

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 423

H.P. 324 House of Representatives, February 19, 1987
Reference to the Committee on Appropriations and
Financial Affairs suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative PARADIS of Augusta.

Cosponsored by Representatives CONLEY of Portland,
MacBRIDE of Presque Isle and HANLEY of Paris.

STATE OF MAINE

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

1 AN ACT to Establish Pilot Indigency Screening
2 Units for Court-appointed Counsel.
3

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

6 Sec. 1. 34-A MRSA §5405 is enacted to read:

7 §5405. Indigency screening units for court-appointed
8 counsel; pilot program

9 The director, with the approval of the commis-
10 sioner, shall establish a pilot program to screen de-
11 fendants requesting court-appointed counsel. The
12 program shall include 2 indigency screening units lo-
13 cated in the probation and parole district offices of
14 2 counties. Each unit shall have one indigency in-
15 vestigator appointed by the director who shall be su-
16 pervised by the district supervisor.

1 1. Duties of the indigency investigator. The
2 indigency investigator for each unit shall not be re-
3 quired to perform other responsibilities of probation
4 and parole officers during the duration of the pilot
5 program, except as follows:

6 A. Assist the defendant in completion of a fi-
7 nanacial disclosure affidavit;

8 B. Determine the degree of investigation re-
9 quired and conduct the investigation;

10 C. Recommend that the defendant be declared in-
11 digent, partially indigent or nonindigent, based
12 upon guidelines adopted by the Supreme Judicial
13 Court;

14 D. Submit the recommendation, accompanied by
15 supporting material, to a justice or judge;

16 E. Notify defendants and counsel when the de-
17 fendant is determined to be partially indigent or
18 nonindigent after counsel has already been ap-
19 pointed;

20 F. Establish and monitor payment arrangements
21 for partially indigent defendants and for defend-
22 ants determined to be nonindigent after having
23 received the services of court-appointed counsel;
24 or

25 G. Maintain detailed records and compile statis-
26 tical reports as required.

27 2. Establishment of indigency guidelines.
28 Guidelines or rules shall be promulgated by the Su-
29 preme Judicial Court to provide the investigator with
30 standards against which the defendant's financial
31 situation may be measured.

32 3. Establishment of advisory committee. An ad-
33 visory committee shall be appointed by the Supreme
34 Judicial Court to serve as a project planning com-
35 mittee during the early stages of the project and to
36 provide oversight and guidance to the screening units
37 throughout the duration of the project. The comit-
38 tee shall also determine the location of the 2 pilot

1 screening units. Prior to the end of the 2-year
2 project, the committee shall provide a report with
3 recommendations to the Legislature concerning the ef-
4 fectiveness of the program and the desirability of
5 the program expansion. The committee shall be com-
6 posed of members of the judiciary, court administra-
7 tive staff, Division of Probation and Parole and oth-
8 er appropriate participants, in such numbers and com-
9 position as determined by the Supreme Judicial Court.

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

13		<u>1987-88</u>	<u>1988-89</u>
14	<u>CORRECTIONS, DEPARTMENT OF</u>		
15	Division of Probation		
16	and Parole		
17	Positions	(2)	(2)
18	Personal Services	\$54,483	\$59,081
19	Capital Expenditures	3,648	
20	All Other	4,170	3,750
21			
22	TOTAL	<u>\$62,301</u>	<u>\$62,831</u>

23 STATEMENT OF FACT

24 The current system used to determine a defend-
25 ant's eligibility for the appointment of legal coun-
26 sel at state expense is inadequate and in need of
27 refinement. At the present time, a defendant claim-
28 ing indigency completes a financial disclosure affi-
29 davit in the courtroom, sometimes under oath, and
30 submits the form directly to the judge. In many in-
31 stances, the judge is required to quickly peruse the
32 form, ask the defendant a few questions and appoint
33 counsel, all within a matter of minutes. In some in-
34 stances, the defendant does not complete a written
35 affidavit and is merely questioned by the judge, with
36 or without the benefit of an oath. The judge is ex-
37 pected to determine indigency in a nonadversarial
38 setting and is compelled to rely exclusively on the

1 defendant's verbal or written statement of financial
2 resources. Sometimes, the defendant's statement is
3 not made under oath and in any event there are no
4 available means of verifying the information given by
5 the defendant seeking court-appointed counsel. Coun-
6 sels for the State do not as a rule present informa-
7 tion to the court concerning a defendant's indigency,
8 nor do they participate in the examination of the de-
9 fendant.

10 Because the current system provides no means of
11 verification, it is impossible to determine whether
12 investigative efforts will result in slowing the in-
13 crease in the amount of expenditures for court-
14 appointed counsel. It should be noted that when Col-
15 orado instituted a similar investigative system, it
16 did experience a significant reduction in court-
17 appointed counsel costs. With expenditures in Maine
18 now approaching \$1,500,000 each year, compared to
19 less than \$1,000,000 merely 4 years ago, it is imper-
20 ative that we undertake some means of verification to
21 at least justify these expenditures and provide some
22 measure of system integrity. If the Judicial Depart-
23 ment is to administer and safeguard the payment of
24 court-appointed counsel, the judiciary must be pro-
25 vided with adequate information with which to do so.
26 The expenditure of such substantial public funds re-
27 quires no less.

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