

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND TENTH LEGISLATURE

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**Legislative Document**

**No. 1451**

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S. P. 521

In Senate, March 24, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Conley of Cumberland.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

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**AN ACT Providing for a Volunteer Lawyers' Board.**

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

Sec. 1. 4 MRSA c. 17, sub-c. IV is enacted to read:

**SUBCHAPTER IV**

**VOLUNTEER LAWYERS' BOARD**

§ 911. **Board; membership; terms; vacancies**

1. **Board established.** There is established a Volunteer Lawyers' Board which shall function as an independent board. The board shall be composed of 5 members appointed by the Governor. The Governor shall appoint the board members in accordance with the following requirements.

A. **One member shall be appointed from a list of 3 names submitted by the Chief Justice of the Supreme Judicial Court.**

B. **Two members shall be appointed from a list of 6 names submitted by the Maine State Bar Association.**

C. **Two members shall be appointed as consumers of legal services. These members may not be lawyers nor affiliated in any way with a lawyer or law firm.**

2. **Terms of appointed members.** Appointed members of the board shall serve for terms of 3 years. Members shall hold office until appointment of a successor. Of the members first appointed by the Governor, the member appointed from a list submitted by the Chief Justice of the Supreme Judicial Court shall serve for 3 years, one member appointed from a list submitted by the Maine State Bar Association and one consumer member shall serve for 2 years, and one member appointed from a list submitted by the Maine State Bar Association and one consumer member shall serve for one year.

3. **Vacancies.** Vacancies among appointed members shall be filled by appointment by the Governor for the unexpired terms. The Governor may remove any appointed member who becomes disqualified by virtue of the requirements of subsection 1, or for neglect of any duty required by law or for incompetence or dishonorable conduct.

4. **Meetings; chairman; compensation.** The board shall meet and receive compensation as follows.

A. The board shall hold one regular meeting annually in Augusta. Additionally, the board may meet from time to time as required to fulfill its responsibilities. The Governor shall appoint a chairman from the consumer members, who shall serve in this capacity at the Governor's pleasure.

B. Each appointed member of the board shall receive a per diem allowance of \$25 for each day that he is actively engaged in performing the work of the board, and each member shall be reimbursed for the actual and necessary traveling and other expenses incurred in the discharge of his duties.

5. **Quorum, voting and official action.** Three members of the board constitute a quorum. Actions of the board shall be by majority vote of the membership.

#### § 912. Duties

The board shall have the following duties in carrying out this subchapter:

1. **Development and funding of program.** To develop and fund a program among the lawyers within the State to provide legal services on a volunteer or reduced-fee basis to low-income people involved in civil matters. These legal services shall include information to eligible clients about legal rights and benefits as well as direct representation;

2. **Notice to public.** To regularly notify the public about the nature and extent of legal services provided by the board;

3. **Annual report.** To report annually to the Governor, the Legislature and the Supreme Judicial Court on its activities; and

4. **Accounting.** To maintain an appropriate accounting of all funds appropriated for the purposes of this subchapter and to prepare and submit to the Governor, the Legislature and the Supreme Judicial Court an annual statement accounting for the use of such funds.

**§ 913. Rules and regulations**

The board shall adopt, amend and repeal such rules and regulations as are necessary for the proper administration of this subchapter. The board shall provide for public notice and hearings on all proposed rules and regulations pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375. Among such regulations the board shall:

1. **Financial eligibility guidelines.** Establish financial eligibility guidelines to determine the maximum amount of income and assets a person or family may have to be eligible for free and for reduced-fee legal services;
2. **Reduced-fee maximums.** Establish the maximum hourly and per case fees that may be charged to a client who is eligible for reduced-fee representation;
3. **Fees to be paid by 3rd parties.** Establish guidelines for the recovery and distribution of legal fees which may be paid by 3rd parties;
4. **Payment of costs and expenses.** Establish procedures for payment of costs and expenses so as to assure that those who can afford to pay these disbursements are required to do so, and the board is reimbursed, out of any recovery, for costs and expenses provided by the board;
5. **Minimum level of free services to the public.** Establish a minimum number of cases or hours of free service to the public per year per attorney for any volunteer attorney participating in the program;
6. **Order priorities.** Wherever practicable, establish type-of-case priorities such that clients with the most serious and pressing legal problems are provided services on a priority basis while, at the same time, ensuring that volunteer lawyers do not duplicate services now being provided by public legal services programs; and
7. **Follow-up on referrals.** Ensure that clients who are referred on a free or reduced-fee basis receive services on this basis and that referred clients receive prompt and effective legal representation.

**§ 914. Maximize resources and coordination**

In fulfilling its responsibilities under sections 912 and 913, the board shall, to the extent possible, coordinate, consult and combine resources and efforts with public legal services' programs such that there is as little duplication of resources, personnel and services as possible, as well as a minimum amount of confusion concerning a provision of legal services to Maine's poor.

**§ 915. Contracts**

The board shall contract with 3rd parties for services necessary to carry out its activities, when this contract will provide economy, avoid duplication of effort and make the best use of available personnel and other resources.

**§ 916. Receipt of grants, gifts and other payments**

The board may apply for and receive grants, gifts and other payments, including property and services, from any public or private entity or person, which receipts shall be used in carrying out the board's duties under this subchapter.

**§ 917. Operating budget and revenues**

The board shall biennially submit an operating budget to the Governor and notify the Chief Justice of the Supreme Judicial Court of the estimated revenues needed. The Chief Justice shall, from time to time, adjust all fees he may require under section 555 so as to provide sufficient revenues to the State to reimburse it for revenues appropriated to the Volunteer Lawyers' Board.

**§ 918. Repeal**

This subchapter is repealed on July 1, 1986.

**Sec. 2. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1981-82	1982-83
<b>VOLUNTEER LAWYERS' BOARD</b>		
All Other	\$55,000	\$55,000

Funds appropriated for the 1981-82 fiscal year shall not lapse, but shall be carried forward into the 1982-83 fiscal year. The Chief Justice of the Supreme Judicial Court shall increase all fees required under Title 4, section 555, so as to provide sufficient revenues to the State to reimburse it for this initial appropriation, as provided in Title 4, section 917.

**STATEMENT OF FACT**

There are large numbers of poor people in this State that cannot afford legal services. Without the assistance of an attorney, poor people have great difficulty presenting their claims or defenses and are effectively denied access to our civil court system.

The public programs currently in effect to provide legal services in civil matters to poor people have only sufficient resources to meet a small portion of the legal needs of Maine's poor and, therefore, it is necessary to encourage and develop additional legal resources through the use of volunteer programs to help meet these needs.

There are a large number of attorneys in private practice in this State who wish to volunteer a substantial amount of free and reduced-fee legal services to the

poor people of this State, but there is no comprehensive system available to match these volunteer lawyers with those who need but cannot afford legal services.

It is the intent of this bill to supplement and augment public legal services now available by developing and administering a program of volunteer legal services for poor people in the State. Therefore, a Volunteer Lawyers' Board will be established to provide that no person in this State is denied legal representation in civil matters solely because the person cannot afford to hire an attorney.