

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1059

H.P. 787 House of Representatives, April 1, 1987  
Reference to the Committee on Judiciary suggested and  
ordered printed.

EDWIN H. PERT, Clerk  
Presented by Representative WARREN of Scarborough.  
Cosponsored by Representatives PRIEST of Brunswick and  
CONNOLLY of Portland.

STATE OF MAINE

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

1 AN ACT to Streamline Costs in the Criminal  
2 Justice System and Ensure the  
3 Constitutional Rights of Indigent  
4 Defendants.  
5

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

8 15 MRSA c. 105, sub-c. V is enacted to read:

9 SUBCHAPTER V

10 PUBLIC DEFENDER PROGRAM

11 §951. Definitions

12 As used in this subchapter, unless the context  
13 otherwise indicates, the following terms have the  
14 following meanings.

1 1. Program. "Program" means the Public Defender  
2 Program.

3 §952. Program established

4 There is established the Public Defender Program  
5 to provide for representation of indigent criminal  
6 defendants. The District Court and the Superior Court  
7 shall appoint the program or a qualified attorney as-  
8 signed by the court for any defendant without suffi-  
9 cient means to employ counsel under section 810 or  
10 section 3306, subsection 1.

11 §953. Limitation of representation

12 The program may not represent more than one per-  
13 son when a conflict of interest exists under the  
14 Maine Bar Rules.

15 §954. Contract

16 The State, through the Judicial Department and  
17 with the approval of the Governor, shall contract  
18 with any organization or group of attorneys approved  
19 by the Board of Overseers of the Bar to operate the  
20 program and provide a public defender representation  
21 under sections 952 and 953. The contract shall fix  
22 the number of defender attorneys providing represen-  
23 tation in each judicial division and shall permit the  
24 program to subcontract for attorney services, includ-  
25 ing appellate services, as may be necessary to pro-  
26 vide adequate representation. No such contract may be  
27 effective for more than 2 years. The compensation for  
28 operation of the program shall be such sums as may be  
29 fixed by contract, subject to appropriations made for  
30 the compensation.

31 §955. Supervision

32 The program shall be under the general supervi-  
33 sion of the Supreme Judicial Court for matters per-  
34 taining to, but not limited to, allocation of cases  
35 between the program and assigned counsel, perform-  
36 ance, professional competence and fiscal and budget-  
37 ary matters. The Supreme Judicial Court shall promul-  
38 gate a fee schedule for assigned counsel which shall  
39 be graduated to reflect years of legal experience of  
40 that counsel.

1     §956. Allocation of cases

2             The allocation of cases between the program and  
3 assigned counsel shall be in accordance with a plan  
4 adopted by the program and approved by the Supreme  
5 Judicial Court. This plan shall establish case load  
6 limits for defender attorneys in accordance with pro-  
7 fessional standards under the Maine Bar Rules and  
8 shall provide for appointment of assigned counsel on-  
9 ly when maximum case loads have been reached or de-  
10 fender attorneys under the program are otherwise un-  
11 available.

12     §957. Public defenders

13             Public defenders shall serve in accordance with  
14 the terms of a contract entered into pursuant to sec-  
15 tion 954. Public defender responsibilities shall be  
16 exclusively concerned with the rights of indigent  
17 criminal defendants.

18   STATEMENT OF FACT

19             The Constitution of Maine, Article I, section 6,  
20 requires the State to provide legal counsel to indi-  
21 gent criminal defendants. Since 1977, the cost to  
22 taxpayers for court-appointed attorneys has risen  
23 from \$533,230 to \$1,900,000 in 1986. This bill seeks  
24 to keep a control on those costs and still provide  
25 quality legal representation to indigent defendants  
26 in the State's 16 counties. With criminal cases and  
27 our system of constitutional law becoming more com-  
28 plex, this bill helps aid in allowing those providing  
29 the defense to become more specialized and  
30 knowledgeable.

31             This bill is modeled after a 1977 New Hampshire  
32 public defender program. Other states have similar  
33 programs. The Maine Supreme Judicial Court would have  
34 control and supervision of this indigent defense sys-  
35 tem under this bill.

36

1039030987