

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2026

Legislative Document

No. 2193

S.P. 894

In Senate, February 3, 2026

**An Act to Extend the Requirement That the Maine Commission on
Public Defense Services Compensate Certain Private Attorneys
Appointed to Provide Indigent Legal Services**

(EMERGENCY)

Reported by Senator CARNEY of Cumberland for the Joint Standing Committee on
Judiciary pursuant to Public Law 2025, chapter 40, section 5.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

A handwritten signature in dark 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

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** Public Law 2025, chapter 40 requires the Maine Commission on Public
4 Defense Services to compensate an attorney appointed by a District Court, a Superior Court
5 or the Supreme Judicial Court to represent a person who is eligible to receive indigent legal
6 services if no public defender, assigned counsel, contract counsel or employed counsel is
7 available to represent the person and if the appointed attorney is willing and qualified to
8 undertake the representation; and

9 **Whereas,** the provision of Public Law 2025, chapter 40 requiring compensation of
10 private attorneys appointed by state courts to provide indigent legal services was repealed
11 on February 1, 2026; and

12 **Whereas,** due to the current lack of attorneys rostered by the Maine Commission on
13 Public Defense Services to take these indigent legal services cases, it is important to extend
14 this provision for a period of 2 years to ensure that the fundamental rights of indigent parties
15 in these proceedings are protected; and

16 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
17 the meaning of the Constitution of Maine and require the following legislation as
18 immediately necessary for the preservation of the public peace, health and safety; now,
19 therefore,

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

21 **Sec. 1. 4 MRSA §1805-A, sub-§1,** as amended by PL 2025, c. 40, §1, is further
22 amended to read:

23 **1. Duties.** The executive director shall administer and improve reimbursement of
24 expenses incurred by assigned counsel, contract counsel and, until February 1, ~~2026~~ 2028,
25 a private attorney appointed under section ~~1807~~ 1807-A by:

26 A. Establishing procedures to ensure that the eligibility of defendants and civil parties
27 is verified and reviewed randomly and when circumstances have changed, information
28 has changed, additional information is provided or as otherwise needed;

29 B. Petitioning the court to reassess the indigency of a defendant or civil party if the
30 executive director determines that indigency should be reassessed;

31 C. Providing to the commission recommendations to improve reimbursement of
32 expenses;

33 D. Requiring that the amount of time spent on each case by assigned counsel or
34 contract counsel is recorded separately for each case; and

35 E. Receiving from the courts collections for the costs of representation from
36 defendants or civil parties who are found to be partially indigent or who have otherwise
37 been determined to be able to reimburse the commission for expenses incurred by
38 assigned counsel, contract counsel or, until February 1, ~~2026~~ 2028, a private attorney
39 appointed under section ~~1807~~ 1807-A.

40 **Sec. 2. 4 MRSA §1805-A, sub-§3,** as amended by PL 2025, c. 40, §2, is further
41 amended to read:

1 **3. Partial indigency and reimbursement.** This subsection applies to partial
2 indigency and reimbursement of expenses incurred by assigned counsel, contract counsel
3 or, until February 1, 2026 2028, a private attorney appointed under section ~~1807~~ 1807-A.

4 A. If the court determines that a defendant or civil party is unable to pay to obtain
5 private counsel but is able to contribute to payment of assigned counsel, contract
6 counsel or, until February 1, 2026 2028, a private attorney appointed under section
7 ~~1807~~ 1807-A, the court shall order the defendant or civil party to make installment
8 payments up to the full cost of representation or to pay a fixed contribution. The court
9 shall remit payments received to the commission.

10 B. A defendant or civil party may not be required to pay for legal services in an amount
11 greater than the expenses actually incurred.

12 C. Upon petition of a defendant or civil party who is incarcerated, the court may
13 suspend an order for reimbursement issued pursuant to this subsection until the time of
14 the defendant's or civil party's release.

15 D. The executive director may enter into contracts to secure the reimbursement of fees
16 and expenses paid by the commission as provided for in this section.

17 **Sec. 3. 4 MRSA §1807-A** is enacted to read:

18 **§1807-A. Court appointment of private attorney**

19 **1. Appointment of private attorneys by District Court and Superior Court.**

20 Notwithstanding any provision of this chapter to the contrary, a court may appoint a private
21 attorney to represent a person who is eligible to receive indigent legal services in a matter
22 pending before the District Court or Superior Court if the court finds the following:

23 A. A public defender, assigned counsel, contract counsel or employed counsel is not
24 available to represent the person;

25 B. The private attorney is qualified to represent the person in the matter pending before
26 the court, has not been disqualified by the commission and has at least 3 years of legal
27 experience relevant to the pending matter; and

28 C. The private attorney is willing to undertake the representation, which may be
29 limited representation defined by the court in its appointment order.

30 **2. Private attorney appointment; Supreme Judicial Court.** Notwithstanding any
31 provision of this chapter to the contrary, a court may appoint a private attorney to represent
32 a person who is eligible to receive indigent legal services in a matter before the Supreme
33 Judicial Court if the court finds the following:

34 A. A public defender, assigned counsel, contract counsel or employed counsel is not
35 available to represent the person;

36 B. The private attorney is qualified to represent the person in the matter pending before
37 the court, has not been disqualified by the commission and either has at least 3 years
38 of legal experience relevant to the pending matter or has previously served as a law
39 clerk analyzing cases relevant to the pending matter; and

40 C. The private attorney is willing to undertake the representation, which may be
41 limited representation defined by the court in its appointment order.

3. Compensation and reimbursement. The commission shall provide compensation and reimbursement to a private attorney appointed by the court under subsection 1 or 2. The compensation and reimbursement must be equivalent to the compensation and reimbursement provided to assigned counsel under the rulemaking directed by section 1804, subsection 2, paragraph F and section 1804, subsection 3, paragraph F. The process for compensation and reimbursement of private attorneys appointed pursuant to subsection 1 or 2 must be in accordance with the requirements established by the commission under section 1804, subsection 3, paragraph B for voucher review and payment authorization.

4. Supervision. The commission's supervision of a private attorney appointed pursuant to subsection 1 or 2 is limited to addressing complaints made by the client whom the private attorney was appointed to represent under subsection 1 or 2.

5. Confidentiality. The provisions of section 1806, subsections 2 and 3 apply, to the same extent that those provisions apply to commission-rostered attorneys who serve as assigned counsel, to private attorneys appointed by the court to provide indigent legal services pursuant to subsections 1 and 2.

6. Repeal. This section is repealed February 1, 2028.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill is reported out by the Joint Standing Committee on Judiciary pursuant to Public Law 2025, chapter 40, section 5. The committee has not taken a position on the substance of this bill. By reporting this bill out, the committee is not suggesting and does not intend to suggest that it agrees or disagrees with any aspect of this bill. The committee is reporting the bill out for the sole purpose of having a bill printed that can be referred to the committee for an appropriate public hearing and subsequent processing in the normal course. The committee is taking this action to ensure clarity and transparency in the legislative review of the proposals contained in the bill.

This bill enacts a provision of law that reproduces a provision of law that was automatically repealed on February 1, 2026. The bill, like the law that was automatically repealed, requires the Maine Commission on Public Defense Services to compensate a private attorney appointed by a District Court, a Superior Court or the Supreme Judicial Court to represent a person who is eligible to receive indigent legal services in a matter before that court if the attorney is both willing and qualified to undertake the representation and if no public defender, assigned counsel, contract counsel or employed counsel is available to represent the person. In the bill, this requirement expires on February 1, 2028.