

# 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)  
FIRST SPECIAL SESSION

---

---

ONE HUNDRED AND SEVENTH LEGISLATURE

---

---

**Legislative Document**

**No. 2037**

H. P. 1866

House of Representatives, January 21, 1976

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. McKernan of Bangor.

---

---

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

---

**AN ACT To Clarify Various Statutes Relating to Superior Court  
Fees and Costs.**

---

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

Whereas, by chapter 383, enacted by the regular session of the 107th Legislature, the Legislature transferred funding of the Superior Court from the counties to the State, beginning July 1, 1976; and

Whereas, there are certain inconsistencies in the statutes governing the fees and funding of the Superior Court, which must be resolved as soon as possible in order to avoid needless confusion in the administration of the Superior Court upon the funding transfer and thus avoid needless confusion in the administration of justice; 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:

Sec. 1. 15 MRSA §§ 1318, 1319 and 1320 are enacted to read:

§ 1318. Prosecuting attorneys

For purposes of this chapter, the term "prosecuting attorney" shall mean:

1. **Attorney General.** "Attorney General" where a criminal prosecution is brought by the Attorney General; and

2. **District Attorney.** "District Attorney" where a criminal prosecution is brought by a District Attorney.

§ 1319. Authorization of payments by a prosecuting attorney

For purposes of this chapter, where a prosecuting attorney is permitted to authorize payment of fees or expenses incurred on behalf of the State in a criminal prosecution, payment of those fees and expenses shall be made by the proper authorities to the persons, municipalities or agencies to whom payment is authorized upon certification to those authorities by the prosecuting attorney that such payment is reasonable and necessary to the prosecution of a given criminal case.

§ 1320. Authorization of payment of witness fees of state witnesses in criminal prosecutions

In all criminal prosecutions in the Superior Court, payment of witness fees for state witnesses shall be made upon authorization by the prosecuting attorney. The amount of such fees shall be determined in accordance with these statutes.

1. **Witness fees.** For purposes of this section, the term "witness fees" shall include fees and expenses payable on account of the services of police officers as witnesses and as complainants in addition to fees and expenses payable on account of the services of police officers in serving criminal process.

2. **Payments.** Payments made hereunder shall be made from the county treasury, unless otherwise expressly directed by law and such payments shall be made from the sums set aside in the county budget for such payments on account of Superior Court criminal proceedings.

3. **Expenditures.** In fixing the amount of direct expenditures by the counties in calendar year 1975 for the support of the Superior Court pursuant to Title 4, section 118, the Treasurer of State shall not consider sums expended on account of witness fees for state witnesses in criminal prosecutions in the Superior Court.

Sec. 2. 15 MRSA § 1901 is repealed and the following enacted in place thereof:

§ 1901. Respondent not to be sentenced to pay costs of court as such

The Superior Court shall not, in any criminal proceeding, sentence any respondent to pay costs of court as such, but may take costs into consideration and include in any fine imposed a sum adequate to cover all or any part of them without reference to such costs and without taxing them, provided the maximum fine for the particular offense is not exceeded.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

This bill has the support of the Judicial Council and its purpose is 2-fold:

1. To abolish the practice of taxing costs as such in the Superior Court, something which has almost never been done in the recent past; and
2. To transfer the responsibility for approving fees for prosecution witnesses to the prosecuting attorney. The funds for such payments will come from appropriations already approved under the Superior Court budget and naturally the amounts will be eliminated in computing the county's payment to the State since this will not be an expense assumed by the State.