

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1682, L.D. 2328, Bill, "An Act to Implement the Recommendations of the Court Jurisdiction Study"

Amend the bill in Part A by striking out all of section A-1 and inserting in its place the following:

'Sec. A-1. 4 MRSA §121 is enacted to read:

§121. Justice or Active Retired Justice of Superior Court assigned to sit in District Court or Administrative Court

A Justice or an Active Retired Justice of the Superior Court may be assigned by the Chief Justice of the Supreme Judicial Court to sit in the District Court or the Administrative Court and when so directed the justice has authority and jurisdiction in the District Court or the Administrative Court as if the justice were a regular judge of that court; and whenever the Chief Justice of the Supreme Judicial Court so directs, the justice may hear all matters and issue all orders, notices, decrees and judgments that any Judge of the District Court or the Administrative Court is authorized to hear and issue.

The order of the Chief Justice of the Supreme Judicial Court directing a Justice or an Active Retired Justice of the Superior Court to sit in the District Court or the Administrative Court must be filed with the Executive Clerk of the Supreme Judicial Court, but need not be docketed or otherwise recorded in any case heard by that justice.

Sec. A-2. 4 MRSA §153, first ¶ is amended to read:

The State is divided into ~~31~~ 30 judicial divisions, named and defined as follows, and with places for holding court therein in those divisions as follows:

Sec. A-3. 4 MRSA §153, sub-§7, as amended by PL 1983, c. 654, §1, is repealed.

2 **Sec. A-4. 4 MRSA §153, sub-§24**, as amended by PL 1983, c. 654,
§1, is further amended to read:

4 **24. Bath-Brunswick.** Sagadahoc Bath-Brunswick consists of
the entire County of Sagadahoc and the municipalities of
6 Brunswick, Freeport and Harpswell in Cumberland County. The
District Court for Sagadahoc Bath-Brunswick shall be held at
8 Bath, West Bath or Brunswick, the exact site to be determined by
the Chief Judge.

10 **Sec. A-5. 4 MRSA §154, sub-§6**, as amended by PL 1983, c. 654,
12 §2, is further amended to read:

14 **6. Sixth District.** The 6th district consists of the
divisions of ~~Eastern-Cumberland-(Brunswick, West-Bath-or-Bath),~~
16 Sagadahoc Bath-Brunswick (Bath, West Bath or Brunswick), Lincoln
(Wiscasset) and Knox (Rockland).

18 **Sec. A-6. 4 MRSA §157-E** is enacted to read:

20 **§157-E. Judge or Active Retired Judge of District Court assigned**
22 **to sit in Administrative Court**

24 A Judge or an Active Retired Judge of the District Court may
be assigned by the Chief Justice of the Supreme Judicial Court to
26 sit in the Administrative Court and when so directed the judge
has authority and jurisdiction in the Administrative Court as if
28 the judge were a regular judge of that court; and whenever the
Chief Justice of the Supreme Judicial Court so directs, the judge
30 may hear all matters and issue all orders, notices, decrees and
judgments that any Judge of the Administrative Court is
32 authorized to hear and issue.

34 The order of the Chief Justice of the Supreme Judicial Court
directing a Judge or an Active Retired Judge of the District
36 Court to sit in the Administrative Court must be filed with the
Executive Clerk of the Supreme Judicial Court, but need not be
38 docketed or otherwise recorded in any case heard by that judge.'

40 Further amend the bill in Part A by striking out all of
section A-3.

42 Further amend the bill in Part A by striking out all of
44 sections A-6 to A-8 and inserting in their place the following:

46 '**Sec. A-6. 29 MRSA §2184, sub-§1**, as amended by PL 1987, c.
791, §25, is further amended to read:

48 **1. Offense; penalty.** No A person may not operate a motor
50 vehicle on any public way in this State at a time when his that
person's license or permit to operate, his right to operate or
52 his right to apply for or obtain a license or permit has been

suspended or revoked, except for a revocation as an habitual offender under chapter 18-A or former chapter 18, when that person:

A. Has received written notice of a suspension or revocation pursuant to section 1312-D, subsection 1, or section 2241-H or other written notice from the Secretary of State;

B. Has been orally informed of the suspension or revocation by a law enforcement officer who is aware of the information as a result of records maintained by the Secretary of State, including those obtainable by telecommunications;

C. Has actual knowledge of his the suspension or revocation;

D. Is a person to whom written notice was sent by ordinary mail at the last known address shown by the records maintained by the Secretary of State; or

E. Has failed to appear in court pursuant to any notice or order specified in section 2301-A.

Violation of this section is a Class ~~D~~ E crime, provided that, notwithstanding Title 17-A, section 1301, the maximum fine shall be is \$2,500.

Sec. A-7. 29 MRSA §2184, sub-§1-A, as enacted by PL 1981, c. 679, §44, is amended to read:

1-A. Minimum mandatory sentences for certain suspensions.
In the event the suspension was for a conviction for a violation of former section 1312, subsection 10 or section 1312-B or an adjudication for a violation of section 1312-C or for a failure to comply with the duty to submit for a blood-alcohol test under section 1312, subsection 2, the court shall impose a minimum fine of \$350, which ~~minimum-shall~~ may not be suspended; a term of imprisonment which shall may be for not less than 7 consecutive days, ~~which minimum-shall~~ and may not be suspended; and a mandatory suspension of license or permit or right to operate a motor vehicle, or right to apply for or obtain a license, for not less than one year nor more than 3 years consecutive to the original suspension, which ~~minimum--period--shall~~ may not be suspended. For all other suspensions, if the person has one or more prior convictions for violating this section within a 6-year period, the minimum fine is \$200 and may not be suspended. The requirements of Title 15, section 757, of a separate reading of the allegation and a separate trial shall do not apply to a proceeding under this subsection. The court shall give notice of the suspension and shall take physical custody of an operator's license or permit as provided in section 2241-H.

2 If the court fails to impose a suspension as provided in this
3 subsection, the Secretary of State shall impose the minimum
4 one-year suspension and may impose up to 3 years of suspension
and give notice as provided in section 1312-D, subsection 1.

6 The minimum mandatory sentences of this subsection ~~shall apply~~
7 applies only to the original period of suspension imposed by the
8 court or by the Secretary of State, or as extended by the
Secretary of State pursuant to section 1312-D, subsection 1-A.
10 The minimum mandatory sentences of this subsection ~~shall do~~ not
11 apply to any extension of the original suspension, including an
12 extension pursuant to section 1312-B, subsection 2, paragraph C,
13 or section 1312-C, subsection 4, imposed for the purpose of
14 compelling compliance with conditions for the restoration of a
license or right to operate, or to an extension pursuant to
15 section 2241-D for failure to pay a reinstatement fee.

18 For the purposes of this subsection, a prior conviction has
19 occurred within a 6-year period if the date of the docket entry
20 by the clerk of a judgment of conviction is 6 years or less from
21 the date of the new conduct that is penalized or for which the
22 penalty is or may be enhanced.

24 **Sec. A-8. Pilot project.** The Chief Justice of the Superior
25 Court and the Chief Judges of the District Court and the
26 Administrative Court may establish a pilot project for the
27 handling of cases arising under the Maine Revised Statutes, Title
28 19; child protective proceedings under Title 22; and any other
29 matters the Chief Justice and the Chief Judges determine
30 appropriate. The Chief Justice and Chief Judges shall jointly
31 establish criteria for the assignment of cases.

32 The Chief Justice and Chief Judges shall periodically report
33 to the Commission to Study the Future of Maine's Courts, as
34 established by Part C of this Act, on the structure and effect of
35 the pilot project, except that, if the commission does not meet,
36 the Chief Justice and Chief Judges shall periodically report to
37 the Joint Standing Committee on Judiciary. The Chief Justice and
38 Chief Judges shall make a final report to the commission and the
39 Joint Standing Committee on Judiciary by January 15, 1992.'

42 Further amend the bill in Part A by renumbering the sections
43 to read consecutively.

44 Further amend the bill in Part B in section B-2 in the first
45 paragraph in the first and 2nd lines (page 5, lines 12 and 13 in
46 L.D.) by striking out the following: "shall consist of 8" and
47 inserting in its place the following: 'consists of 10'

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2 Further amend the bill in Part B in section B-2 in the first
paragraph in the 5th line (page 5, line 16 in L.D.) by inserting
4 after the following: "Representatives;" the following: '2
members of the Joint Standing Committee on Legal Affairs, one to
6 be appointed by the President of the Senate and one to be
appointed by the Speaker of the House of Representatives;'

8 Further amend the bill in Part B in section B-2 in the first
paragraph in the last line (page 5, line 25 in L.D.) by inserting
10 after the following: "Representatives." the following: 'There
must be bipartisan representation on the commission.'

12 Further amend the bill in Part B in section B-2 in the 2nd
14 paragraph in the next to the last line (page 5, line 33 in L.D.)
by striking out the following: "August 25" and inserting in its
16 place the following: 'July 15'

18 Further amend the bill in Part B in section B-3 in the 2nd
line (page 5, line 37 in L.D.) by inserting after the following:
20 "penalties" the following: ', including fines,'

22 Further amend the bill in Part B in section B-6 in the last
line (page 6, line 5 in L.D.) by striking out the following:
24 "December" and inserting in its place the following: 'November'

26 Further amend the bill in Part B by striking out all of
section B-7 and inserting in its place the following:

28 'Sec. B-7. Appropriation. The following funds are
30 appropriated from the General Fund to carry out the purposes of
this Part.

32

1990-91

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LEGISLATURE

36

38 Commission on the Criminal Penalties
in the Maine Revised Statutes

40

Personal Services
All Other

\$2,750
5,450

42

44

Provides funds for per diem, travel and
related expenses of the Commission on the
Criminal Penalties in the Maine Revised
46 Statutes.

48

LEGISLATURE
TOTAL

\$8,200'

50

COMMITTEE AMENDMENT "A" to H.P. 1682, L.D. 2328

2 Further amend the bill in Part C by striking out all of
sections C-1 to C-8 and inserting in their place the following:

4 **Sec. C-1. Commission established.** There is established the
Commission to Study the Future of Maine's Courts.

6 **Sec. C-2. Commission membership.** The commission consists of
8 the following members:

10 1. Three members appointed by the presidents of the
12 respective court clerks associations to represent the Supreme,
Superior and District Courts;

14 2. The President of the Probate Court Judges Association or
a designee;

16 3. The President of the Registers of Probate Association or
18 a designee;

20 4. Five Legislators, including 2 Senators, one of whom must
22 be a member of the Joint Standing Committee on Judiciary,
appointed by the President of the Senate; and 3 members of the
24 House of Representatives, at least 2 of whom must be members of
the Joint Standing Committee on Judiciary, appointed by the
26 Speaker of the House of Representatives;

28 5. A representative of the Governor's office appointed by
the Governor;

30 6. Four members of the public appointed by the Governor;

32 7. The President of the Maine State Bar Association or a
designee;

34 8. The Chair of the Maine State Bar Association, Family Law
36 Section, or a designee;

38 9. The Executive Director of Pine Tree Legal Assistance or
a designee;

40 10. The President of the Maine Trial Lawyers Association or
42 a designee;

44 11. The President of the Maine Prosecutors Association or a
designee;

46 12. The Attorney General or a designee;

48 13. The Dean of the University of Maine School of Law or a
50 designee; and

52 14. The State Court Administrator or a designee.

2 All appointments must be made no later than 30 days
3 following the effective date of this Act. The appointing
4 authorities shall notify the Executive Director of the
5 Legislative Council and the State Court Administrator when the
6 appointments have been made.

8 The Governor, the Chief Justice of the Supreme Judicial
9 Court, the President of the Senate and the Speaker of the House
10 of Representatives shall jointly appoint the chair of the
11 commission no later than July 25, 1990. The chair may be
12 appointed from among the members of the commission or from
13 outside the membership.

14 The chair shall request the Chief Justice of the Supreme
15 Judicial Court to appoint 5 advisory members, 4 of whom are
16 Active Justices and Judges representing the Administrative,
17 District, Superior and Supreme Courts and one of whom is an
18 Active Retired Justice or Judge.

20 If the commission has received sufficient funds to begin its
21 duties, the chair shall call the first meeting no later than
22 November 15, 1990. If the commission has not received sufficient
23 funds by November 15, 1990, the commission may not meet.

26 **Sec. C-3. Compensation.** To the extent that the commission
27 has funds to pay per diem and expenses:

28 1. Legislative members are entitled to legislative per diem
29 as defined in the Maine Revised Statutes, Title 3, section 2, for
30 each day's attendance at commission meetings; and

32 2. All other members are not entitled to compensation, but
33 may, except state employees, be reimbursed for reasonable
34 expenses as provided in the Maine Revised Statutes, Title 5,
35 section 12002-A, subsection 1.

38 **Sec. C-4. Administrative and staff services.** The commission may
39 contract for administrative, professional and clerical services
40 with available funds. The Administrative Office of the Courts,
41 the Judicial Council and the Legislative Council may furnish
42 clerical and other support services to the commission. The
43 commission may request assistance with the preparation of any
44 recommended legislation from the Legislative Council.

46 **Sec. C-5. Duties.** The commission shall study the future of
47 the court system in the State and make recommendations as
48 necessary to ensure that the judicial needs of citizens will be
49 met in the 21st century. The commission shall examine, but not
50 limit its examination to, the following issues:

1. Integration of the jurisdictions of the various court systems, including the feasibility, cost and method of creating a unified trial court system in this State;

2. Appellate review, including the feasibility of establishing or designating an intermediate appellate court along with discretionary review by the Supreme Judicial Court in selected or all cases;

3. Expansion of the availability and use of alternative dispute resolution mechanisms. This includes the consideration of ways to increase the use of referees under Rule 53 of the Maine Rules of Civil Procedure, including, but not limited to, rule changes, the education of lawyers and judges, mandatory use of referees, the development of guidelines for the use of referees and other ways to encourage the use of referees;

4. Parity among judicial salaries within the court system;

5. Further evolution of the Probate Court system, particularly the conflict-of-interest issue concerning part-time Probate Court judges, considering, as a possibility, establishing full-time judges of probate who travel a circuit;

6. Any recommendations of the Court Mediation Service on expanding mediation services;

7. An evaluation of any pilot project established by the Chief Justice of the Superior Court and the Chief Judges of the District Court and the Administrative Court; and

8. Any recommendations of the Maine Commission on Legal Needs.

Sec. C-6. Report to Legislature. The commission, by November 15, 1992, shall report to the Joint Standing Committee on Judiciary and the Office of the Executive Director of the Legislative Council the results of its findings and recommendations together with any necessary implementing legislation. The commission shall report to the Joint Standing Committee on Judiciary with respect to its funding from all sources and detailed expenditures of the commission on November 15, 1991, and November 15, 1992.

Sec. C-7. Funding. The commission is authorized to seek and accept outside sources of funding to finance the study provided in this Part. The Administrative Office of the Courts shall administer any outside funds acquired for the conduct of the study. Expenditures may not be incurred that have an impact on the General Fund. Expenditures may not be incurred relative to this study unless the funding from outside sources has been received by the Administrative Office of the Courts.

3. It revises the organization of judicial divisions in the State to consolidate the Eastern Cumberland division and the Sagadahoc division into the Bath-Brunswick division.

4. It deletes the appropriation for 2 computer specialists and one District Court Judge.

5. It reduces the class of crime for operating a motor vehicle after suspension from a Class D crime to a Class E crime, but establishes a minimum mandatory fine of \$200 for all 2nd and subsequent offenses. The current maximum fine of \$2,500 is unchanged. This amendment is intended to reduce costs associated with Class D crimes currently paid by the Judicial Department.

6. It authorizes the Chief Justice of the Superior Court and the Chief Judges of the District Court and Administrative Court to develop and implement a pilot project regarding the handling of family law and other cases. The Chief Justice and Chief Judges will report to the Commission to Study the Future of Maine's Courts if it meets; otherwise, reports will be made to the Joint Standing Committee on Judiciary.

7. It adds 2 members of the Joint Standing Committee on Legal Affairs to the Commission on the Criminal Penalties in the Maine Revised Statutes, and clarifies that fines are to be included in the commission's study. It also changes the appointing and reporting dates to be consistent with Legislative Council guidelines.

8. It adds the chair of the Family Law Section of the Maine State Bar Association and the State Court Administrator as members of the Commission to Study the Future of Maine's Courts, and requires the chair of the commission to request that the Chief Justice of the Supreme Judicial Court appoint 5 advisory members to represent the Administrative, District, Superior and Supreme Courts.

The amendment also requires the chair of the commission to call the first meeting only if there is sufficient funding for the commission to begin carrying out its duties. If there is sufficient funding from sources other than the General Fund, the chair must call the first meeting by November 15, 1990. If the commission is unable to raise sufficient funds by November 15, 1990, it will not meet at all. This amendment clarifies that the commission may solicit and receive funds from any source. It also clarifies that the chair may solicit funds on behalf of the commission prior to the first meeting. The Administrative Office of the Courts will administer the budget of the commission, but will not provide funds for the commission. The commission will go out of existence if it is unable to raise sufficient funds to carry out its duties.

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2 The commission is authorized to contract for administrative,
professional and clerical services. Although the Administrative
4 Office of the Courts, the Judicial Council and the Legislative
Council may provide clerical and other support services, it is
not anticipated that the services requested will be extensive.
6 The Legislative Council may provide assistance in drafting
recommended legislation.

8
9. It requires the Commission to Study the Future of
10 Maine's Courts to examine the issue of appellate jurisdiction,
and to review and consider implementing the recommendations of
12 the Maine Commission on Legal Needs.

14 10. It changes the final reporting date of the commission
to November 15, 1992.
16

Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
/5/90

(Filing No. H-1077)