

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 scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

(EMERGENCY)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1009

H. P. 826

House of Representatives, March 11, 1975

Referred to Committee on Appropriations and Financial Affairs. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Hughes of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

**AN ACT to Appropriate Funds to the State Parole Board for Payment of
Appointed Attorneys Representing Indigent Parolees.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, recent court decisions make clear that the right to counsel embodied in the Constitution of the United States and the Constitution of the State of Maine applies to parolees at parole revocation hearings; and

Whereas, the policy of the State Parole Board is to appoint attorneys to represent those indigent parolees requesting representation at parole revocation hearings as a matter of constitutional law, fair procedure and sound policy; and

Whereas, funds to pay such attorneys are exhausted; and

Whereas, unless funds are promptly made available, no further appointment of attorneys can be made; and

Whereas, failure to appoint counsel may lead to court challenges resulting in more cost to the State than that necessary to appoint counsel; and

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

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

Appropriation. There is appropriated from the General Fund to the Department of Mental Health and Corrections, Division of Probation and Parole,

State Parole Board, for the period January 1, 1975 to June 30, 1976, the sum of \$24,000 to pay attorneys appointed by the State Parole Board to represent indigent parolees requesting representation at parole revocation hearings. The breakdown shall be as follows:

	1974-75	1975-76
MENTAL HEALTH AND CORRECTIONS, DEPARTMENT OF		
Division of Probation and Parole		
State Parole Board		
All Other	\$ 8,000	\$16,000

Emergency clause and retroactivity. In view of the emergency cited in the preamble, this Act shall take effect when approved and shall be retroactive to January 1, 1975.

STATEMENT OF FACT

The Division of Probation and Parole, Bureau of Mental Health and Corrections estimate that in their experience approximately 30% of all parolees released from Maine State Prison will be returned as parole violators. Under the **Morrissey vs. Brewer** and **Scarpelli** decisions of the United States Supreme Court, persons charged with parole violation are entitled to be represented by legal counsel. If they cannot afford to retain counsel, then the State must provide counsel for the accused.

Inmates released for fiscal year 1973-74	236
Inmates eligible for release in fiscal year 1974-75	215
Inmates eligible for release in fiscal year 1975-76	80

These figures are based on currently incarcerated inmates and do not include projections of people to be convicted and sentenced in the next 2 years. The sum of these figures reveals a projected parole violation number of 160 people. Attorney fees are currently \$75 per hearing; each inmate has a preliminary hearing and a parole violator's hearing. That makes the cost \$150 per parole violator. Most parole violators are destitute and cannot afford legal representation to which they are entitled. The total request of this bill is \$24,000 to run through the end of fiscal year 1975-76. Any revenues appropriated that are unused will be returned to the General Fund at that time.