

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 158

S.P. 75

In Senate, February 3, 1987

Reported by Senator PEARSON of Penobscot for the Joint Standing Committee on Appropriations and Financial Affairs pursuant to Public Law 1985, c. 733, §3.

Reference to the Committee on APPROPRIATIONS AND FINANCIAL AFFAIRS suggested and Ordered Printed pursuant to Joint Rule 18

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

1 AN ACT to Transfer Certain Expenses from the
2 Judicial Branch to Certain Executive
3 Branch Agencies.
4

5 Emergency preamble. Whereas, Acts of the Legis-
6 lature do not become effective until 90 days after
7 adjournment unless enacted as emergencies; and

8 Whereas, the 90-day period will not terminate un-
9 til after the beginning of the next state fiscal
10 year; and

11 Whereas, certain provisions of this legislation
12 are to take place on July 1, 1987, the beginning of
13 the next state fiscal year; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 4 MRSA §173, sub-§4, as amended by PL
10 1983, c. 742, is further amended to read:

11 4. Distribution of fees and fines. All law en-
12 forcement officers appearing for a scheduled trial in
13 District Court at times other than their regular
14 working hours, at the order of a prosecuting official
15 and whether or not they are called upon to give tes-
16 timony, shall be compensated out of the General Fund
17 on an hourly basis equal to that established by the
18 State for their range and step level.

19 The ~~court~~ Department of Attorney General shall pay
20 any municipality a flat fee of \$20 for each day or
21 part ~~thereof~~ of a day that a municipal law enforce-
22 ment officer, designated by the municipality as its
23 court officer, is required to be physically present
24 in a District Court in order to adequately handle
25 ~~sueh~~ the municipality's caseload. In addition, the
26 ~~court~~ Department of Attorney General shall pay any
27 municipality a flat fee of \$20 per day for every day
28 or part ~~thereof~~ of a day, but no more than \$20 for
29 any one day, ~~sueh~~ that municipality loses the ser-
30 vices of one or more law enforcement officers because
31 ~~sueh~~ the officer or officers are performing some act
32 authorized or required by a District Court Rule of
33 Criminal Procedure or is a witness in a criminal or
34 traffic infraction case within the jurisdiction of
35 the District Court. A municipality shall be deemed to
36 have lost the services of a law enforcement officer
37 when ~~sueh~~ the officer, who normally performs duties
38 of patrolling or maintaining order, is physically un-
39 able to perform those duties of patrolling and main-
40 taining order for ~~sueh~~ the municipality.

1 The sheriffs of the several counties shall designate
2 and furnish deputy sheriffs to serve as bailiffs in
3 each division of the District Court within their
4 counties, if so requested by the Chief Judge.

5 Compensation for ~~such~~ that service shall be paid by
6 the District Court.

7 In those municipalities where a police officer has
8 been furnished ~~heretofore~~ to serve as a bailiff, the
9 Chief Judge may continue to authorize the use of a
10 police officer as a bailiff and the municipality
11 shall be compensated ~~therefor~~ by the District Court.
12 A person now appointed to serve as bailiff may not
13 serve as court officer for a municipal police depart-
14 ment, as provided in this subsection.

15 Sec. 2. 15 MRSA §2115-A, sub-§8, as amended by
16 PL 1979, c. 663, §110, is further amended to read:

17 8. Fees and costs. The Law Court shall allow
18 reasonable counsel fees and costs for the defense of
19 appeals under this section. Those fees and costs
20 shall be paid by the State and charged against the
21 appropriation for the Department of the Attorney Gen-
22 eral, which has responsibility for reviewing the ex-
23 penses.

24 Sec. 3. 16 MRSA §251, as amended by PL 1985, c.
25 384, §6, is further amended to read:

26 §251. Fees of witnesses

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

1 attendance of any expert witness or witnesses at the
2 trial, in taxing the costs of the prevailing party,
3 and the expense of all expert witnesses for the State
4 in murder all cases, except as provided in Title
5 34-B, sections 3864, 5475 and 5476, shall be paid by
6 the State and charged against the appropriation for
7 the Department of the Attorney General, which has re-
8 sponsibility for reviewing the expenses. Such The
9 party or his attorney of record shall first file an
10 affidavit within 30 days after entry of judgment and
11 before the cause is settled, stating the name, resi-
12 dence, number of days in attendance and the actual
13 amount paid or to be paid each expert witness in at-
14 tendance at such the trial. No more than \$10 per day
15 may be allowed or taxed by the clerk of courts in the
16 costs of any civil action for the per diem day at-
17 tendance of a witness, unless the affidavit is filed,
18 and the per diem is determined and allowed by the
19 presiding justice.

20 Sec. 4. 22 MRSA §4005, sub-§1, ¶F, as enacted by
21 PL 1985, c. 581, §2, is amended to read:

22 F. The guardian ad litem may request the court
23 to appoint legal counsel for him. The ~~District~~
24 Court Department of Human Services shall pay rea-
25 sonable costs and expenses of his legal counsel.

26 Sec. 5. 22 MRSA §4005, sub-§2, as amended by PL
27 1983, c. 783, §2, is further amended to read:

28 2. Parents. Parents and custodians are entitled
29 to legal counsel in child protection proceedings, ex-
30 cept a request for a preliminary protection order un-
31 der section 4034 or a petition for a medical treat-
32 ment order under section 4071, but including hearings
33 on those orders. They may request the court to ap-
34 point legal counsel for them. The court, if it finds
35 them indigent, shall appoint and ~~pay the reasonable~~
36 ~~costs and expenses of~~ their legal counsel. All rea-
37 sonable costs and expenses of their legal counsel
38 shall be paid by the State and charged against the
39 appropriation for the Department of Human Services,
40 which has responsibility for reviewing the expenses.

41 Sec. 6. 29 MRSA §1312, sub-§9, as repealed and
42 replaced by PL 1971, c. 547, is amended to read:

1 ATTORNEY GENERAL, DEPART-
2 MENT OF THE

3 Administration - Attor-
4 ney General

5 All Other \$ 565,000 \$ 582,000

6 Provides funds to
7 transfer responsi-
8 bility for, and pay-
9 ment of, prosecution
10 expenses in District
11 Court proceedings
12 and attorney fees in
13 State's appeals from
14 the Judicial Depart-
15 ment to the Depart-
16 ment of the Attorney
17 General.

18 HUMAN SERVICES, DEPARTMENT
19 OF

20 Office of Legal Services
21 All Other

22 \$ 318,000 \$ 327,500

23 Provides funds to
24 transfer responsi-
25 bility for, and pay-
26 ment of, court-
27 appointed counsel
28 expenses in child
29 protective cases and
30 parental rights ter-
31 mination cases ini-
32 tiated by the De-
33 partment of Human
Services.

34 JUDICIAL DEPARTMENT

35 Courts - Supreme, Supe-
36 rior, District and Ad-
37 ministrative

38 All Other \$(1,185,000) \$(1,220,500)

39 Deappropriates funds
40 no longer needed.

1 MENTAL HEALTH AND MENTAL
2 RETARDATION, DEPARTMENT OF

3 Administration - Mental
4 Health and Mental Retar-
5 dation

6 All Other \$ 302,000 \$ 311,000

7 Provides funds to
8 transfer responsi-
9 bility for, and pay-
10 ment of, psychologi-
11 cal examination ex-
12 penses for
13 noncriminal mentally
14 ill and mentally re-
15 tardated persons and
16 the corresponding
17 attorney fees.

18
19 TOTAL APPROPRIATIONS \$(0) \$(0)

20 Emergency clause. In view of the emergency cited
21 in the preamble, this Act shall take effect on July
22 1, 1987.

23 STATEMENT OF FACT

24 The Second Regular Session of the 112th Legisla-
25 ture, Public Law 1985, chapter 733, authorized the
26 Joint Standing Committee on Appropriations and Finan-
27 cial Affairs to conduct a study of the relationship
28 between the 3 branches of State Government concerning
29 administrative practices and procedures. Over the
30 summer and fall of 1986, a 5-member subcommittee con-
31 ducted the study and reported its findings to the
32 Joint Standing Committee on Appropriations and Finan-
33 cial Affairs.

34 One of the recommendations accepted by the Joint
35 Standing Committee on Appropriations and Financial
36 Affairs involved transferring the responsibility for
37 monitoring and paying certain expenses from the Judi-
38 cial Department to several Executive Branch agencies.
39 It was found that the Judicial Department lacked the

1 expertise and resources to monitor these expenses or,
2 in certain cases, that it was inappropriate for the
3 courts to be paying certain expenses.

4 This bill transfers responsibility for monitoring
5 and paying the following expenses to the Department
6 of the Attorney General, Department of Human Services
7 and Department of Mental Health and Mental Retarda-
8 tion, respectively:

9 1. Prosecution expenses in District Court pro-
10 ceedings and attorney fees in State's appeals;

11 2. Court-appointed counsel expenses in child
12 protective cases and parental rights termination
13 cases; and

14 3. Psychological examination expenses for
15 noncriminal mentally ill and mentally retarded per-
16 sons and the corresponding attorney fees.

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