

# MAINE STATE LEGISLATURE

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L.D. 2328

(Filing No. S- 744)

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STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
SECOND REGULAR SESSION

SENATE 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 A-3. 4 MRSA §153, sub-§7, as amended by PL 1983, c. 654, §1, is repealed.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  
26 be assigned by the Chief Justice of the Supreme Judicial Court to  
sit in the Administrative Court and when so directed the judge  
28 has authority and jurisdiction in the Administrative Court as if  
the judge were a regular judge of that court; and whenever the  
30 Chief Justice of the Supreme Judicial Court so directs, the judge  
32 may hear all matters and issue all orders, notices, decrees and  
judgments that any Judge of the Administrative Court is  
authorized to hear and issue.

34           The order of the Chief Justice of the Supreme Judicial Court  
36 directing a Judge or an Active Retired Judge of the District  
Court to sit in the Administrative Court must be filed with the  
38 Executive Clerk of the Supreme Judicial Court, but need not be  
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.  
48 791, §25, is further amended to read:

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

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

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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.

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2 requirements of Title 15, section 757, of a separate reading of  
the allegation and a separate trial shall do not apply to a  
4 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.

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

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

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

30 **Sec. A-8. Pilot project.** The Chief Justice of the Superior  
Court and the Chief Judges of the District Court and the  
32 Administrative Court may establish a pilot project for the  
handling of cases arising under the Maine Revised Statutes, Title  
34 19; child protective proceedings under Title 22; and any other  
matters the Chief Justice and the Chief Judges determine  
36 appropriate. The Chief Justice and Chief Judges shall jointly  
establish criteria for the assignment of cases.

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40 The Chief Justice and Chief Judges shall periodically report  
to the Commission to Study the Future of Maine's Courts, as  
42 established by Part B of this Act, on the structure and effect of  
the pilot project, except that, if the commission does not meet,  
44 the Chief Justice and Chief Judges shall periodically report to  
the Joint Standing Committee on Judiciary. The Chief Justice and  
46 Chief Judges shall make a final report to the commission and the  
Joint Standing Committee on Judiciary by January 15, 1992.'

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

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2 Further amend the bill by striking out all of Parts B and C  
and inserting in their place the following:

4 PART B

6 Sec. B-1. Commission established. There is established the  
Commission to Study the Future of Maine's Courts.

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10 Sec. B-2. Commission membership. The commission consists of  
the following members:

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

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

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

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

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

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

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

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

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

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

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

50 12. The Attorney General or a designee;

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

4 14. The State Court Administrator or a designee.

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

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

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

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

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

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

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

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

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

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8           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;

10  
12           2. Appellate review, including the feasibility of  
establishing or designating an intermediate appellate court along  
with discretionary review by the Supreme Judicial Court in  
14 selected or all cases;

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

24           4. Parity among judicial salaries within the court system;

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

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

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

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

40           **Sec. B-6. Report to Legislature.** The commission, by November  
42 15, 1992, shall report to the Joint Standing Committee on  
Judiciary and the Office of the Executive Director of the  
44 Legislative Council the results of its findings and  
recommendations together with any necessary implementing  
46 legislation. The commission shall report to the Joint Standing  
Committee on Judiciary with respect to its funding from all  
48 sources and detailed expenditures of the commission on November  
15, 1991, and November 15, 1992.

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

10 **Sec. B-8. Commencement and continuation of commission.** The  
11 commencement and continuation of the commission through November  
12 15, 1992, are contingent on the commission's successful  
13 solicitation of funds from sources other than the General Fund.  
14 The chair is authorized to solicit and receive funds on behalf of  
15 the commission before its first meeting.

16 **FISCAL NOTE**

18 The Judicial Department has indicated it can absorb, within  
19 its budgeted resources, the costs associated with the pilot  
20 project and representation of the Administrative Office of the  
21 Courts and judicial advisory members to the Commission to Study  
22 the Future of Maine's Courts. The Judicial Department will also  
23 absorb costs associated with administering the commission's  
24 budget.

26 Due to the provisions in section B-7 of this bill, the study  
27 authorized will have no fiscal impact on the General Fund.  
28 Conducting this study is contingent upon the commission procuring  
29 nonstate resources.

32 Receipt of public and private funds for support of the  
33 Commission to Study the Future of Maine's Courts may result in an  
34 increase of federal or dedicated revenue to be administered by  
35 the Judicial Department. These funds will require legislative  
36 allocation prior to expenditure.

38 **STATEMENT OF FACT**

40 This amendment makes the following changes to the bill.

42  
44 1. It strikes out the proposal to merge the Administrative  
45 Court into the District Court.

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48 2. It gives the Chief Justice of the Supreme Judicial Court  
49 the authority to direct:  
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2 B. A Judge of the District Court to sit in the  
Administrative Court.

4 The Chief Justice already has the authority to direct a Judge of  
6 the Administrative Court to sit in Superior Court or District  
Court.

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

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

14 5. It reduces the class of crime for operating a motor  
16 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  
18 subsequent offenses. The current maximum fine of \$2,500 is  
unchanged. This amendment is intended to reduce costs associated  
20 with Class D crimes currently paid by the Judicial Department.

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

30 7. It strikes Part B of the bill which established the  
Commission on the Criminal Penalties in the Maine Revised  
32 Statutes.

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

42 The amendment also requires the chair of the commission to call  
the first meeting only if there is sufficient funding for the  
44 commission to begin carrying out its duties. If there is  
sufficient funding from sources other than the General Fund, the  
46 chair must call the first meeting by November 15, 1990. If the  
commission is unable to raise sufficient funds by November 15,  
48 1990, it will not meet at all. This amendment clarifies that the  
commission may solicit and receive funds from any source. It  
50 also clarifies that the chair may solicit funds on behalf of the  
commission prior to the first meeting. The Administrative Office  
52 of the Courts will administer the budget of the commission, but

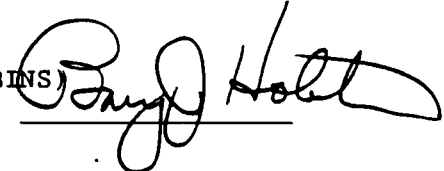
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2 will not provide funds for the commission. The commission will  
go out of existence if it is unable to raise sufficient funds to  
carry out its duties.

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6 The commission is authorized to contract for administrative,  
professional and clerical services. Although the Administrative  
8 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.  
10 The Legislative Council may provide assistance in drafting  
recommended legislation.

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

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

22  
24 (Senator HOBBS)   
SPONSORED BY: \_\_\_\_\_  
26  
28 COUNTY: York

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