

# MAINE STATE LEGISLATURE

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(New Title)  
New Draft of: S. P. 402, L. D. 1260

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 2015

S. P. 660

In Senate, June 7, 1973

Reported by the Majority from the Committee on Judiciary and printed under Joint Rules No. 18.

HARRY N. STARBRANCH, Secretary

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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AN ACT Creating the Office of Public Defender.

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

Sec. 1. R. S., T. 5, c. 8, additional. Title 5 of the Revised Statutes is amended by adding a new chapter 8 to read as follows:

CHAPTER 8

PUBLIC DEFENDER

§ 171. Office created

There is hereby created the Office of Public Defender.

§ 172. Appointment

The Governor, with the advice and consent of the Executive Council, shall appoint a member of the bar of this State to fill the office of Public Defender. The person so appointed shall hold office for a term of 4 years from the date of his appointment and until his successor is appointed and qualified.

§ 173. Duty to represent indigent persons accused of crime

It shall be the duty of the Public Defender to represent and act as attorney for indigent persons accused of crime in the courts of the State of Maine. He shall be engaged full time in such capacity.

§ 174. Assistant defenders

Within the limits of his appropriation, the Public Defender may appoint and set the salaries of such assistants as may be by him deemed necessary,

whose powers and duties shall be similar to those imposed upon the Public Defender by law. The duties of such assistant defenders shall be performed under and by the advice and direction of the Public Defender. All such assistant defenders shall be members of the bar of the State of Maine.

#### § 175. Compensation and expenses

The Public Defender shall receive an annual salary of \$22,500 in full for all services in lieu of all fees. He shall also receive his actual expenses incurred in the performance of his official duties away from home. Within the limits of his appropriation, the Public Defender is hereby authorized to make such arrangements for the establishment of offices and the rental of space therefor and the employment of clerical and administrative assistance, the employment of investigative assistance, and such other expenditures as shall be deemed by him necessary for the performance of his duties.

#### § 176. Employment of private counsel

Within the limits of his appropriation, and in cases in which he in his discretion deems it expedient, the Public Defender may employ private counsel to represent indigent persons accused of crime. Such counsel shall in each case be paid a fair and reasonable fee for the services rendered as approved by the Public Defender.

#### § 177. Indigent persons accused of crime, defined

For the purpose of determining the eligibility of individuals for the services of Public Defender under this chapter, the term "indigent persons accused of crime" includes a person who does not have property or a source of income to furnish him a living or means of support or anyone able to support him to whom he is entitled to look for support, such that he is able to pay a fair and reasonable fee to an attorney.

#### § 178. Eligibility

Any person who seeks the services of the Public Defender under this chapter must submit a financial statement under oath setting forth his current assets and liabilities, source or sources of income, and the names of those persons, if any, able to support him, to whom he is entitled to look for support. If the Public Defender, after examination and investigation of the financial statement, is satisfied that the person submitting same is an indigent person, the Public Defender shall provide for the representation of such person; provided, that if the Public Defender is satisfied that such person is not an indigent person, he shall notify any court which referred such person to his office of his determination that such person is not an indigent person.

In the event that the Public Defender determines that a person is not an indigent person entitled to the assistance of the Public Defender, such person may petition the court in which the criminal charge against him is pending for a determination that he is in fact an indigent person. Upon the basis of the financial statement and such other information that is brought to its attention, the court may determine whether or not such person is an indigent person. If it determines that such person is in fact an indigent person, such

person shall be entitled to representation by the Public Defender under this chapter.

§ 179. Confidential nature of financial statement

The Public Defender and any assistant or employee of his office shall not divulge to anyone not officially connected with his office, other than the court referring an indigent person to his office, any information obtained by the Public Defender or any employee of his office in the regular course of duty or from any financial statement submitted under section 178 or from the records and reports of their investigation or from the permanent records of that office which would reveal any information relative to the financial status of any person submitting a financial statement.

§ 180. Penalty for false representation

Whoever knowingly makes a false statement or representation to the Public Defender, his assistant or any employee of his office to obtain legal services of the Public Defender under this chapter, either for himself or for any other person, shall upon conviction be punished by a fine of not less than \$50 nor more than \$1,000 or by imprisonment for not longer than 30 days, or by both, and each such false statement or representation shall constitute a separate and distinct offense.

**Sec. 2. Appropriation.** There is appropriated from the General Fund to the Office of Public Defender the sum of \$705,000 to carry out the purposes of this Act. The breakdown shall be as follows :

	1973-74		1974-75
PUBLIC DEFENDER, OFFICE OF			
Personal Services	(22) \$180,000	(22)	\$240,000
All Other	100,000		150,000
Capital Expenditures	25,000		10,000
	<hr/> \$305,000		<hr/> \$400,000