

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
108TH LEGISLATURE
FIRST REGULAR SESSION

(Filing No. H-312)

HOUSE AMENDMENT "A" to H.P. 701, L.D. 844, Bill,
"AN ACT to Provide Statutory Procedures for Grievances
against Attorneys."

Amend the Bill in section 1 by striking out all of
that part designated "§931." and inserting in its place
the following:

'§931. Appointment; terms

The Attorney Grievance Board, in this chapter called
the board, is established and shall administer this chapter.
The board shall consist of 7 persons. Three persons shall
be attorneys with at least 5 years experience in private
practice in the State of Maine and shall be appointed by the
Chief Justice of the Supreme Judicial Court. Three persons
shall be members of the public appointed by the Governor.
The board members appointed by the Chief Justice and the
Governor shall serve for a term of 3 years and until their
successors are appointed and qualified, except that initial
appointments by the Chief Justice and the Governor shall be
for one, 2 and 3 years respectively.

The board members appointed by the Chief Justice and
the Governor shall, by an affirmative vote of at least 5
members, elect a 7th member who shall be an attorney and who
shall act as chairman and who shall serve a term of 3 years
and shall be subject to reelection or selection of a new
chairman.

No board member nor the chairman shall serve more than 2 full terms.'

Further amend the Bill in section 1 in that part designated "§934." by striking out all of the first underlined sentence and inserting in its place the following:

'The members of the board shall receive compensation at the rate of \$25 a day for each day spent attending board meetings or board hearings.'

Further amend the Bill in section 1 by striking out all of that part designated "§936." and inserting in its place the following:

'§936. Annual report

The board shall submit to the Legislature, the Governor and the Chief Justice an annual report discussing the number, type and resolutions of investigations and hearings under this chapter on or before January 1st of each year.'

Further amend the Bill in section 1 in that part designated "§937." by striking out all of subsections 1 and 2 and inserting in their place the following:

'1. Complaints. The board shall have authority to investigate complaints against attorneys filed by any member of the public alleging violation of a professional responsibility. Written complaints received by the board shall be retained as confidential.'

2. Review. The board shall conduct such review and investigation of each complaint received as it deems appropriate and shall advise the complaining party, in writing, of its determination with regard to the complaint.'

Further amend the Bill in section 1 by striking out all of that part designated "§938." and inserting in its place the following:

'§938. Hearings

The board shall have the authority to conduct hearings where it deems necessary in support of its investigative and fact-finding activities. When a hearing is to be held, the complaining party and the attorney or attorneys named in the complaint shall be notified of the hearing by certified mail at least 2 weeks in advance of the date scheduled for the hearing.'

Further amend the Bill in section 1 in that part designated "§939." in subsection 1 by striking out all of the last underlined sentence.

Further amend the Bill in section 1 in that part designated "§939." by striking out all of subsection 5 and inserting in its place the following:

'5. Hearings. Hearings before the board shall not be public.'

Further amend the Bill in section 1 by striking out all of that part designated "§941." and inserting in its place the following:

'§941. Decisions

1. Findings. When a hearing has been held upon a complaint alleging violation of a professional responsibility, the board shall issue findings of fact, conclusions and recommendations of the appropriate action, if any, to be taken against an attorney. These findings shall be transmitted to the Attorney General who shall take such action as may be appropriate. A copy of such findings and conclusions and recommendations shall also be transmitted to the Chief Justice of the Supreme Judicial Court.'

Statement of Fact

This amendment removes the stigma of a formal, public prosecution from the procedure, as such a format would unfairly jeopardize the reputation and livelihood of innocent parties. The Attorney General is free to pursue a formal prosecution as he deems appropriate outside of this bill. The amendment is meant to insure a fair, efficient and informal grievance resolution procedure for complainant and attorney alike.

The amendment provides that the chairman of the board

shall be an attorney and sets compensation for board members at \$25 per day.

Filed by Mr. Garsoe of Cumberland.

Reproduced and distributed under the direction of the Clerk of the House.

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