

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1362

S. P. 444

In Senate, March 22, 1979

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

Presented by Senator Silverman of Washington.

MAY M. ROSS, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Require Mandatory Disclosure of Attorney Fees.

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

4 MRSa § 861 is enacted to read:

§ 861. Disclosure of attorney fees required

An attorney shall, before performing any service for any client, disclose either orally or in writing, the estimated cost of the services and obtain the consent of the client to those costs. Whenever the attorney knows or ought to anticipate that the cost, including fees and expenses, may exceed \$300, the attorney shall disclose the same in writing and obtain the written consent of the client. The written fee agreement shall specify the services to be performed and the fee to be charged and the expenses, if any, to be charged to the client. The agreement shall provide either for a specific fee or a method by which the fee shall be computed, which method of computation shall include, at a minimum, the number of hours that the attorney reasonably anticipates will be required to perform the service and the maximum fee to be charged for the service. A fee may be increased upon further written agreement of the attorney and client. An attorney may not charge a fee which exceeds that specified in any written agreement.

A violation of this section shall constitute grounds for appropriate disciplinary action by the Supreme Judicial Court under section 851.

STATEMENT OF FACT

This bill requires that lawyers inform clients of estimated legal fees, and when the fees are expected to exceed \$300, requires the fee agreement to be in writing. Current rules of professional conduct only require contingent fee agreements, that is, agreements under which a lawyer, if successful, receives a percentage of the recovery, to be in writing, but no similar requirement is imposed in other cases, despite the fact that fees in noncontingent cases can often be substantial. It is not unusual for persons to incur legal fees without adequate understanding ahead of time as to what the bill will be. Many individuals are often afraid to inquire about legal fees and consequently may run up legal bills that far exceed their expectations.

This bill does not regulate fees or require any particular kind of agreement, but rather sets minimum standards of full disclosure to the consumer of legal services. It will help improve lawyer-client relationships and help return public confidence toward the legal profession in Maine.