

MAINE STATE LEGISLATURE

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L.D. 735

(Filing No. S-223)

STATE OF MAINE
SENATE
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 277, L.D. 735,
Bill, "AN ACT to Clarify Recoverable Costs in Civil
Actions."

Amend the Bill by striking out everything after
the enacting clause and inserting in its place the
following:

'Sec. 1. 4 MRSA §174, as amended by PL 1975, c.
770, §13, is repealed.

Sec. 2. 14 MRSA §1502 is repealed.

Sec. 3. 14 MRSA §1502-A, as enacted by PL 1969,
§304, is repealed.

Sec. 4. 14 MRSA §§1502-B, 1502-C and 1502-D are
enacted to read:

§1502-B. Recoverable costs

The following costs shall be allowed to prevail-
ing parties in civil actions unless the court other-
wise specifically directs:

1. Filing fees. Filing fees paid to the clerk;

2. Fees for service of process. Fees paid for
service of process and other documents served by a
sheriff, deputy, constable or others authorized by
law;

3. Attendance fees and travel costs paid to wit-
nesses. Attendance fees and travel costs of wit-
nesses as allowed by Title 16, section 251 or other
laws;

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1 4. Travel expenses. Reasonable expenses of
2 travel within the State to the place of trial for the
3 prevailing party or his attorney of record, as pro-
4 vided by rule of the Supreme Judicial Court, or as
5 directed by court, in the absence of that rule; and

6 5. Other costs. Such other costs as the Supreme
7 Judicial Court may direct by rule.

8 §1502-C. Discretionary costs

9 In addition to other costs allowed to the pre-
10 vailing party, the court may include as costs, in
11 such amounts as it considers just and reasonable, any
12 of the following items:

13 1. Reasonable expert witness fees and expenses.
14 Expert witness fees and expenses, as allowed by Title
15 16, section 251;

16 2. Cost of medical reports. The cost of reason-
17 able medical reports, not including costs of the ex-
18 amination or treatment of a patient, which are pre-
19 pared for the purpose of litigation and which are ex-
20 changed by the parties;

21 3. Visual aids. The reasonable costs of charts,
22 diagrams, photographs and other visual aids necessary
23 for clear understanding of the case by the court or
24 jury not to exceed \$500;

25 4. Costs of depositions. Costs in the taking of
26 depositions as allowed by rule of the Supreme Judi-
27 cial Court or by other law; and

28 5. Other costs. Such other costs as the Supreme
29 Judicial Court may allow by rule.

30 §1503-D. Taxing of costs; hearing

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1 The prevailing party or his attorney shall submit
2 a bill of costs to the court not later than 10 days
3 after entry of judgment and serve copies on all par-
4 ties required to pay these costs. Any party required
5 to pay all or any part of these costs may, within 10
6 days after the date of service, challenge any items
7 of cost and request review by the court. The pre-
8 vailing party shall, within 10 days after such a
9 challenge, submit to the court any vouchers or other
10 records verifying any challenged items of cost. Ei-
11 ther side may request oral argument and submit affi-
12 davits and briefs. Any evidentiary hearing on the
13 reasonableness of costs will be held only when the
14 judge determines that there exists a substantial need
15 for the hearing and the amount of challenged costs
16 are substantial. If the presiding judge determines
17 that the imposition of costs will cause a significant
18 financial hardship to any party, he may waive all or
19 part of the costs with respect to that part.

20 Sec. 5. 14 MRSA §1519 is repealed.

21 Sec. 6. 16 MRSA §251, as amended by PL 1983, c.
22 538, §1 is further amended to read:

23 §251. Fees of witnesses

24 Witnesses, other than members of the State Police
25 or municipal police officers law enforcement officers
26 testifying in their official capacity, in the Supreme
27 Judicial Court, the Superior Court, the District
28 Court or in the Probate Court, unless the court shall
29 otherwise order, shall receive \$10, and before refer-
30 ees, auditors or commissioners specially appointed to
31 take testimony or special commissioners on disputed
32 claims appointed by Probate Courts, \$10, or before
33 the county commissioners, \$10 for each day's attend-
34 ance and 22¢ a mile for each mile's travel going and
35 returning home. The court in its discretion may al-
36 low at the trial of any cause, civil or criminal, in
37 said the Supreme Judicial Court or, the Superior
38 Court or the District Court, a reasonable sum for

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1 each day's attendance of any expert witness or wit-
2 nesses at ~~said~~ the trial, in taxing the costs of the
3 prevailing party, and the expense of all expert wit-
4 nesses for the State in murder cases shall be paid by
5 the State and charged against the appropriation for
6 the Department of the Attorney General. Such party or
7 his attorney of record shall first file an affidavit
8 within 30 days after entry of judgment and before the
9 cause is settled, stating the name, residence, number
10 of days in attendance and the actual amount paid or
11 to be paid each expert witness in attendance at such
12 trial. No more than \$10 per day ~~shall~~ may be allowed
13 or taxed by the clerk of courts in the costs of any
14 civil action for the per diem attendance of a wit-
15 ness, unless the affidavit is filed, and the per diem
16 is determined and allowed by the presiding justice.'

17

STATEMENT OF FACT

18 The purpose of this amendment is to assure that
19 this legislation essentially clarifies and codifies
20 in one place in the statutes the current practices
21 regarding recovery of costs in civil actions current-
22 ly governed by several archaic and unclear statutes
23 and court rule. The original bill, along with clari-
24 fying the statutes, proposed certain major changes in
25 the current practice regarding recovery of costs.
26 These major changes are not included in this amend-
27 ment.

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Reported by Senator Sewall for the Committee on Judiciary.

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(6/5/85)

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