragraph B; establish headquarters with appropriate facilities for the Chief
11 Judge; and establish quarters and facilities for each Probate Court Judge appointed under
12 section 301-A, subsection 2;

13 **10. Conference of judges.** Convene at least once annually at such place as the Chief
14 Judge considers appropriate a conference of Probate Court Judges appointed under section
15 301-A, subsection 2 to consider and take action upon or make recommendations with
16 respect to current problems in the operation of the Probate Court. The Chief Judge shall
17 invite any county Probate Court Judge elected under section 301-A, subsection 1 whose
18 term has not yet expired to attend the conference. The expenses of Probate Court Judges
19 appointed under section 301-A, subsection 2 attending this conference are an expense of
20 the Probate Court established in section 201-A, subsection 2, paragraph B;

21 **11. Development and implementation of administrative concepts.** Carry on a
22 continuous survey and study of the organization, operation, condition of business, practice
23 and procedure of the Probate Court and make recommendations to the Chief Justice of the
24 Supreme Judicial Court concerning the number of judges and other personnel, other than
25 personnel in the county registries of probate, required for the efficient administration of
26 justice and examine, with the advice of the Probate Court Judges and Registers of Probate,
27 the status of dockets of the various Probate Courts to determine whether the business of the
28 court is being carried out in an efficient manner and that emergency matters are prioritized
29 and addressed expediently. From such an examination, the Chief Judge shall annually
30 make recommendations to the Chief Justice of the Supreme Judicial Court for guidelines
31 and policies for the scheduling and trial of matters before the Probate Court. In providing
32 recommendations, the Chief Judge shall give due and appropriate regard to the
33 recommendations of the Probate Court Judges and the Registers of Probate and shall
34 provide a mechanism whereby their individual recommendations and comments may be
35 brought to the attention of the Chief Justice. The Chief Judge, in advising as to the
36 appropriateness of the methods or systems for scheduling trials and the management of
37 matters before the Probate Court, shall take into consideration systems and methods
38 operational in the Superior Court and the District Court. The final decision as to the
39 management of judicial branch personnel and the implementation of guidelines, policies
40 and procedures for the scheduling of trials and management of matters before the Probate
41 Court must be made by the Chief Justice only after consultation with the Chief Judge; and

42 **12. Other duties.** Perform such additional duties as may be assigned by the Chief
43 Justice of the Supreme Judicial Court.

44 **Sec. C-15. 4 MRSA §301-C** is enacted to read:

45 **§301-C. Place for holding court**

1 **1. Place for holding court.** Except as otherwise required in section 305, in each county
2 described in section 201-A, subsection 1, paragraph B, the Chief Judge of the Probate Court
3 shall designate a place for holding court that is located, to the extent possible given the
4 other requirements of this subsection, in the building holding the office of that county's
5 Register of Probate. The Chief Judge, with the advice and approval of the Department of
6 Administrative and Financial Services, Bureau of General Services, is empowered to
7 negotiate on behalf of the State the leases, contracts and other arrangements the Chief Judge
8 considers necessary, within the limits of the budget and funds available, to provide suitable
9 quarters, adequately furnished and equipped for the Probate Court in each county.

10 If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as
11 provided in this subsection, the Chief Judge may, with the advice and approval of the
12 Bureau of General Services, negotiate on behalf of the State the leases, contracts and other
13 arrangements the Chief Judge considers necessary, within the limits of the budget and funds
14 available, to provide suitable quarters, adequately furnished and equipped for the Probate
15 Court in other publicly owned or privately owned buildings.

16 **2. Use of Superior Court and District Court facilities.** The facilities of the Superior
17 Court and the facilities of the District Court in each county when the court is not in session
18 must be available for use by the Probate Court in that county. Arrangements for such use
19 must be made by the Chief Judge of the Probate Court.

20 **Sec. C-16. 4 MRSA §1201, sub-§12,** as amended by PL 2001, c. 12, §1, is further
21 amended to read:

22 **12. Judge.** "Judge" means a Justice of the Supreme Judicial Court or the Superior
23 Court, any Judge of the District Court, any Probate Court Judge appointed pursuant to
24 section 301-A, subsection 2, any Administrative Court Judge or any Associate
25 Administrative Court Judge who is actively serving as of December 1, 1984, or who is
26 appointed subsequent to December 1, 1984, but does not include Active Retired Judges.

27 This subsection is repealed January 1, 2029.

28 **Sec. C-17. 4 MRSA §1552, sub-§1,** as enacted by PL 2013, c. 406, §1, is amended
29 to read:

30 **1. Guardian ad litem roster.** The division shall assist the Chief Judge of the District
31 Court and the Chief Judge of the Probate Court in the establishment and maintenance of a
32 roster of guardians ad litem pursuant to section 1553.

33 **Sec. C-18. 4 MRSA §1552, sub-§2,** as enacted by PL 2013, c. 406, §1, is amended
34 to read:

35 **2. Administration of guardians ad litem under ~~Title~~ Titles 18-C and 19-A.** For
36 guardians ad litem appointed under ~~Title~~ Titles 18-C and 19-A, the division shall assist the
37 Chief Judge of the District Court and the Chief Judge of the Probate Court in:

- 38 A. Establishing standardized billing, itemization requirements and time reporting
39 processes for all guardians ad litem;
- 40 B. Establishing guidelines for preparation of required reports; and
- 41 C. Collecting, maintaining and reporting data about orders of appointment, submission
42 of required reports, caseloads and other information as directed by the Chief Judge of
43 the District Court or the Chief Judge of the Probate Court.

1 **Sec. C-19. 4 MRSA §1555, sub-§3**, as enacted by PL 2013, c. 406, §1, is amended
2 to read:

3 **3. Payment for services; fees and billing; enforcement.** The Except as otherwise
4 provided in Title 18-C, section 9-204, subsection 4, the order under subsection 2 must
5 specify that payment for the services of the guardian ad litem is the responsibility of the
6 parties, with the terms of payment specified in the order.

7 A. The fee arrangements in the order must specify hourly rates or a flat fee, the timing
8 of payments to be made and by whom and the maximum amount of fees that may be
9 charged for the case without further order of the court. If the payments ordered to be
10 made before the guardian ad litem commences the investigation, if any, are not paid as
11 ordered, the guardian ad litem shall notify the court, and the court may vacate the
12 appointment order or take such other action it determines appropriate under the
13 circumstances.

14 B. In determining the responsibility for payment, the court shall consider:

- 15 (1) The income of the parties;
16 (2) The marital and nonmarital assets of the parties;
17 (3) The division of property made or anticipated as part of the final divorce or
18 separation;
19 (4) Which party requested appointment of a guardian ad litem; and
20 (5) Other factors considered relevant by the court, which must be stated with
21 specificity in the appointment order.

22 C. The guardian ad litem shall use standardized billing, itemization requirements and
23 time reporting processes as established by the division. The guardian ad litem may
24 collect fees, if a collection action is necessary, pursuant to Title 14 and may not pursue
25 collection in the action in which the guardian ad litem is appointed.

26 **Sec. C-20. 4 MRSA §1802, sub-§4, ¶C**, as amended by PL 2019, c. 427, §1, is
27 further amended to read:

28 C. Juvenile defendants; and

29 **Sec. C-21. 4 MRSA §1802, sub-§4, ¶C-1** is enacted to read:

30 C-1. In a guardianship, conservatorship or other protective arrangement proceeding,
31 an indigent adult or minor respondent for whom counsel was appointed at public
32 expense pursuant to Title 18-C, section 5-205, subsection 5; Title 18-C, section 5-210,
33 subsection 7; Title 18-C, section 5-305, subsection 3; Title 18-C, section 5-406,
34 subsection 1; or Title 18-C, section 5-507, subsection 1;

35 **Sec. C-22. 4 MRSA §1802, sub-§4, ¶C-2** is enacted to read:

36 C-2. In a guardianship, conservatorship or other protective arrangement proceeding
37 involving a minor respondent, an indigent parent, guardian or petitioner for whom
38 counsel was appointed at public expense pursuant to Title 18-C, section 5-205,
39 subsection 4; Title 18-C, section 5-210, subsection 7; Title 18-C, section 5-406,
40 subsection 3; or Title 18-C, section 5-507, subsection 3;

41 **Sec. C-23. 4 MRSA §1802, sub-§4, ¶C-3** is enacted to read:

1 C-3. An indigent parent in an adoption proceeding for whom counsel was appointed
2 at public expense pursuant to Title 18-C, section 9-106 or an indigent parent or minor
3 adoptivee in a proceeding for annulment of an adoption decree for whom counsel was
4 appointed at public expense pursuant to Title 18-C, section 9-315, subsection 1,
5 paragraph A; and

6 **Sec. C-24. 4 MRSA §1802, sub-§4, ¶D**, as enacted by PL 2019, c. 427, §2, is
7 amended to read:

8 D. An indigent defendant or party or a juvenile for the purpose of filing, on behalf of
9 that indigent defendant or party or juvenile, a petition for certiorari to the Supreme
10 Court of the United States from an adverse decision of the Law Court on a case for
11 which services were previously provided to that defendant or party or juvenile pursuant
12 to paragraph A, B or C, C-1, C-2 or C-3.

13 **Sec. C-25. 4 MRSA §1802, sub-§5** is enacted to read:

14 **5. Register.** "Register" has the same meaning as in Title 18-C, section 1-201,
15 subsection 48.

16 **Sec. C-26. 4 MRSA §1804, sub-§3, ¶D**, as repealed and replaced by PL 2023, c.
17 638, §9, is amended to read:

18 D. To ensure an adequate pool of qualified attorneys, develop training and evaluation
19 programs for attorneys throughout the State to provide representation in criminal,
20 juvenile, child protective, adoption, guardianship, conservatorship, other protective
21 arrangements, involuntary commitment and all other types of proceedings for which
22 parties may be eligible to receive indigent legal services;

23 **Sec. C-27. 4 MRSA §1806, sub-§3**, as corrected by RR 2023, c. 2, Pt. A, §3, is
24 amended to read:

25 **3. Confidential information disclosed by Judicial Department and registers.** The
26 Judicial Department and registers may disclose to the commission confidential information
27 necessary for the commission to carry out its functions, including, but not limited to, the
28 collection of amounts owed to reimburse the State for the cost of assigned counsel, as
29 follows:

30 A. Case information and individual client information with respect to court
31 proceedings that are confidential by statute or court rule in which one or more parties
32 are represented by assigned counsel; and

33 B. The name, address, date of birth and social security number of any person ordered
34 by the court to reimburse the State for some or all of the cost of assigned counsel.

35 Information received by the commission from the Judicial Department and registers under
36 this subsection remains confidential in the possession of the commission and is not open to
37 public inspection, except that the names of criminal defendants and the names of juvenile
38 defendants charged with offenses that if committed by an adult would constitute murder or
39 a Class A, Class B or Class C crime are not confidential.

40 **Sec. C-28. 4 MRSA c. 41** is enacted to read:

41 **CHAPTER 41**

COURT VISITORS

§2001. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Court. Prior to January 1, 2029, "court" means the state Probate Court established in section 201-A, subsection 2, paragraph B. Beginning January 1, 2029, "court" means the Probate Court established in section 407, subsection 1.

2. Visitor. "Visitor" means a person appointed to act as the court's agent pursuant to Title 18-C, section 5-304, 5-405 or 5-506.

§2002. Roster of visitors

Rules adopted by the Supreme Judicial Court govern the establishment and maintenance of a roster of individuals eligible for appointment as a visitor. The rules must address:

1. Application process. The process for applying to be included on the roster, including application forms;

2. Criteria. Criteria for initial listing on the roster, including:

A. Credentials, including professional licenses required, if any, and minimum education requirements;

B. Core training including training on financial exploitation, domestic abuse and violence; and

C. Good character;

3. Continuing education. Continuing education requirements including no less than 2 hours of training annually on financial exploitation, domestic abuse and violence;

4. Criminal background check. Obtaining criminal history record information on an individual who seeks to be listed on the roster, including, at a minimum, criminal history record information from the Department of Public Safety, Bureau of State Police, State Bureau of Identification;

5. Other requirements. Any other requirements necessary to remain in good standing and included on the roster; and

6. Removal. The process for removing an individual from the roster.

§2003. Visitor responsibilities

1. Standards of conduct. Visitors shall abide by the standards of conduct as adopted by rule by the Supreme Judicial Court.

2. General responsibilities. An individual appointed by the court to serve as a visitor serves as the court's agent and is entitled to quasi-judicial immunity for acts performed within the scope of the duties of the visitor. As a quasi-judicial officer, the visitor shall perform the assigned duties independently and impartially in all relevant matters within the scope of the order of appointment, respecting the court's obligation to dispose of all judicial matters promptly, efficiently and fairly as provided in the Maine Code of Judicial Conduct. A visitor shall:

- 1 A. Understand and uphold the law and court orders related to the visitor's appointment;
2 B. Maintain the highest standards of professionalism, cultural sensitivity and ethics;
3 C. Plan, carry out, document and complete the visitor's duties as set forth in statute or
4 court order in a timely fashion;
5 D. Communicate with the respondent in the manner the respondent is best able to
6 understand, in light of the respondent's abilities, limitations and needs;
7 E. Make well-reasoned and factually based written recommendations as required by
8 statute or directed by the order of appointment; and
9 F. Complete assignments and written reports in a timely manner and communicate
10 effectively with the court in reports, recommendations and testimony.

11 **§2004. Appointment order; payment**

12 **1. Appointment of visitor.** An order appointing a visitor must specify the terms and
13 conditions of the appointment as provided in the appointment statute, this chapter and rules
14 adopted by the Supreme Judicial Court.

- 15 A. A court may appoint, without any findings, any individual listed on the roster.
16 B. When there is no suitable visitor on the roster that is available for appointment, a
17 court may, for good cause shown, appoint an individual who, in the opinion of the
18 appointing court, has the necessary skills and experience. For the purposes of this
19 paragraph, good cause may include the appointment of a visitor on a pro bono basis.

20 **2. Order.** An appointment of a visitor must be by court order.

- 21 A. The appointment order must be written on a court-approved form and must specify
22 the visitor's length of appointment and specific duties, including the filing of a written
23 report.
24 B. The visitor has no authority to perform and may not be expected to perform any
25 duties beyond those specified in the appointment order, unless subsequently ordered to
26 do so by the court.
27 C. The visitor must be provided access to the respondent by any agency or person.
28 D. The visitor must provide to all parties of record copies of all reports filed by the
29 visitor with the court.
30 E. The appointment order must specify the hearing or hearings at which the visitor must
31 appear and be subject to cross-examination.

32 **3. Payment.** An order appointing a visitor must specify the fee arrangements,
33 including whether the visitor's reasonable fees and expenses must be paid from the
34 respondent's assets or, if the court finds the respondent indigent, by the State.

35 **§2005. Complaint process**

36 **1. Rules.** The Supreme Judicial Court shall provide by rule for a complaint process
37 concerning visitors that provides for at least the following:

- 38 A. The ability of a party to make a complaint before the final judgment as well as after
39 the final judgment is issued;
40 B. Written instructions on how to make a complaint;

1 C. Clear criteria for making a complaint;

2 D. Transparent policies and procedures concerning the investigation of complaints and
3 the provision of information to complainants;

4 E. A central database to log and track complaints; and

5 F. Policies and procedures for using complaints and investigations for recommending
6 the removal of a visitor from a particular case or other consequences or discipline.

7 **2. Complaint process.** The judicial branch shall provide written and electronic
8 information to communicate the complaint process to the public and to all parties.

9 **3. Minor complaint option.** The rules may provide for a minor complaint option that
10 authorizes corrective action without the necessity of completing the full complaint and
11 investigatory process.

12 **4. Motion to remove.** The complaint process adopted pursuant to this section is in
13 addition to the right of a party to file a motion to remove a visitor while the case is pending.
14 The court shall hold a hearing on the motion at the request of the party filing the motion.
15 The motion may be advanced on the docket and receive priority over other cases when the
16 court determines that the interests of justice so require.

17 **Sec. C-29. 18-C MRSA §1-111**, as enacted by PL 2017, c. 402, Pt. A, §2 and
18 affected by PL 2019, c. 417, Pt. B, §14, is amended by amending the section headnote to
19 read:

20 **§1-111. Guardian Children's guardians ad litem**

21 **Sec. C-30. 18-C MRSA §1-112** is enacted to read:

22 **§1-112. Payment of guardian ad litem or visitor appointed at public expense**

23 **1. Payment of guardian ad litem or visitor appointed at public expense.** If a
24 guardian ad litem or a visitor is appointed in a proceeding under this Title and the order of
25 appointment directs that all or part of the guardian ad litem's or visitor's fees must be paid
26 at public expense, the public expense portion of the fees must be paid by the following.

27 A. If the court is located in a county described in Title 4, section 201-A, subsection 1,
28 paragraph A, the county shall pay the public expense portion of the fees. If the court
29 is located in a county described in Title 4, section 201-A, subsection 1, paragraph B,
30 the State shall pay the public expense portion of the fees.

31 This paragraph is repealed January 1, 2029.

32 B. Beginning January 1, 2029, the State shall pay the public expense portion of the
33 fees.

34 **Sec. C-31. 18-C MRSA §1-605**, as enacted by PL 2017, c. 402, Pt. A, §2 and
35 affected by PL 2019, c. 417, Pt. B, §14, is repealed and the following enacted in its place:

36 **§1-605. Compensation of court reporters**

37 **1. Compensation generally.** Court reporters appointed under Title 4, sections 751 to
38 756 shall, if a transcript is requested by the court or a party, file the original transcript with
39 the court and receive the same compensation as provided by law for temporary court
40 reporters as well as mileage at the rate of 10¢ per mile.

1 **2. Transcripts for court files.** When furnishing a transcript for the files of the court,
2 the court reporter must be paid at the rate prescribed by the Supreme Judicial Court, after
3 the reporter's bill has been allowed by the judge of the court in which the services were
4 rendered, by the following.

5 A. If the court is located in a county described in Title 4, section 201-A, subsection 1,
6 paragraph A, the county shall pay the cost of the transcript. If the court is located in a
7 county described in Title 4, section 201-A, subsection 1, paragraph B, the State shall
8 pay the cost of the transcript.

9 This paragraph is repealed January 1, 2029.

10 B. Beginning January 1, 2029, the State shall pay the cost of the transcript.

11 **3. Exception; probate matters.** In probate matters, the personal representative,
12 conservator or guardian shall, in each case out of the estate handled by that personal
13 representative, conservator or guardian, pay to the register for the county the amount of the
14 reporter's fees, giving the fees the same priority as provided in section 3-815 for other costs
15 and expenses of administration, or as otherwise provided for in the case of insolvent estates.
16 If the estate assets are not sufficient, the court may order payment by the following.

17 A. If the court is located in a county described in Title 4, section 201-A, subsection 1,
18 paragraph A, the court may order the county to pay all or part of the reporter's fees. If
19 the court is located in a county described in Title 4, section 201-A, subsection 1,
20 paragraph B, the court may order the State to pay all or part of the reporter's fees.

21 This paragraph is repealed January 1, 2029.

22 B. Beginning January 1, 2029, the court may order the State to pay all or part of the
23 reporter's fees.

24 **Sec. C-32. 18-C MRSA §5-119, sub-§1,** as amended by PL 2019, c. 417, Pt. A,
25 §14, is further amended to read:

26 **1. Attorney for respondent.** Unless the court has made a finding that the respondent
27 is indigent and has appointed an attorney for the respondent on that basis, an attorney for a
28 respondent in a proceeding under this Act is entitled to reasonable compensation and
29 reimbursement of reasonable expenses from the property of the respondent. If the court
30 has made a finding that the respondent is indigent and has appointed an attorney for the
31 respondent on that basis, the attorney's fees must be paid by the Maine Commission on
32 Public Defense Services pursuant to Title 4, chapter 37.

33 **Sec. C-33. 18-C MRSA §5-205, sub-§4,** as enacted by PL 2017, c. 402, Pt. A, §2
34 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

35 **4. Appointment of counsel.** A nonconsenting parent whose parental rights have not
36 been terminated is entitled to court-appointed legal counsel if indigent. In a contested
37 action, the court may also appoint counsel for any indigent guardian or petitioner when a
38 parent or legal custodian has counsel. If the court makes a finding that the nonconsenting
39 parent, guardian or petitioner for whom an attorney is appointed under this subsection is
40 indigent, the attorney's fees must be paid by the Maine Commission on Public Defense
41 Services pursuant to Title 4, chapter 37.

42 **Sec. C-34. 18-C MRSA §5-205, sub-§5,** as enacted by PL 2017, c. 402, Pt. A, §2
43 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

1 **5. Attorney for a minor; notice to minor.** If the court determines at any stage of the
2 proceeding, before or after appointment, that the interests of the minor are or may be
3 inadequately represented, the court may appoint an attorney to represent the minor, giving
4 consideration to the choice of the minor if the minor has attained 14 years of age. If the
5 court finds that the minor is indigent, the fees of an attorney appointed under this subsection
6 must be paid by the Maine Commission on Public Defense Services pursuant to Title 4,
7 chapter 37. A minor may appear with or through counsel, but the court is not restricted
8 from requiring the minor to be present for some or all of a hearing or other proceeding. A
9 minor 14 years of age or older must receive notice of any proceeding subsequent to the
10 appointment of a guardian through the same means as required for any other party, and the
11 minor may consent, object or otherwise participate in the proceeding.

12 **Sec. C-35. 18-C MRSA §5-210, sub-§7,** as amended by PL 2019, c. 417, Pt. A,
13 §20, is further amended to read:

14 **7. Parent's petition to terminate guardianship; burden of proof.** A parent may
15 bring a petition to terminate the guardianship of a minor. A parent's notification to the
16 court of the revocation of prior consent for a guardianship must be considered a petition to
17 terminate the guardianship. Before the court may apply the termination requirements in
18 subsection 6, a party opposing a parent's petition to terminate a guardianship bears the
19 burden of proving by clear and convincing evidence that the parent seeking to terminate
20 the guardianship is currently unfit to regain custody of the minor, in accordance with the
21 standard set forth in section 5-204, subsection 2, paragraph C. If the party opposing
22 termination of the guardianship fails to meet its burden of proof on the question of the
23 parent's fitness to regain custody, the court shall terminate the guardianship and make any
24 further order that may be appropriate. In a contested action, the court may appoint counsel
25 for the minor or for any indigent guardian or parent. If the court finds that the minor,
26 guardian or parent for whom an attorney is appointed under this subsection is indigent, the
27 appointed attorney's fees must be paid by the Maine Commission on Public Defense
28 Services pursuant to Title 4, chapter 37. In ruling on a petition to terminate a guardianship,
29 the court may modify the terms of the guardianship or order transitional arrangements
30 pursuant to section 5-211.

31 **Sec. C-36. 18-C MRSA §5-305, sub-§3** is enacted to read:

32 **3. Payment.** If the court appointing an attorney under subsection 1 finds that the
33 respondent is indigent, the appointed attorney's fees must be paid by the Maine
34 Commission on Public Defense Services pursuant to Title 4, chapter 37.

35 **Sec. C-37. 18-C MRSA §5-406, sub-§1,** as enacted by PL 2017, c. 402, Pt. A, §2
36 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
37 paragraph to read:

38 The fees of an attorney appointed under this subsection must be paid by the Maine
39 Commission on Public Defense Services pursuant to Title 4, chapter 37 if the court finds
40 that the respondent is indigent.

41 **Sec. C-38. 18-C MRSA §5-406, sub-§3,** as enacted by PL 2017, c. 402, Pt. A, §2
42 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
43 paragraph to read:

1 The fees of an attorney appointed under this subsection must be paid by the Maine
2 Commission on Public Defense Services pursuant to Title 4, chapter 37 if the court finds
3 that the parent is indigent.

4 **Sec. C-39. 18-C MRSA §5-507, sub-§1**, as enacted by PL 2017, c. 402, Pt. A, §2
5 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
6 paragraph to read:

7 The fees of an attorney appointed under this subsection must be paid by the Maine
8 Commission on Public Defense Services pursuant to Title 4, chapter 37 if the court finds
9 that the respondent is indigent.

10 **Sec. C-40. 18-C MRSA §5-507, sub-§3**, as enacted by PL 2017, c. 402, Pt. A, §2
11 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
12 paragraph to read:

13 The fees of an attorney appointed under this subsection must be paid by the Maine
14 Commission on Public Defense Services pursuant to Title 4, chapter 37 if the court finds
15 that the parent is indigent.

16 **Sec. C-41. 18-C MRSA §9-106**, as enacted by PL 2017, c. 402, Pt. A, §2 and
17 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

18 **§9-106. Legal representation**

19 **1. Attorney for parents.** The parents are entitled to an attorney for any hearing held
20 pursuant to this Article. If a parent or putative parent wants an attorney but is unable to
21 afford one, the parent or the putative parent may request the court to appoint an attorney.
22 If the court finds the requesting party indigent, the court shall appoint ~~and pay the~~
23 ~~reasonable costs and expenses of the attorney of the indigent party~~ an attorney and the
24 attorney's fees must be paid by the Maine Commission on Public Defense Services pursuant
25 to Title 4, chapter 37. The attorney may not be the attorney for the adoptive parents.

26 **2. Attorney for minor indigent parent.** When the adoptee is unrelated to the
27 petitioner, the court shall appoint an attorney who is not the attorney for the adoptive
28 parents to represent a minor indigent parent at every stage of the proceedings unless the
29 minor indigent parent refuses representation or the court determines that representation is
30 unnecessary. The fees of an attorney appointed for a minor indigent parent under this
31 subsection must be paid by the Maine Commission on Public Defense Services pursuant to
32 Title 4, chapter 37.

33 **Sec. C-42. 18-C MRSA §9-315, sub-§1, ¶A**, as enacted by PL 2017, c. 402, Pt.
34 A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

35 A. If the adoptee is a minor, the court shall appoint a guardian ad litem on behalf of
36 the minor adoptee and shall consider the best interest of the child, taking into account
37 the factors set forth in Title 19-A, section 1653, subsection 3. The court shall sustain
38 the decree unless there is clear and convincing evidence of one or more bases for
39 annulment and that the decree is not in the best interest of the child. The court may
40 allocate the costs of the guardian ad litem to one or more of the parties or, if the parties
41 are indigent, the court shall pay the reasonable costs and expenses of the guardian ad
42 litem.

The court may allocate the costs of the guardian ad litem to one or more of the parties and may appoint counsel for a minor adoptee or a party to the annulment proceedings. If the court finds that the minor adoptee or the party for whom counsel is appointed under this paragraph is indigent, the appointed attorney's fees must be paid by the Maine Commission on Public Defense Services pursuant to Title 4, chapter 37. A minor adoptee may appear and be represented by counsel.

Sec. C-43. Effective date. This Part takes effect January 1, 2027.

PART D

Sec. D-1. 4 MRSA c. 7, as amended, is repealed.

Sec. D-2. 4 MRSA c. 7-A is enacted to read:

CHAPTER 7-A

PROBATE COURT

§407. Establishment; court of record; seal; process; contempt power

1. Establishment; court of record; seal. A Probate Court for the State is established as a court of record. The Chief Judge of the Probate Court shall establish the official seal of the court and provide the official seal to the Register of Probate in each county.

2. Process; contempt power. The Probate Court may issue any process necessary for the discharge of official duties and may punish for contempt of the court's authority.

§408. Oaths and acknowledgments

All oaths required to be taken by personal representatives, trustees, guardians or conservators, or of any other persons in relation to any proceeding in the Probate Court, or to perpetuate the evidence of the publication of any order of notice, may be administered by the Probate Court Judge or Register of Probate or any notary public. A certificate thereof, when taken out of court, must be returned into the registry of probate and there filed. When any person of whom such oath is required, including any parent acknowledging consent to an adoption, resides temporarily or permanently outside of the State, the oath or acknowledgment may be taken before and be certified by a notary public in another state, a commissioner for the State or a United States Consul.

§409. General jurisdiction; transfer of certain proceedings to District Court

1. Estates and trusts. The Probate Court has jurisdiction in the following matters.

A. The Probate Court in each county 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, were inhabitants or residents of the county or who, not being residents of the county, died leaving an estate to be administered in the county, or whose estate is afterwards found in the county; and has jurisdiction of all matters relating to the settlement of such estates.

B. The Probate Court has jurisdiction in equity, concurrent with the Superior Court, of all cases and matters relating to the administration of the estates of deceased persons, to wills and to trusts that are created by will or other written instrument. Such

1 jurisdiction may be exercised upon complaint according to the usual course of
2 proceedings in civil actions in which equitable relief is sought.

3 **2. Adoptions, name changes, guardianships, conservatorships and other**
4 **protective arrangements.** The Probate Court has, to the extent authorized in Title 18-C,
5 jurisdiction over adoptions, name change petitions, guardianships, conservatorships and
6 other protective arrangements and has jurisdiction as to persons under guardianship,
7 conservatorship or other protective arrangements, except in cases in which the District
8 Court has exclusive jurisdiction over a child pursuant to section 152, subsection 5-A.

9 **3. Disclosure of orders and proceedings involving parental rights.** The Probate
10 Court shall require all parties in any matter involving guardianship, adoption or change of
11 name or another matter involving custody or other parental rights with respect to a minor
12 child to disclose whether they have knowledge of:

13 A. Any interim or final order then in effect concerning custody or other parental rights
14 with respect to the minor child, including any order of the District Court terminating
15 parental rights; appointing a guardian, including a permanency, emergency or interim
16 guardian; awarding parental rights to a 3rd party; or granting an adoption;

17 B. Any proceeding under the Maine Juvenile Code brought against the minor child
18 pending in District Court or any proceeding involving custody or other parental rights
19 with respect to the minor child pending before any court of this State or another state,
20 including the District Court; or

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

23 **4. Transfer of certain proceedings to District Court.** Except as provided in
24 subsection 3, if in a matter before the Probate Court concerning a minor child the Probate
25 Court becomes aware that a proceeding under the Maine Juvenile Code brought against the
26 minor child or a proceeding involving custody or other parental rights with respect to the
27 minor child is pending in the District Court or that the minor child is or was the subject of
28 a District Court order terminating parental rights, appointing a guardian, including a
29 permanency, emergency or interim guardian, awarding parental rights to a 3rd party or
30 granting an adoption, the Probate Court shall notify the District Court and take appropriate
31 action to facilitate a transfer of the matter to the District Court. If a matter is transferred to
32 the District Court under this subsection, the District Court has continuing, exclusive
33 jurisdiction over the matter and over any future proceedings for guardianship, adoption or
34 change of name or other matter involving custody or other parental rights with respect to
35 the minor child brought under Title 18-C, except to the extent that the District Court's
36 jurisdiction is precluded by the Uniform Child Custody Jurisdiction and Enforcement Act.

37 **5. Exception to transfer.** Notwithstanding any provision of law to the contrary, the
38 Probate Court shall retain jurisdiction over an action for guardianship, adoption, change of
39 name or other matter involving custody or other parental rights with respect to a minor
40 child brought under Title 18-C that would otherwise be within the exclusive, continuing
41 jurisdiction of the District Court under section 152, subsection 5-A and may not transfer
42 that matter to the District Court under subsection 2 if:

43 A. At the time the proceeding under the Maine Juvenile Code or the proceeding
44 involving custody or other parental rights with respect to the minor child that would

1 otherwise trigger the District Court's continuing, exclusive jurisdiction is initiated, the
2 testimonial hearing on the Title 18-C matter has concluded and the Probate Court has
3 that matter under advisement; and

4 B. The Probate Court has not determined that the District Court is the more appropriate
5 forum for the Title 18-C proceeding.

6 For purposes of this section, a proceeding is pending if a complaint, petition or post-
7 judgment motion has been filed and the final judgment or final order on that complaint,
8 petition or post-judgment motion has not yet been issued.

9 **§410. Jurisdiction in court where proceedings originate**

10 Subject to Title 18-C, sections 1-303, 3-201, 5-106 and 9-104, and except as otherwise
11 provided in Title 18-C, section 5-105, when a case is originally within the jurisdiction of
12 the Probate Court in 2 or more counties, the one that first commences proceedings retains
13 jurisdiction exclusively throughout. The jurisdiction assumed in any case, except in cases
14 of fraud, so far as it depends on the residence of any person or the locality or amount of
15 property, may not be contested in any proceeding except on an appeal or removal from the
16 Probate Court in the original case or when the want of jurisdiction appears on the same
17 record.

18 **§411. Judges; appointment; qualifications; remuneration; full-time duties**

19 **1. Appointment; term.** The Governor, subject to review by the joint standing
20 committee of the Legislature having jurisdiction over judiciary matters and to confirmation
21 by the Legislature, shall appoint to the Probate Court 9 judges. Each Probate Court Judge
22 has a term of office of 7 years.

23 **2. Qualifications.** To be eligible for appointment as a Probate Court Judge, an
24 individual must be a member of the bar of the State.

25 **3. Salary; expenses.** Except as provided in subsection 4 for the Chief Judge of the
26 Probate Court, each Probate Court Judge is entitled to receive a salary equivalent to the
27 salary of an Associate Judge of the District Court under section 157, subsections 4 and 4-A
28 and to reimbursement by the State for expenses to the same extent that a District Court
29 Judge is entitled to reimbursement by the State for expenses under section 157, subsection
30 5.

31 **4. Designation of Chief Judge; salary; expenses.** The Chief Justice of the Supreme
32 Judicial Court shall designate one Probate Court Judge appointed under subsection 1 as the
33 Chief Judge of the Probate Court. The Chief Judge of the Probate Court is entitled to
34 receive a salary equivalent to the salary of the Chief Judge of the District Court under
35 section 157, subsection 2 and to reimbursement by the State for expenses to the same extent
36 that a District Court Judge is entitled to reimbursement by the State for expenses under
37 section 157, subsection 5.

38 **5. Full-time duties.** A Probate Court Judge appointed under this section shall devote
39 full time to that judge's judicial duties and, during that judge's term of office, may not
40 practice law or be the partner or associate of any person in the practice of law.

41 **§412. Duties of Chief Judge**

1 The Chief Judge of the Probate Court is responsible to and under the supervision of the
2 Chief Justice of the Supreme Judicial Court for the operation of the Probate Court and shall
3 serve as Chief Judge at the pleasure of the Chief Justice. The Chief Judge shall:

4 **1. Hold court when necessary.** Hold court in any county when the Chief Judge
5 determines it necessary by reason of illness, absence or disability of the Probate Court
6 Judge regularly assigned or by reason of an excessive case load in any county;

7 **2. Assign judges.** Assign Probate Court Judges to hold court in any county where, in
8 the judgment of the Chief Judge, they are needed;

9 **3. Days and hours for holding court.** Subject to the requirements of section 413,
10 subsection 4, fix the days and hours for holding court in each county and provide public
11 notification of such days and hours as provided in section 415;

12 **4. Vacations.** Determine the time for the taking of vacations by each Probate Court
13 Judge;

14 **5. Records and reports.** Prescribe, subject to the approval of the Chief Justice of the
15 Supreme Judicial Court or the Chief Justice's designee, the records to be kept and destroyed
16 and the reports to be made by each Probate Court Judge;

17 **6. Statistics.** Collect such statistics and other information pertaining to the business of
18 the Probate Court as are requested by the Chief Justice of the Supreme Judicial Court or
19 the Chief Justice's designee;

20 **7. Budget.** Utilizing such assistance from the Administrative Office of the Courts as
21 the Chief Judge may request, prepare and submit a proposed annual budget for the Probate
22 Court to the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee.
23 The proposed annual budget for the Probate Court may not include expenses related to the
24 operation of county registries of probate or revenue from fees, fines or penalties collected
25 by the Probate Court and allocated to the county pursuant to Title 18-C, sections 1-501,
26 1-511, 1-603 and 1-607 or any other provision of law;

27 **8. Report.** Render to the Chief Justice of the Supreme Judicial Court an annual report
28 on the state of business in the Probate Court and on the conferences held pursuant to
29 subsection 10;

30 **9. Courtroom facilities.** Pursuant to section 413, make necessary arrangements for
31 safe and accessible courtroom facilities in each county; establish headquarters with
32 appropriate facilities for the Chief Judge; and establish quarters and facilities for each
33 Probate Court Judge;

34 **10. Conference of judges.** Convene at least once annually at such place as the Chief
35 Judge considers appropriate a conference of Probate Court Judges to consider and take
36 action upon or make recommendations with respect to current problems in the operation of
37 the Probate Court. The expenses of Probate Court Judges attending this conference are an
38 expense of the Probate Court;

39 **11. Development and implementation of administrative concepts.** Carry on a
40 continuous survey and study of the organization, operation, condition of business, practice
41 and procedure of the Probate Court and make recommendations to the Chief Justice of the
42 Supreme Judicial Court concerning the number of judges and other personnel, other than
43 personnel in the county registries of probate, required for the efficient administration of

1 justice and examine, with the advice of the Probate Court Judges and Registers of Probate,
2 the status of dockets of the various Probate Courts to determine whether the business of the
3 court is being carried out in an efficient manner and that emergency matters are prioritized
4 and addressed expediently. From such an examination, the Chief Judge shall annually
5 make recommendations to the Chief Justice of the Supreme Judicial Court for guidelines
6 and policies for the scheduling and trial of matters before the Probate Court. In providing
7 recommendations, the Chief Judge shall give due and appropriate regard to the
8 recommendations of the Probate Court Judges and the Registers of Probate and shall
9 provide a mechanism whereby their individual recommendations and comments may be
10 brought to the attention of the Chief Justice. The Chief Judge, in advising as to the
11 appropriateness of the methods or systems for scheduling trials and the management of
12 matters before the Probate Court, shall take into consideration systems and methods
13 operational in the Superior Court and the District Court. The final decision as to the
14 management of judicial branch personnel and the implementation of guidelines, policies
15 and procedures for the scheduling of trials and management of matters before the Probate
16 Court must be made by the Chief Justice only after consultation with the Chief Judge; and

17 **12. Other duties.** Perform such additional duties as may be assigned by the Chief
18 Justice of the Supreme Judicial Court.

19 **§413. Probate Court regions; place for holding court**

20 **1. Probate Court regions.** The State is divided into 8 Probate Court regions, named
21 and defined as follows:

22 A. Region 1 consists of York County;

23 B. Region 2 consists of Cumberland County;

24 C. Region 3 consists of Oxford, Franklin and Androscoggin counties;

25 D. Region 4 consists of Kennebec and Somerset counties;

26 E. Region 5 consists of Penobscot and Piscataquis counties;

27 F. Region 6 consists of Sagadahoc, Lincoln, Knox and Waldo counties;

28 G. Region 7 consists of Hancock and Washington counties; and

29 H. Region 8 consists of Aroostook County.

30 **2. Assignment.** The Chief Judge of the Probate Court shall assign at least one Probate
31 Court Judge as the primary judge to hold court in each region.

32 **3. Place for holding court.** In each county within each region, the Chief Judge of the
33 Probate Court shall designate a place for holding court that is located, to the extent possible
34 given the other requirements of this subsection, in the building holding the office of that
35 county's Register of Probate. The Chief Judge, with the advice and approval of the
36 Department of Administrative and Financial Services, Bureau of General Services, is
37 empowered to negotiate on behalf of the State the leases, contracts and other arrangements
38 the Chief Judge considers necessary, within the limits of the budget and funds available, to
39 provide suitable quarters, adequately furnished and equipped for the Probate Court in each
40 county.

41 If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as
42 provided in this subsection, the Chief Judge may, with the advice and approval of the

1 Bureau of General Services, negotiate on behalf of the State the leases, contracts and other
2 arrangements the Chief Judge considers necessary, within the limits of the budget and funds
3 available, to provide suitable quarters, adequately furnished and equipped for the Probate
4 Court in other publicly owned or privately owned buildings.

5 **4. Exception; Aroostook County.** Notwithstanding subsection 3, the Chief Judge of
6 the Probate Court shall secure facilities for the Probate Court in Region 8 to hold court at
7 least 2 times each year at Fort Kent and at least 4 times each year at Caribou. The time for
8 holding the court must be appointed by the Chief Judge of the Probate Court and made
9 known by public notification as provided in section 415.

10 **5. Exception; alternative locations.** Notwithstanding subsection 3, the Probate Court
11 may hold hearings for matters in equity and contested cases at such time and place in the
12 county as the Probate Court may appoint and make all necessary orders and decrees relating
13 thereto.

14 **§414. Officers execute processes and attend courts**

15 Sheriffs, their deputies and constables shall execute all legal processes directed to them
16 by a Probate Court, which may, when necessary, require such officer, when not in
17 attendance upon any other court, to attend during the sitting of the Probate Court, for which
18 that officer must be paid as in other courts for similar services.

19 **§415. Continuous session; return day for matters requiring public notice**

20 The Probate Court is always open in each county for all matters over which it has
21 jurisdiction, except upon days on which by law no court is held, but it shall have certain
22 fixed days and places to be made known by public notification thereof in their respective
23 counties to which all matters requiring public notice must be made returnable, except as
24 otherwise ordered by the Chief Judge of the Probate Court. In case of the absence of the
25 assigned Probate Court Judge at the time of holding any court, the Register of Probate or
26 acting register may adjourn the same unless the Chief Judge of the Probate Court assigns
27 another Probate Court Judge to attend.

28 **§416. Conflict of interest; transfer of proceeding**

29 **1. Probate Court Judge conflict of interest.** When a Probate Court Judge is
30 interested in that judge's own right in a trust that is not fully executed, or in any other
31 manner in an estate, or is within the degree of kindred by which in law that judge may, by
32 possibility, be heir to any part of the estate of the person deceased, or is named as executor,
33 trustee of a trust that is not fully executed or guardian of minor children in the will of any
34 deceased resident of the county, the judge must be recused from any proceedings related to
35 the trust or settlement of the estate unless said disability is removed.

36 This subsection may not be construed to require recusal by a Probate Court Judge who is
37 named as executor, trustee or guardian of minor children in a will if the judge does not
38 receive a benefit from the will and the record of the court discloses the filing of the judge's
39 declination to act as such executor, trustee or guardian and if no objection is raised by any
40 interested party at the hearing on the petition for probate of the will.

41 **2. Probate Court Judge not to draft documents.** A Probate Court Judge may not
42 draft or aid in drafting any document or paper that the Probate Court Judge is by law
43 required to pass upon.

1 **3. Register of Probate conflict of interest; transfer of proceeding.** When a Register
2 of Probate is interested in that register's own right in a trust that is not fully executed, or in
3 any other manner in an estate, or is within the degree of kindred by which in law that
4 register may, by possibility, be heir to any part of the estate of the person deceased, or is
5 named as executor, trustee of a trust that is not fully executed or guardian of minor children
6 in the will of any deceased resident of the county, such estate must be settled in the Probate
7 Court of any adjoining county, which has full jurisdiction thereof as if the deceased had
8 died in that adjoining county. If the register's interest arises after jurisdiction over such
9 estate has been assumed or existed at the time of the register's election to office, and in all
10 cases where an executor, administrator, guardian or trustee, whose trust is not fully
11 executed, becomes the Register of Probate for the county in which that register's letters
12 were granted, further proceedings must be transferred to the Probate Court in any adjoining
13 county and there remain until completed, unless said disability is removed before that time.
14 Whenever in any case within this subsection the disability of the Register of Probate is
15 removed before the proceedings have been fully completed, the proceedings must then be
16 transferred to the Probate Court in the county of original jurisdiction or to the Probate Court
17 that otherwise would have had jurisdiction. In all such cases the register in such adjoining
18 county shall transmit copies of all records relating to such estate to the probate office of the
19 county where such estate belongs, to be there recorded. If there are fewer than 4 counties
20 adjoining the county of the Probate Court that is required to transfer proceedings to an
21 adjoining county under this subsection, the proceedings must be transferred to the Probate
22 Court in one of the 4 counties nearest to the transferring Probate Court, as measured by the
23 shortest distance along paved roads between the building in which the registry of probate
24 is located in the transferring county and the building in which the registry of probate is
25 located in the other county.

26 This subsection may not be construed to require removal to another county by reason of
27 the Register of Probate having been named as executor, trustee or guardian of minor
28 children in a will, if the register does not receive a benefit from the will and the record of
29 the court discloses the filing of the register's declination to act as such executor, trustee or
30 guardian and if no objection is raised by any interested party at the hearing on the petition
31 for probate of the will.

32 **§417. Rights of claimants under heir**

33 Any person claiming under an heir at law has the same rights as the heir in all
34 proceedings in Probate Court, including rights of appeal.

35 **§418. Perpetual care of cemetery lots by order**

36 In any case in which an estate is under the Probate Court's jurisdiction for probate, the
37 Probate Court may order that an appropriate amount out of the estate be set aside for
38 perpetual care and suitable memorials for the cemetery lot in which the deceased is buried
39 and order special care of such lots when the conditions and size of the estate seem to warrant
40 such order.

41 **§419. Contracts for support**

42 **1. Approval required.** All contracts for support for life must be approved by the
43 Probate Court in the county in which the support for life is to be rendered. The Probate
44 Court shall grant approval after such reasonable notice as the court determines to be

1 appropriate, if the court finds, after hearing, that the contract is just and equitable under all
2 of the circumstances.

3 **2. Admissibility in evidence.** A contract or agreement for support for life that has not
4 been approved under subsection 1 may not be received in evidence unless the person
5 offering the contract or agreement establishes by a preponderance of the evidence that the
6 contract or agreement is just and equitable under all of the circumstances.

7 **3. Exception.** This section does not apply to contracts or agreements for support for
8 life between persons related within the 3rd degree.

9 **§420. Commission to Evaluate the Incorporation of the Probate Court into the**
10 **Judicial Branch**

11 **1. Commission established.** The Commission to Evaluate the Incorporation of the
12 Probate Court into the Judicial Branch, referred to in this section as "the commission," is
13 established.

14 **2. Membership.** The commission consists of 15 members appointed as follows:

15 A. Two members of the Senate appointed by the President of the Senate, including one
16 member from each of the 2 parties holding the largest number of seats in the
17 Legislature;

18 B. Three members of the House of Representatives appointed by the Speaker of the
19 House of Representatives, including members from each of the 2 parties holding the
20 largest number of seats in the Legislature;

21 C. Three members appointed by the Chief Justice of the Supreme Judicial Court;

22 D. One member who is a Probate Court Judge appointed by the Chief Justice of the
23 Supreme Judicial Court;

24 E. One member who is a Register of Probate appointed by the Speaker of the House
25 of Representatives;

26 F. One member who is a judicial branch clerk appointed by the Chief Justice of the
27 Supreme Judicial Court;

28 G. One member who is a member of the Probate and Trust Law Advisory Commission,
29 established pursuant to Title 5, section 12004-I, subsection 73-B, appointed by that
30 commission;

31 H. One member who is a member of the Family Law Advisory Commission,
32 established pursuant to Title 5, section 12004-I, subsection 52-A, appointed by that
33 commission; and

34 I. Two members who are members of the Maine State Bar Association, one of whom
35 is a member of a nonprofit organization providing statewide free legal services,
36 appointed by the Speaker of the House of Representatives.

37 **3. Chairs; quorum.** The first-named Senate member is the Senate chair and the first-
38 named House of Representatives member is the House chair of the commission. A quorum
39 of the commission consists of 8 members.

40 **4. Appointments; convening of commission.** All appointments must be made no later
41 than January 1, 2031. The appointing authorities shall notify the Executive Director of the

1 Legislative Council once all appointments have been completed. After appointment of all
2 members, the chairs shall call and convene the first meeting of the commission. If 30 days
3 or more after January 1, 2031 a majority of but not all appointments have been made, the
4 chairs may request authority and the Legislative Council may grant authority for the
5 commission to meet and conduct its business.

6 **5. Duties.** The commission shall conduct a thorough review of the Probate Court
7 system, including but not limited to the interaction between the state Probate Court and
8 county registries of probate; the establishment and allocation of Probate Court fees; the
9 Maine Commission on Public Defense Services' responsibility for oversight and payment
10 of attorneys appointed by the Probate Court to represent indigent parties in Probate Court
11 proceedings pursuant to chapter 37; and the judicial branch's responsibility for oversight of
12 visitors appointed by the Probate Court and for payment of court-appointed visitors when
13 the Probate Court is allowed or directed by law to appoint a visitor at state expense. The
14 review must include, but is not limited to, an evaluation of:

15 A. Whether the number of Probate Court Judge positions is appropriate or should be
16 adjusted;

17 B. Whether the jurisdiction of the Probate Court, District Court and Superior Court
18 should be adjusted to increase judicial efficiency and access to justice;

19 C. Whether the Chief Justice of the Supreme Judicial Court should be authorized to
20 assign Probate Court Judges to sit in the Superior Court or the District Court and to
21 assign Superior Court Justices and District Court Judges to sit in the Probate Court;

22 D. Whether additional investments should be made to enhance the compatibility of the
23 Probate Court's case management system with the case management system used by
24 the other courts in the judicial branch; and

25 E. Whether additional steps should be taken to more fully incorporate the Probate Court
26 into the judicial branch, including whether to transfer the functions and staff of the
27 county registries of probate into the judicial branch.

28 **6. Compensation.** Legislative members of the commission are entitled to receive the
29 legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other
30 necessary expenses for their attendance at authorized meetings of the commission. Public
31 members not otherwise compensated by their employers or other entities that they represent
32 are entitled to receive reimbursement of necessary expenses and, upon a demonstration of
33 financial hardship, a per diem equal to the legislative per diem for their attendance at
34 authorized meetings of the commission.

35 **7. Staffing.** The Legislative Council shall provide staff support for the operation of
36 the commission, except that Legislative Council staff support is not authorized when the
37 Legislature is in regular or special session.

38 **8. Information and assistance.** The Administrative Office of the Courts, the Chief
39 Judge of the Probate Court and Registers of Probate shall provide to the commission the
40 information and assistance requested by the commission that is necessary for the
41 commission to perform its duties.

42 **9. Report.** No later than December 31, 2031, the commission shall submit a report
43 that includes its findings and recommendations, which may include suggested legislation,
44 for presentation to the joint standing committee of the Legislature having jurisdiction over

1 judiciary matters. The joint standing committee may report out legislation related to the
2 report to the 135th Legislature.

3 **10. Repeal.** This section is repealed June 1, 2032.

4 **Sec. D-3. 4 MRSA §1201, sub-§12-C** is enacted to read:

5 **12-C. Judge.** "Judge" means a Justice of the Supreme Judicial Court or the Superior
6 Court, any Judge of the District Court, any Probate Court Judge, any Administrative Court
7 Judge or any Associate Administrative Court Judge who is actively serving as of December
8 1, 1984, or who is appointed subsequent to December 1, 1984, but does not include Active
9 Retired Judges.

10 **Sec. D-4. 18-C MRSA §1-201, sub-§8-A** is enacted to read:

11 **8-A. Court.** "Court" means the Probate Court established in Title 4, section 407,
12 subsection 1.

13 **Sec. D-5. 18-C MRSA §1-305**, as enacted by PL 2017, c. 402, Pt. A, §2 and affected
14 by PL 2019, c. 417, Pt. B, §14, is amended to read:

15 **§1-305. Records and certified copies; judicial supervision**

16 The register shall maintain records and files and provide copies of documents as
17 provided in sections 1-501 to 1-511 and further records and copies as the Supreme Judicial
18 Court may by rule provide. The register is subject to the supervision and authority of the
19 judge of the court assigned by the Chief Judge of the Probate Court under Title 4, section
20 413, subsection 2 as the primary Probate Court Judge in the region in which the register
21 serves.

22 **Sec. D-6. 18-C MRSA §1-309-A** is enacted to read:

23 **§1-309-A. Judges**

24 A judge of the court must be chosen and shall serve as provided in Title 4, chapter 7-A.

25 **Sec. D-7. 18-C MRSA §1-506, 2nd ¶**, as enacted by PL 2017, c. 402, Pt. A, §2
26 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

27 In the case of an absence of the register in a county where a deputy register has not
28 been appointed or in the case of a vacancy in the office of register due to death, resignation
29 or any other cause, the judge assigned by the Chief Judge of the Probate Court under Title
30 4, section 413, subsection 2 as the primary Probate Court Judge in the region shall appoint
31 a suitable person to act as register pro tempore until the register resumes the duties of office
32 or another person is qualified as register. A register pro tempore must be sworn and, if the
33 judge requires it, shall give bond as in the case of the register.

34 **Sec. D-8. 18-C MRSA §1-507**, as enacted by PL 2017, c. 402, Pt. A, §2 and affected
35 by PL 2019, c. 417, Pt. B, §14, is amended to read:

36 **§1-507. Inspection of register's conduct of office**

37 A The judge assigned by the Chief Judge of the Probate Court under Title 4, section
38 413, subsection 2 as the primary Probate Court Judge in the region shall constantly inspect
39 the conduct of the register with respect to the register's records and duties and give
40 information in writing of any breach of the register's bond to the treasurer of the county,
41 who shall bring a civil action. Any funds recovered in the civil action must be applied

1 toward the expenses of completing the records of the register under the direction of the
2 judge and the surplus, if any, must inure to the county. If the funds are insufficient, the
3 treasurer may recover the deficiency from the register in a civil action.

4 **Sec. D-9. 18-C MRSA §1-510, sub-§1, ¶B-1** is enacted to read:

5 B-1. Be an administrator, guardian, commissioner of insolvency, appraiser or divider
6 of an estate, in a case within the jurisdiction of the court located in the county in which
7 the register is register, except as provided in Title 4, chapter 7-A, or be in any manner
8 interested in the fees and emoluments arising from such an estate in that capacity; or

9 **Sec. D-10. 21-A MRSA §1, sub-§11**, as enacted by PL 1985, c. 161, §6, is
10 amended to read:

11 **11. County office.** "County office" means the office of ~~judge of probate~~, register of
12 probate, county treasurer, register of deeds, sheriff, district attorney or county
13 commissioner.

14 **Sec. D-11. 21-A MRSA §601, sub-§3**, as amended by PL 2021, c. 273, §10, is
15 further amended to read:

16 **3. Order of offices.** The order of offices on the ballot is as follows: President, United
17 States Senator, Governor, Representative to Congress, State Senator and Representative to
18 the Legislature, and the county offices in the following order: ~~judge of probate~~, register of
19 probate, county treasurer, register of deeds, sheriff, district attorney and county
20 commissioner, except that the order may be modified to allow ranked-choice contests to be
21 printed on the opposite side of the ballot, separate from contests other than ranked-choice
22 contests.

23 **Sec. D-12. Transition provision.** A Probate Court Judge appointed to the state
24 Probate Court pursuant to the Maine Revised Statutes, Title 4, section 301-A, subsection 2
25 prior to January 1, 2029 continues to serve as a Probate Court Judge in the Probate Court
26 established in Title 4, chapter 7-A until the expiration of the term to which the judge was
27 appointed.

28 **Sec. D-13. Effective date.** This Part takes effect January 1, 2029.

29 SUMMARY

30 This bill implements the recommendations of the Commission To Create a Plan To
31 Incorporate the Probate Courts into the Judicial Branch, referred to in this summary as "the
32 commission." The report is available online at <https://legislature.maine.gov/doc/7703>.

33 Maine's county Probate Courts occupy a unique position in Maine's justice system.
34 Unlike Maine's other trial courts, Probate Courts are not part of the state judicial branch
35 and Probate Court Judges are not appointed by the Governor and confirmed by the
36 Legislature. Instead, pursuant to the former Constitution of Maine, Article VI, Section 6,
37 Probate Court Judges and Registers of Probate are elected to 4-year terms in each county.
38 Although the caseload varies from county to county, it is generally understood that Maine's
39 county Probate Court Judges serve on a part-time basis and, accordingly, they are
40 authorized to engage in the practice of law.

41 In 1967, the Legislature passed Resolve 1967, chapter 77, which proposed an
42 amendment to the Constitution of Maine that would repeal Article VI, Section 6 and would

1 "become effective at such time as the Legislature by proper enactment shall establish a
2 different Probate Court system with full-time judges." This constitutional amendment was
3 approved by a majority of the voters of Maine on November 7, 1967. In its report, the
4 commission recommended that the Legislature implement this constitutional amendment
5 by establishing a new state Probate Court with full-time, appointed state Probate Court
6 Judges. Part A of the bill sets out that it is the intent of the Legislature that the enactment
7 of this legislation, which implements the commission's recommended new Probate Court
8 system with full-time judges, will trigger the repeal of the Constitution of Maine, Article
9 VI, Section 6 pursuant to Resolve 1967, chapter 77 on the date that this legislation is
10 approved.

11 Although this bill is intended to trigger the repeal of the Constitution of Maine, Article
12 VI, Section 6, which provides for the election of probate judges, the commission did not
13 recommend and the bill does not provide for the removal from office of any county Probate
14 Court Judge prior to the expiration of the term to which the judge was previously elected
15 under the Constitution. To avoid that result, the commission recommended a multiyear,
16 multistep process for establishing a new state Probate Court with full-time judges. Part B
17 of the bill, which is effective immediately, Part C of the bill, which is effective January 1,
18 2027, and Part D of the bill, which is effective January 1, 2029, implement this multiyear,
19 multistep process as follows.

20 1. Parts B and D of the bill establish a state Probate Court within the judicial branch
21 that is distinct from the District Court and Superior Court. By January 1, 2029, the state
22 Probate Court will be staffed by 9 full-time judges appointed by the Governor and
23 confirmed by the Legislature, including one judge assigned to serve as the primary judge
24 in each of 8 new Probate Court regions that will be aligned with the State's 8 prosecutorial
25 districts.

26 A. When the terms of the incumbent probate judges in Androscoggin, Franklin, Knox
27 and Penobscot counties expire on December 31, 2026, they will be replaced by county
28 Probate Court Judges elected to 2-year terms that will expire on December 31, 2028.

29 B. When the terms of the incumbent probate judges in Cumberland, Hancock and
30 Washington counties expire on December 31, 2026, they will be replaced by 4 new
31 state Probate Court Judges appointed by the Governor and confirmed by the Legislature
32 in the same manner that District Court Judges and Superior Court Justices are appointed
33 and confirmed for terms that commence January 1, 2027. Although not reflected in the
34 text of the bill, the commission also recommended that these judges be supported by
35 one new law clerk, one new judicial administrative assistant and 4 new court marshals.

36 C. Beginning January 1, 2027, the 4 new state Probate Court Judges will preside over
37 probate proceedings in Cumberland, Hancock and Washington counties while the
38 remainder of the State's 16 counties will continue to be served by an elected county
39 Probate Court Judge. If a judicial vacancy occurs in a county Probate Court after
40 January 1, 2027 due to the death, resignation or retirement of the elected county Probate
41 Court Judge, the vacant position will not be filled and jurisdiction over that county's
42 probate matters will be transferred to the new state Probate Court. If the Chief Justice
43 of the Supreme Judicial Court determines that the number of state Probate Court Judges
44 is insufficient to provide for the efficient administration of justice in all of the counties
45 served by the new state Probate Court, the Chief Justice may request that the Governor
46 appoint an additional state Probate Court Judge. Although not reflected in the text of

1 the bill, to ensure that funding is available for all of the new potential state judgeships
2 as they arise, the commission also recommended that all 9 new state Probate Court
3 Judge positions be funded through General Fund appropriations commencing on
4 January 1, 2027.

5 D. When the terms of all remaining county Probate Court Judges expire on December
6 31, 2028, they will be replaced by the number of new state Probate Court Judges
7 necessary to achieve a full complement of 9 state Probate Court Judges. Although not
8 reflected in the text of the bill, the commission also recommended that these new judges
9 be supported by a 2nd law clerk and judicial administrative assistant and by 5 additional
10 court marshals.

11 E. Although not reflected in the text of the bill, the commission also recommended
12 that the judicial branch be authorized to hire an information technology specialist and
13 a facilities manager as soon as possible, and that General Fund appropriations be
14 provided for that purpose, to help the judicial branch prepare for the establishment of
15 the state Probate Court on January 1, 2027.

16 2. Parts B, C and D of the bill direct the Chief Justice of the Supreme Judicial Court
17 to designate one appointed state Probate Court Judge to serve as the Chief Judge of the
18 Probate Court, who is charged with fulfilling administrative duties similar to the
19 administrative duties of the Chief Justice of the Superior Court and Chief Judge of the
20 District Court. These duties include facilitating the transition from the county Probate
21 Court system to the state Probate Court system; creating the statewide Probate Court
22 schedule; ensuring uniformity of court processes and procedures and that emergency
23 matters are prioritized and addressed expediently; securing and ensuring the accessibility
24 and safety of Probate Court facilities; and preparing annual reports on the business of the
25 state Probate Court.

26 3. Parts C and D of the bill direct that state Probate Court proceedings be held in
27 existing county Probate Court facilities if possible and require the Chief Judge of the
28 Probate Court to negotiate leases, contracts or other arrangements between the counties and
29 the judicial branch regarding the use of those facilities. When necessary, state District Court
30 and Superior Court facilities may also be used for Probate Court proceedings.

31 4. Parts B, C and D of the bill preserve the county registries of probate.

32 A. Part B of the bill provides, by statute, for the election of county Registers of Probate
33 under the same terms and conditions applicable to county register of probate elections
34 under the Constitution of Maine, Article VI, Section 6, which will be repealed on the
35 date that this legislation is approved.

36 B. Parts B, C and D of the bill further provide that, as each county transitions to the
37 state Probate Court, that county should continue to retain all fees filed in state Probate
38 Court proceedings in that county to offset the costs of maintaining its county registry
39 of probate and of paying registry staff. These costs include, for example, the cost to
40 maintain the current electronic management system for probate court records that the
41 commission recommended retaining during the multiyear transition to the new state
42 Probate Court system.

43 5. Part C of the bill provides that, beginning January 1, 2027, the Maine Commission
44 on Public Defense Services is responsible for paying and for establishing the minimum

1 experience, training and additional qualifications for attorneys appointed to represent
2 indigent individuals at public expense in all state and county Probate Court proceedings.
3 Although not reflected in the text of the bill, the commission further recommended that the
4 Legislature provide new General Fund appropriations to the Maine Commission on Public
5 Defense Services to cover the cost of these appointments.

6 6. Parts C and D of the bill require the judicial branch to establish the minimum
7 experience, training and additional qualifications for court-appointed visitors in state
8 Probate Court proceedings and to pay the expenses of both court-appointed visitors and
9 court-appointed guardians ad litem in state Probate Court proceedings when the parties are
10 indigent or the court is allowed or directed by law to pay these expenses. Although not
11 reflected in the text of the bill, the commission recommended that the Legislature provide
12 new General Fund appropriations to the judicial branch to cover the expenses associated
13 with the new requirements. Part C of the bill clarifies that, if a guardian ad litem or visitor
14 is appointed at public expense in a county Probate Court proceeding, the county remains
15 responsible for paying the court-appointed professional's fees.

16 7. Finally, Part D of the bill establishes the Commission to Evaluate the Incorporation
17 of the Probate Court into the Judicial Branch, a 15-member study group composed of the
18 same categories of members appointed to the Commission To Create a Plan To Incorporate
19 the Probate Courts into the Judicial Branch. Part D of the bill directs the new commission
20 to conduct a thorough review of the new state Probate Court system in 2031, which must
21 include, but is not limited to, evaluating whether the number of supported state Probate
22 Court Judge positions proposed is appropriate or should be adjusted; whether the
23 jurisdiction of the state Probate Court, District Court and Superior Court should be adjusted
24 to increase judicial efficiency and access to justice; whether to authorize assignment of
25 state Probate Court Judges to preside over District Court or Superior Court dockets to the
26 same extent that the judges in the District Court and justices in the Superior Court are
27 available for cross assignments; whether additional investments should be made to enhance
28 the compatibility of the Probate Court and judicial branch electronic case management
29 systems; and whether additional opportunities exist to advance toward the ultimate goal of
30 fully incorporating the Probate Court system into the judicial branch. No later than
31 December 31, 2031, the commission is required to submit a report that includes its findings
32 and recommendations, which may include suggested legislation, for presentation to the
33 joint standing committee of the Legislature having jurisdiction over judiciary matters. The
34 joint standing committee may report out legislation related to the report to the 135th
35 Legislature.