

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2010

H.P. 1475 House of Representatives, January 11, 1988
Approved for introduction by a majority of the
Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Bangor.

Cosponsored by Senator BRANNIGAN of Cumberland and
Representative WARREN of Scarborough.

STATE OF MAINE

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

1 **AN ACT to Establish a Public Defender**
2 **Program.**

3
4 Be it enacted by the People of the State of Maine as
5 follows:

6 15 MRSA c. 105, sub-c. V is enacted to read:

7 SUBCHAPTER V

8 PUBLIC DEFENDER PROGRAM

1 §951. Definitions

2 As used in this subchapter, unless the context
3 otherwise indicates, the following terms have the
4 following meanings.

5 1. Program. "Program" means the Public Defender
6 Program.

7 2. Public defender. "Public defender" means an
8 attorney in the Public Defender Program.

9 §952. Program established

10 There is established the Public Defender Program
11 to provide for representation of indigent criminal
12 defendants. The District Court and the Superior Court
13 shall appoint, subject to section 956, the program or
14 a qualified attorney assigned by the court for any
15 defendant without sufficient means to employ counsel
16 under section 810 or section 3306, subsection 1.

17 §953. Limitation of representation

18 The program may not represent more than one person
19 when a conflict of interest exists under the Maine Bar
20 Rules.

21 §954. Contract

22 The State, through the Judicial Department and
23 with the approval of the Governor, shall contract with
24 any organization or group of attorneys approved by the
25 Board of Overseers of the Bar to operate the program
26 and provide a public defender representation under
27 sections 952 and 953. The contract shall fix the
28 number of public defenders providing representation in
29 each judicial division and shall permit the program to

1 subcontract for attorney services, including appellate
2 services, as may be necessary to provide adequate
3 representation. No such contract may be effective for
4 more than 2 years. The compensation for operation of
5 the program shall be such sums as may be fixed by
6 contract, subject to appropriations made for the
7 compensation.

8 §955. Supervision

9 The program shall be under the general supervision
10 of the Supreme Judicial Court for matters pertaining
11 to, but not limited to, allocation of cases between
12 the public defenders and assigned counsel,
13 performance, professional competence and fiscal and
14 budgetary matters. The Supreme Judicial Court shall
15 promulgate a fee schedule for assigned counsel which
16 shall be graduated to reflect the years of legal
17 experience of that counsel.

18 §956. Allocation of cases

19 The allocation of cases between public defenders
20 and assigned counsel shall be in accordance with a
21 plan adopted by the program and approved by the
22 Supreme Judicial Court. This plan shall establish case
23 load limits for public defenders in accordance with
24 professional standards under the Maine Bar Rules and
25 shall provide for appointment of assigned counsel only
26 when maximum case loads have been reached or public
27 defenders under the program are otherwise unavailable.

28 §957. Public defenders

29 Public defenders shall serve in accordance with
30 the terms of a contract entered into pursuant to
31 section 954. Public defender responsibilities shall
32 be exclusively concerned with the rights of indigent
33 criminal defendants.

34 STATEMENT OF FACT

35 Several counties are experiencing severe shortages
36 of attorneys willing to take court-appointed defense
37 cases due to the relatively low pay associated with

1 these cases. Consequently, many indigent defendants
2 are not receiving adequate representation. With
3 criminal cases and our system of constitutional law
4 becoming more complex, this bill will help provide a
5 knowledgeable defense to these individuals.

6 This bill is modeled after a 1977 New Hampshire
7 public defender program. Other states have similar
8 programs. The Maine Supreme Judicial Court would have
9 control and supervision of this indigent defense
10 system under this bill.

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