

MAINE STATE LEGISLATURE

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Ms
R 48

L.D. 1354

DATE: 3/29/94

(Filing No. H-1000)

M A J O R I T Y
J U D I C I A R Y

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "H" to H.P. 1008, L.D. 1354, Bill, "An Act to Implement the Recommendations of the Commission to Study the Future of Maine's Courts"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

PART A

Sec. A-1. 5 MRSA §51 is enacted to read:

§51. Interpreters; payment

When personal or property interest of a person who does not speak English is the subject of a proceeding before an agency or a court, the presiding officer of the proceeding shall either appoint a qualified interpreter or utilize a professional telephone-based interpretation service. Payment by the State for an interpreter in civil matters is within the discretion of the agency or court to the extent that payment by the State is not already required by law.

Sec. A-2. 5 MRSA §3360-L is enacted to read:

§3360-L. Information

The Attorney General shall develop a fact sheet for victims with information about the victim advocate and victim compensation programs and shall make copies available to all prosecutors' offices and law enforcement agencies who shall provide that fact sheet for distribution to all victims of crimes and their families.

COMMITTEE AMENDMENT

Rolls

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Sec. A-3. 15 MRSA Pt. 8 is enacted to read:

PART 8

VICTIMS' RIGHTS

CHAPTER 520

VICTIM INVOLVEMENT

§6101. Victim involvement in criminal proceedings

1. Notice to victims. Whenever practicable, prosecutors shall make a good faith effort to inform the victims and families of victims of crimes of domestic violence and sexual assault and crimes in which the victim or the victim's family suffered serious physical trauma or serious financial loss of:

- A. The victim advocate and victim compensation programs;
- B. The victim's right to be advised of the existence of a negotiated plea agreement before that agreement is submitted to the court pursuant to section 812;
- C. The time and place of the trial, if one is to be held;
- D. The victim's right to make a statement or submit a written statement at the time of sentencing pursuant to Title 17-A, section 1257, upon conviction of the person committing the crime; and
- E. The final disposition of the charges against that defendant.

2. Notice to court. Whenever practicable, the prosecutor shall make a good faith effort to inform the court about the following:

- A. If there is a plea agreement, the victim's or the victim's family's position on the plea agreement; and
- B. If there is no plea agreement, the victim's or the victim's family's position on sentencing.

PART B

Sec. B-1. 4 MRSA §9-B, as amended by PL 1991, c. 885, Pt. E, §2 and affected by §47, is further amended to read:

§9-B. Committee on judicial responsibility and disability

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2 The Supreme Judicial Court has the power and authority to
3 prescribe, repeal, add to, amend or modify rules relating to a
4 committee to receive complaints, make investigations and make
5 recommendations to the Supreme Judicial Court in regard to
6 discipline, disability, retirement or removal of justices of the
7 Supreme Judicial Court and the Superior Court and judges Judges
8 of the District Court, and the ~~probate--courts--and--the~~
Administrative Probate Court.

10 **Sec. B-2. 4 MRSA §101**, as repealed and replaced by PL 1985,
11 c. 434, §1, is amended to read:

12 **§101. Constitution of court**

13 The Superior Court, as established, shall ~~consist~~ consists
14 of 15 justices until June 30, 1986, and 16 justices thereafter
15 until January 1, 1995 and 17 justices thereafter, and such Active
16 Retired Justices as may be appointed and serving on the court,
17 learned in the law and of sobriety of manners. The Chief Justice
18 of the Superior Court shall assign the Justices of the Superior
19 Court to preside at various locations of the court. Whenever it
20 becomes necessary, the Chief Justice of the Supreme Judicial
21 Court may designate a Justice of the Supreme Judicial Court or
22 any Active Retired Justice of the Supreme Judicial Court to hold
23 a term of Superior Court. The Chief Justice of the Superior
24 Court may, when necessary, assign an Active Retired Justice of
25 the Superior Court to hold a term of Superior Court. The Chief
26 Justice of the Superior Court may designate any Justice of the
27 Superior Court and the Chief Justice of the Supreme Judicial
28 Court may designate any Justice of the Supreme Judicial Court to
29 hold one or more sessions of the Superior Court, separate from
30 the session presided over by the justice holding the regular
31 trial term.

34 **Sec. B-3. 4 MRSA §105**, as amended by PL 1979, c. 540, §3, is
35 further amended to read:

36 **§105. Jurisdiction; powers**

37 The Superior Court, exclusive of the Supreme Judicial Court,
38 shall ~~have~~ has and may exercise jurisdiction and have has and may
39 exercise all of the powers, duties and authority necessary for
40 exercising the jurisdiction in ~~any--and--all~~ matters either
41 original or appellate, which were, prior to January 1, 1930,
42 within the jurisdiction of the Supreme Judicial Court or any of
43 the Superior Courts, whether cognizable at law or in equity,
44 except as concurrent or exclusive jurisdiction is vested in the
45 District Court, and except as provided in Title 14, section 5301,
46 provided that it shall ~~have~~ has and may exercise none of the
47 jurisdiction, powers, duties and authority of the Supreme
48 Judicial Court sitting as a ~~law--court~~ Law Court. A single
49 Justice of the Supreme Judicial Court shall ~~have~~ has and may
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exercise jurisdiction, and have has and may exercise all of the powers, duties and authority necessary for exercising the same jurisdiction as the Superior Court, to hear and determine, with his the Justice's consent, any issue in a civil action in the Superior Court as to which the parties have no right to trial by jury or in which the right to trial by jury has been waived, except actions for divorce, annulment or separation.

The Superior Court has exclusive jurisdiction to review disciplinary decisions of occupational licensing boards and commissions taken pursuant to Title 10, section 8003. The Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII governs these proceedings as far as applicable.

The Superior Court has jurisdiction of appeals as provided in Title 14, section 1901.

Sec. B-4. 4 MRSA §121, as enacted by PL 1989, c. 891, Pt. A, §1, is amended to read:

§121. Justice or Active Retired Justice of Superior Court assigned to sit in District 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. B-5. 4 MRSA §152, sub-§9 is enacted to read:

9. Licensing and administrative jurisdiction. The District Court has the same licensing jurisdiction that the former Administrative Court had before January 1, 1995.

A. Except as provided in Title 5, section 10004; Title 8, section 279-B; Title 10, section 8003, subsection 5; Title 20-A, sections 10712 and 10713; Title 29; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the District Court has:

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2 (1) Exclusive jurisdiction upon complaint of an agency
4 or, if the licensing agency fails or refuses to act
6 within a reasonable time, upon complaint of the
 Attorney General to revoke or suspend licenses issued
 by the agency;

8 (2) Original jurisdiction upon complaint of a
10 licensing agency to determine whether renewal or
 reissuance of a license of that agency may be refused;
 and

12 (3) Original concurrent jurisdiction to grant
14 equitable relief in proceedings initiated by an agency
16 or the Department of the Attorney General alleging any
 violation of a license or of licensing laws or rules.

18 B. In a proceeding initiated pursuant to this subsection by
20 an agency or the Attorney General, the judge may subpoena
 and examine witnesses.

22 C. Notwithstanding any other provisions of law, a licensing
24 agency may not reinstate or otherwise affect a license
26 suspended, revoked or modified by the District Court
 pursuant to a complaint filed by the Attorney General
 without the approval of the Attorney General.

28 D. The District Court has jurisdiction to revoke
30 temporarily or suspend a license without notice or hearing
32 upon the verified complaint of an agency or the Attorney
34 General. An order temporarily suspending or revoking a
 license expires within 30 days of issuance unless renewed by
 the court after a hearing that it considers necessary.

36 This paragraph may not abridge or affect the jurisdiction of
38 the Superior Court to issue injunctive relief or to exercise
 other powers authorized by law or rule of the court.

40 E. After hearing, on default or by agreement of the
42 parties, a Judge of the District Court may suspend, revoke
44 or modify the license of a party properly served with
46 process or, if the applicable law so provides, the judge may
 order issuance of a license to an applicant according to the
 terms of the applicable law. The judge may take other
 action with relation to the party that may have been taken
 before July 1, 1978 by the agency involved in the hearing.

48 F. Notwithstanding any other provisions of this chapter, a
50 Judge of the District Court may impose a fine of a specific
52 sum that may not be less than \$50 nor more than \$1,500 for
 one offense or, in the exercise of judicial discretion,
 within other limits of the laws related to the licensing

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2 question. The fine may be imposed instead of or in addition
3 to a suspension, revocation or modification of a license by
4 the court. Section 1057 applies to a fine imposed by this
5 section.

6 The District Court shall maintain a record of all fines and
7 surcharges received by the court and shall pay the fines
8 into the General Fund of the State Treasury and the
9 surcharges into the Government Operations Surcharge Fund on
10 or before the 15th day of each month.

12 G. The Supreme Judicial Court may adopt rules providing for
13 the centralized filing and docketing of matters handled
14 before January 1, 1995 by the former Administrative Court.
15 Hearings on these matters may be held in any convenient
16 District Court location.

18 **Sec. B-6. 4 MRSA §153, sub-§3**, as amended by PL 1991, c. 121,
19 Pt. B, §1 and affected by §18, is further amended to read:

20
21 3. **Western Aroostook.** Western Aroostook consists of the
22 municipalities and unorganized territory known as Hamlin Plt.,
23 Cyr Plt., T17 R3, T17 R4, T16 R5, T15 R6, Winterville Plt., T15
24 R8, T15 R9, T14 R10, T14 R11, T14 R12, T14 R13, T14 R14, T14 R15,
25 T14 R16, and all municipalities and unorganized territory in
26 Aroostook County lying to the west and north of these. The
27 District Court for Western Aroostook must be held at Madawaska,
28 Fort Kent and Van Buren. The ~~presiding-judge~~ Chief Judge shall
29 determine the level of service at each location.

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31 **Sec. B-7. 4 MRSA §153, sub-§11**, as amended by PL 1969, c. 458,
32 is further amended to read:

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34 11. **Central Hancock.** Central Hancock consists of the entire
35 County of Hancock, except Bar Harbor, Mount Desert, Cranberry
36 Isles, Southwest Harbor, Trenton, Swan's Island, Long Island
37 Plantation and Tremont. The District Court for Central Hancock
38 shall must be held at Ellsworth, except that one session per week
39 may be held at Bucksport at the discretion of the ~~presiding-judge~~
40 Chief Judge.

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42 **Sec. B-8. 4 MRSA §157, sub-§1, ¶A**, as amended by PL 1989, c.
43 501, Pt. P, §2, is further amended to read:

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45 A. The Governor, subject to review by the joint standing
46 committee of the Legislature having jurisdiction over
47 judiciary and to confirmation by the Legislature, shall
48 appoint to the District Court ~~9-judges-at-large-and-16~~ 25
49 judges until January 1, 1995 and 26 thereafter. At least
50 one judge shall must be appointed in from each district who
51 shall ~~be~~ is a resident of the district, except that in
52 District 3 there shall must be 2 judges appointed who shall

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2 be are residents of the district; in District 6 there shall
3 must be 2 judges appointed who shall-be are residents of the
4 district; and in District 9 there shall must be 2 judges
5 appointed who shall-be are residents of the district. Each
6 District Court Judge shall-have has a term of office of 7
7 years.

8 To be eligible for appointment as a District Judge, a person
9 shall must be a member of the bar of the State. The term
10 "District Judge" shall-include includes the Chief Judge, and
11 Deputy Chief Judge, ~~the judges appointed from the districts~~
12 ~~and the judges at large.~~

13 **Sec. B-9. 4 MRSA §157, sub-§1, ¶B,** as amended by PL 1985, c.
14 506, Pt. B, §1, is further amended to read:

15 B. The Chief Justice of the Supreme Judicial Court shall
16 designate one of the judges as Chief Judge. The Chief
17 Judge, with the advise-~~and-consent~~ approval of the Chief
18 Justice of the Supreme Judicial Court, shall designate one
19 of the District Court Judges as Deputy Chief Judge who shall
20 have has all the duties, powers and responsibilities of the
21 Chief Judge when the Chief Judge is unable to perform them
22 because of illness, absence or disability.

23 **Sec. B-10. 4 MRSA §157-C,** as amended by PL 1983, c. 112, is
24 further amended to read:

25 **§157-C. Judge or Active Retired Judge of the District Court to**
26 **sit in Superior Court**

27 A Judge or an Active Retired Judge of the District Court ~~or~~
28 ~~Administrative-Court~~ may be assigned by the Chief Justice of the
29 Supreme Judicial Court to sit in the Superior Court in any
30 county, and when so directed he-~~shall-have~~ the judge has
31 authority and jurisdiction ~~therein in that Superior Court~~ as if
32 he the judge were a regular Justice of the Superior Court; and
33 whenever the Chief Justice of the Supreme Judicial Court ~~so~~
34 directs, he the judge may hear all matters and issue all orders,
35 notices, decrees and judgments that any Justice of the Superior
36 Court is authorized to hear and issue.

37 No A Judge or Active Retired Judge of the District Court ~~or~~
38 ~~Administrative-Court-so~~ sitting in the Superior Court shall may
39 not act in any case in which he that judge has sat in the
40 District Court ~~or-Administrative-Court~~ nor in which he that judge
41 otherwise has an interest.

42 The order of the Chief Justice of the Supreme Judicial Court
43 directing a Judge or an Active Retired Judge of the District
44 Court ~~or-Administrative-Court~~ to sit in the Superior Court shall
45 must be filed with the Executive Clerk of the Supreme Judicial
46 Court.

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2 Court, but need not be docketed or otherwise recorded in any case
heard by him that judge.

4 **Sec. B-11. 4 MRSA §157-E**, as enacted by PL 1989, c. 891, Pt.
A, §6, is repealed.

6 **Sec. B-12. 4 MRSA §164, sub-§1-A**, as amended by PL 1987, c.
8 758, §2, is further amended to read:

10 **1-A. Appoint bail commissioners.** Appoint bail
commissioners pursuant to Title 15, section 1023, for any
12 district ~~when the resident judge for that district, because of
illness, absence or disability, is unable to appoint;~~

14 **Sec. B-13. 4 MRSA §164, sub-§2**, as amended by PL 1977, c. 544,
16 §7, is further amended to read:

18 **2. Assign judges.** Assign judges ~~at-large~~ to hold court in
any division where, in ~~his~~ the judgment of the Chief Judge,
20 they are needed;

22 **Sec. B-14. 4 MRSA §164, sub-§5**, as amended by PL 1977, c. 544,
§8, is repealed.

24 **Sec. B-15. 4 MRSA §164, sub-§10** is amended to read:

26 **10. Courtroom facilities.** Make necessary arrangements for
proper courtroom facilities for all branches of the District
28 Court pursuant to section 162; establish ~~his own~~ headquarters
with appropriate facilities for the Chief Judge; and establish
30 quarters and facilities for the all District Court judges at
32 large;

34 **Sec. B-16. 4 MRSA §173, sub-§4**, as amended by PL 1991, c. 780,
Pt. X, §2, is further amended by amending the 3rd and 4th
36 paragraphs to read:

38 The court shall pay any municipality a flat fee of \$10 for each
day or part of a day that a municipal law enforcement officer,
40 designated by the municipality as its court officer, is required
to be physically present in a District Court in order to
42 adequately handle that municipality's caseload. In addition, the
court shall pay any municipality a flat fee of \$10 per day for
44 every day or part of a day, but no more than \$10 for any one day,
the municipality loses the services of one or more law
46 enforcement officers because the officer or officers are
performing some act authorized or required by a the Maine Rule
48 Rules of Criminal Procedure or are witnesses in a criminal or
traffic infraction case within the jurisdiction of the District
50 Court. A municipality is deemed considered to have lost the
services of a law enforcement officer when the officer, who
52 normally performs duties of patrolling or maintaining order, is

2 physically unable to perform those duties of patrolling and
maintaining order for the municipality.

4 The sheriffs of the several counties shall designate and furnish
deputy sheriffs to serve as bailiffs in each division of the
6 District Court within their counties, if so requested by the
Chief Judge. A deputy sheriff designated as bailiff must be
8 approved by the resident-judge Chief Judge and may not serve as a
court officer for any law enforcement agency.

10 **Sec. B-17. 4 MRSA §454, first ¶,** as amended by PL 1989, c. 925,
12 §1, is further amended to read:

14 There is established a Maine Criminal Justice Sentencing
Institute under the administrative supervision of the State Court
16 Administrator to provide a continuing forum for the regular
discussion of the most appropriate methods of sentencing
18 convicted offenders and adjudicated juveniles by judges in the
criminal justice system, prosecutors, law enforcement and
20 correctional personnel, representatives of advisory and advocacy
groups and such representatives of the defense bar as the chair
22 of the Judicial Council may invite. All Supreme Judicial Court,
Superior Court, and District Court ~~and--Administrative--Court~~
24 Judges, all District Attorneys and attorneys within the Criminal
Division of the Office of the Attorney General are, and such
26 other criminal justice personnel as the Judicial Council may
authorize, may be members of the institute.

28 **Sec. B-18. 4 MRSA §955-A,** as repealed and replaced by PL
30 1987, c. 573, §2, is amended to read:

32 **§955-A. Removal from office**

34 **1. Complaint by Secretary of State.** The Secretary of State
may file a complaint with the Administrative District Court to
36 have a notary public removed from office.

38 **2. Action by District Court.** If the Administrative
District Court, upon complaint by the Secretary of State, finds
40 that the notary public has performed in an improper manner any
duty imposed upon the notary public by law, or has performed acts
42 not authorized by law, the Administrative District Court may
remove the notary public from office.

44 **Sec. B-19. 4 MRSA c. 25,** as amended, is repealed.

46 **Sec. B-20. 5 MRSA §5304,** as amended by PL 1987, c. 402, Pt.
48 A, §54, is further amended to read:

50 **§5304. Appeals**

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Any person who is aggrieved by the decision of any licensing agency in possible violation of this chapter may file a statement of complaint with the Administrative Superior Court designated in chapter 375.

Sec. B-21. 5 MRSA §8002, sub-§7, ¶C, as enacted by PL 1977, c. 551, §3, is amended to read:

C. Any agency bringing a complaint to Administrative Court under section 10051.

Sec. B-22. 5 MRSA c. 375, sub-c.VI, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER VI

ADMINISTRATIVE PROCEEDINGS IN SUPERIOR AND DISTRICT COURT

Sec. B-23. 5 MRSA §10051, as amended by PL 1991, c. 824, Pt. A, §5, is further amended to read:

§10051. Administrative jurisdiction; retained powers of agency

1. **Jurisdiction.** Except as provided in section 10004; Title 8, section 279-B; Title 10, section 8003; Title 20-A, sections 10712 and 10713; Title 29; Title 32, chapters 105 and 114; and Title 35-A, section 3132, the Administrative District Court has exclusive jurisdiction upon complaint of any agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency and has original jurisdiction upon complaint of an agency to determine whether renewal or reissuance of a license of that agency may be refused.

2. **Complaining agency.** The complaining agency shall retain retains every other power granted to it by statute law or necessarily implied therein in the laws, except the power of revoking or suspending licenses issued by it. Such ~~retained~~ Retained powers shall include, but are not be limited to, the granting or renewing of licenses, the investigating and determining of grounds for the filing of a complaint under this section, and the prosecution of such those complaints.

3. **Appellate jurisdiction.** The Administrative Superior Court shall ~~have~~ has exclusive jurisdiction to review disciplinary decisions of occupational licensing boards and commissions taken pursuant to Title 10, section 8003. The ~~Maine Administrative Procedure Act, chapter 375, subchapter VII, shall govern~~ governs these proceedings as far as applicable, substituting ~~"Administrative Court" for "Superior Court."~~

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4. **Violations.** The Administrative District Court shall have has exclusive jurisdiction to hear complaints of the Public Utilities Commission for violations of Title 35-A, section 704.

Sec. B-24. 5 MRSA §18055, sub-§1, ¶C, as enacted by PL 1985, c. 801, §§5 and 7, is amended to read:

C. Justices of the Supreme Judicial Court and the Superior Court and Judges of the District Court and---the Administrative-Court; and

Sec. B-25. 10 MRSA §8003, sub-§5, as amended by PL 1991, c. 509, §2, is further amended by amending the last paragraph to read:

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter IV, and shall--be is subject to judicial review exclusively in--the Administrative--Court in accordance with Title 5, chapter 375, subchapter VII,--substituting the term--"Administrative Court"--for "Superior-Court," notwithstanding any other provision of law.

Sec. B-26. 14 MRSA §1901, as amended by PL 1993, c. 338, §1, is repealed and the following enacted in its place:

§1901. Superior Court; exceptions

1. Appeals from District Court to Superior Court. Except as provided in subsection 2 or by court rule, an appeal may be taken from the District Court to the Superior Court for the county embracing the division in which the judgment was rendered within 30 days after judgment. Within those 30 days, the appellant must pay to the court the required fees for the appeal and in that case no execution issues and the clerk may enter the appeal in the Superior Court as a new entry.

2. Exceptions. The following requirements apply to appeals from the District Court.

A. A party must appeal from a District Court judgment in an action of foreclosure and sale directly to the Supreme Judicial Court within 30 days of the judgment.

B. If all parties agree, a final appeal from civil matters, including family matters, originating in the District Court may be made to the Superior Court in lieu of a 2nd appeal to the Supreme Judicial Court.

Sec. B-27. 15 MRSA §603, as enacted by PL 1991, c. 402, §2, is amended to read:

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§603. Warrant repository

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The district attorney of each court district shall designate, with the approval of the ~~resident~~ Chief Judge of the District Court Judge, at least one law enforcement agency that is responsible for the maintenance, administration and retention of attested copies of arrest warrants issued by the courts. If a court district encompasses more than one prosecutorial district, the respective district attorneys shall attempt to agree on the designation of an arrest warrant repository. If the district attorney of a court district fails to designate an arrest warrant repository or the district attorneys are unable to agree to the designation of an arrest warrant repository for a court district, the Attorney General shall make the designation for that court district. The district attorney or attorneys shall notify the District Court and the Superior Court of the location of the arrest warrant repository for arrest warrants in the jurisdiction covered by those courts. All attested copies of arrest warrants issued by the District Court and the Superior Court must be directed to the arrest warrant repository designated for those courts except as otherwise provided by this chapter or by the standards adopted by rule of the Attorney General pursuant to this chapter. The district attorney of each court district shall designate, with the approval of the resident District Court Judge, at least one law enforcement agency that is responsible for the maintenance, administration and retention of attested copies of arrest warrants issued by the courts. If a court district encompasses more than one prosecutorial district, the respective district attorneys shall attempt to agree on the designation of an arrest warrant repository. If the district attorney of a court district fails to designate an arrest warrant repository or the district attorneys are unable to agree to the designation of an arrest warrant repository for a court district, the Attorney General shall make the designation for that court district. The district attorney or attorneys shall notify the District Court and the Superior Court of the location of the arrest warrant repository for arrest warrants in the jurisdiction covered by those courts. All attested copies of arrest warrants issued by the District Court and the Superior Court must be directed to the arrest warrant repository designated for those courts except as otherwise provided by this chapter or by the standards adopted by rule of the Attorney General pursuant to this chapter.

46 Sec. B-28. 15 MRSA §1003, sub-§2, as enacted by PL 1987, c. 758, §20, is amended to read:

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2. Court. "Court" means any Justice of the Supreme Judicial Court or Superior Court or any ~~active-retired-justice~~ Active Retired Justice and any District Court Judge or ~~active-retired judge, or any Administrative Court Judge or active-retired judge~~

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Active Retired Judge when assigned under Title 4, section 157-C
er-1158.

Sec. B-29. 15 MRSA §1023, sub-§2, as enacted by PL 1987, c.
758, §20, is amended to read:

2. Appointment. The District Court Judge resident in each
district, with the concurrence of the Chief Judge of the District
Court, may appoint one or more residents of the each district as
bail commissioners. A bail commissioner shall serve serves at
the pleasure of the District Court Judge resident in the district
of the Chief Judge of the District Court, but no term for which a
bail commissioner is appointed may exceed 5 years. The District
Court Judge or the Chief Judge of the District Court shall
require bail commissioners to complete the necessary training
requirements set out in this section. Bail commissioners have
the powers of notaries public to administer oaths or affirmations
in carrying out their duties.

Sec. B-30. 15 MRSA §3203-A, sub-§6, as enacted by PL 1985, c.
439, §9, is amended to read:

6. Availability of judges. The Chief Judge of the District
Court shall provide that a Juvenile Court Judge, not necessarily
a judge of the division where a juvenile is being held, is
available to preside at the detention hearing, described in
subsection 5, on all days except Saturdays, Sundays and legal
holidays.

Sec. B-31. 15 MRSA §5822, sub-§6, as amended by PL 1987, c.
736, §26, is further amended by amending the first paragraph to
read:

6. Preliminary process. Any Justice of the Supreme
Judicial Court or the Superior Court, Judge of the District Court
or Judge of the Administrative Court or justice of the peace may
issue, at the request of the attorney for the State, ex parte,
any preliminary order or process as is necessary to seize or
secure the property for which forfeiture is or will be sought and
to provide for its custody. That order may include an order to a
financial institution or to any fiduciary or bailee to require
the entity to impound any property in its possession or control
and not to release it except upon further order of the court.
Process for seizure of the property shall issue issues only upon
a showing of probable cause that the property is subject to
forfeiture under section 5821. The application for process and
the issuance, execution and return of process shall be are
subject to applicable state law. Any property subject to
forfeiture under this section may be seized upon process, except
that seizure without the process may be made when:

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2 **Sec. B-32. 22 MRSA §2040**, as amended by PL 1981, c. 470, Pt. A, §81, is further amended to read:

4 **§2040. Appeal**

6 Any person aggrieved by a decision of the department or the
7 commission may appeal ~~to the Administrative Court Judge~~ under
8 Title 5, chapter 375.

10 **Sec. B-33. 32 MRSA §10015, last ¶**, as enacted by PL 1989, c. 845, §14, is amended to read:

12 The jurisdiction to suspend or revoke certificates conferred
14 by this section is concurrent with that of the Administrative
15 District Court. Civil penalties accrue to the Ground Water Oil
16 Clean-up Fund. Any nonconsensual action under subsection 2-A
17 taken under authority of this section may be imposed only after a
18 hearing conforming to the requirements of Title 5, chapter 375,
19 subchapter IV, and is subject to judicial review exclusively in
20 the ~~Administrative Court~~ in accordance with Title 5, chapter 375,
21 subchapter VII, ~~substituting the term "Administrative Court" for~~
22 ~~"Superior Court,"~~ notwithstanding any other provision of law.

24 **Sec. B-34. 32 MRSA §13068, sub-§3**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

26 **3. Appeals.** Appeals from decisions of the commission shall
28 be are to the Administrative Superior Court. Appeals shall must
29 be based on questions of law. The procedure for appeals under
30 this section ~~shall be as is~~ provided in the Maine Administrative
31 Procedure Act, Title 5, chapter 375, subchapter VII, ~~except that~~
32 ~~for purposes of this section, all references to the Superior~~
33 ~~Court shall be construed as references to the Administrative~~
34 ~~Court. Further appeal shall be directly to the Law Court.~~

36 **Sec. B-35. PL 1993, c. 401, §5** is amended to read:

38 **Sec. 5. Family court project continuation and expansion.** The
39 family court project established pursuant to Public Law 1989,
40 chapter 891, Part A, section 12 may be continued and expanded
41 into other geographic areas with large numbers of family law
42 cases as well as in other areas determined appropriate. The
43 current jurisdiction of the Superior Court, and District Court
44 ~~and Administrative Court~~ is not altered to ensure access. In
45 those areas in which the family court project exists or into
46 which the project is expanded, it must be structured as the
47 Family Court Division of the District Court, and Superior Court
48 ~~and Administrative Court~~. The Chief Justice of the Supreme
49 Judicial Court shall designate one judge or justice from the
50 Superior Court, or District Court ~~or Administrative Court~~ to
51 direct the project. The Chief Justice or the designated judge or
52 justice shall convene a preliminary planning committee on the

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development of a nonadversarial administrative forum that includes social services for family matters. The designated judge or justice shall report to the Joint Standing Committee on Judiciary by January 15, 1994 1995, and annually thereafter, and shall make a final report concerning the family court project by January 15, 1999.

Sec. B-36. Salaries and titles of District Court Judges and Superior Court Justices. The Supreme Judicial Court shall develop a plan to equalize the salaries of District Court Judges and Superior Court Justices. The plan must provide for equal salaries by July 1, 1998, but the salaries of Superior Court Justices may not be frozen and cost-of-living adjustments may not be delayed for the purpose of equalizing salaries. The Supreme Judicial Court shall also develop a plan to provide by July 1, 1998 appropriate titles for District Court Judges and Superior Court Justices. The Supreme Judicial Court shall present the 2 plans to the Joint Standing Committee on Judiciary by January 31, 1995. The presentation must include comments and considerations, fiscal information and draft legislation regarding the implementation and completion of the equalization of salaries and titles.

Sec. B-37. Administrative Court transition provisions. The following provisions apply to the reassignment of the duties and responsibilities of the Administrative Court as of January 1, 1995.

1. The District Court is the successor in every way to the jurisdiction, powers, duties and functions of the Administrative Court, except that appeals of any court, agency or licensing board decision that are heard by the Administrative Court as of December 31, 1994 are transferred to the Superior Court.

2. References in the Maine Revised Statutes to actions taken by the District Court or a District Court Judge include actions within the jurisdiction of the Administrative Court taken by the Administrative Court or an Administrative Court Judge before January 1, 1995.

3. Notwithstanding the provisions of the Maine Revised Statutes, Title 5, all accrued expenditures, assets, liabilities, balances or appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the Administrative Court must be transferred to the proper accounts by the State Court Administrator.

4. All contracts, agreements and compacts in effect on the effective date of this section in the Administrative Court remain in effect.

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2 5. The individual holding the position of Associate
3 Administrative Court Judge and designated by the Chief Justice of
4 the Supreme Judicial Court to direct the family court project is
5 transferred into the new Superior Court Justice position created
6 by this Act for the remainder of the term for which that
7 individual was nominated and confirmed as Associate
8 Administrative Court Judge. The individual holding the position
9 of Administrative Court Judge is transferred into the new
10 District Court Judge position created by this Act for the
11 remainder of the term for which that individual was nominated and
12 confirmed as Administrative Court Judge. The individual
13 designated as an Active Retired Administrative Court Judge is
14 designated as an Active Retired District Court Judge for the
15 remainder of the term for which that individual was nominated and
16 confirmed as Active Retired Administrative Court Judge.

17 6. The positions of Administrative Court Judge, Associate
18 Administrative Court Judge and Active Retired Administrative
19 Court Judge are abolished.

20 7. All records, property and equipment previously belonging
21 to or allocated for the use of the Administrative Court are
22 transferred to the District Court.

23 8. The dissolution of the Administrative Court does not
24 affect eligibility in the retirement system of any Administrative
25 Court Judge, Associate Administrative Court Judge, Active Retired
26 Administrative Court Judge or other Administrative Court
27 personnel.

28 9. The Chief Justice of the Maine Supreme Judicial Court
29 shall develop a plan to implement a centralized filing and
30 docketing system in the District Court and Superior Court for
31 cases that would have been within the jurisdiction of the
32 Administrative Court before its abolition. The plan must provide
33 for assignment of judges and justices to make maximum use of the
34 available expertise and resources in order to process cases in a
35 manner providing as close to the same level of service as
36 provided by the Administrative Court before January 1, 1995.

37 **Sec. B-38. Maine Revised Statutes amended; revision clause;**
38 **Administrative Court.** Except as expressly amended in this Act,
39 wherever in the Maine Revised Statutes the words "Administrative
40 Court" and "Administrative Court Judge" and "Associate
41 Administrative Court Judge" appear or reference is made to those
42 words, they are amended to read and mean "District Court" and
43 "District Court Judge" and the Revisor of Statutes shall
44 implement this revision when updating, publishing or republishing
45 the laws.

46 **Sec. B-39. Resident judge and Judge-at-Large; transition clause.**
47 Each District Court Resident Judge serves as a District
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2 Court Judge for the remainder of the term for which that
individual was nominated and confirmed as a District Court
4 Resident Judge. Each District Court Judge-at-Large serves as a
District Court Judge for the remainder of the term for which that
6 individual was nominated and confirmed as a District Court
Judge-at-Large.

8 **Sec. B-40. Effective dates.** The sections of this Part enacting,
amending or repealing the following elements of the Maine Revised
10 Statutes are effective January 1, 1995:

- 12 1. Title 4, section 9-B;
- 14 2. Title 4, section 101;
- 16 3. Title 4, section 105;
- 18 4. Title 4, section 121;
- 20 5. Title 4, section 152, subsection 9;
- 22 6. Title 4, section 157, subsection 1, ¶A;
- 24 7. Title 4, section 157-C;
- 26 8. Title 4, section 157-E;
- 28 9. Title 4, section 454, first paragraph;
- 30 10. Title 4, section 955-A;
- 32 11. Title 4, chapter 25;
- 34 12. Title 5, section 5304;
- 36 13. Title 5, section 8002, subsection 7, paragraph C;
- 38 14. Title 5, chapter 375, subchapter VI, first 2 lines;
- 40 15. Title 5, section 10051;
- 42 16. Title 5, section 18055, subsection 1, paragraph C;
- 44 17. Title 10, section 8003, subsection 5, last paragraph;
- 46 18. Title 15, section 1003, subsection 2;
- 48 19. Title 15, section 5822, subsection 6, first paragraph;
- 50 20. Title 22, section 2040;
- 52 21. Title 32, section 10015, last paragraph;

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2 22. Title 32, section 13068, subsection 3; and

4 23. Public Law 1993, chapter 401, section 5.

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PART C

8

10 Sec. C-1. 4 MRSA §§15 and 16, as enacted by PL 1975, c. 408,
§5-A, are amended to read:

12 §15. Administrative Office of the Courts; appointment of State
14 Court Administrator

16 There shall-be is an Administrative Office of the Courts,
18 directed by a State Court Administrator who shall-be is appointed
20 by and serve serves at the pleasure of the Chief Justice of the
22 Supreme Judicial Court. Said--administrater The State Court
Administrator shall devote full time to his the official duties
of this position to the exclusion of any profession for profit.
The State Court Administrator must have experience and skills in
leadership, management, planning and administration.

24 §16. Assistants and employees of State Court Administrator

26 With the approval of the Chief Justice and within the limits
28 of appropriations made therefor, the State Court Administrator
30 may appoint such assistants and other employees and purchase or
32 lease such equipment, services and facilities as-may-be needed
for the performance of the duties of said the administrator. All
administrative personnel in the Judicial Department are
supervised by the State Court Administrator.

34 These personnel shall must have qualifications as prescribed
36 by the Supreme Judicial Court.

38 Sec. C-2. 4 MRSA §17, first ¶, as enacted by PL 1975, c. 408,
§5-A, is amended to read:

40 The State Court Administrator under, subject to the
42 supervision and direction of the Chief Justice of the Supreme
44 Judicial Court, is responsible for administration and management
of the court system. The State Court Administrator shall:

46 Sec. C-3. 4 MRSA §17, sub-§1, as enacted by PL 1975, c. 408,
§5-A, is amended to read:

48 1. Continuous survey and study. Carry on a continuous
50 survey and study of the organization, operation, condition of
52 business, practice and procedure of the Judicial Department and
The State Court Administrator shall make recommendations to
the Chief Justice to improve administration and management of the

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2 court system, including recommendations concerning the number of
4 judges and other judicial personnel required for the efficient
6 administration of justice,---Assist--in--long--and--short--range
8 planning;

6 **Sec. C-4. 4 MRSA §17, sub-§1-A is enacted to read:**

8 1-A. Long-range planning. Develop and recommend to the
10 Chief Justice long-range plans for the Judicial Department and
12 operations of the courts;

12 **Sec. C-5. 4 MRSA §17, sub-§7, ¶C, as enacted by PL 1975, c.**
14 **408, §5-A, is amended to read:**

16 C. Prepare budget estimates and submissions of state
18 appropriations necessary for the maintenance and operation
20 of the Judicial Department and make appropriate
22 recommendations ~~with-respect-thereeto~~;

20 **Sec. C-6. 4 MRSA §17, sub-§7, ¶¶D and E, as amended by PL 1983,**
22 **c. 269, §§3 and 9, are further amended to read:**

24 D. Collect statistical and other data and make reports to
26 the Chief Justice, to the Chief Justice of the Superior
28 Court and to the Chief Judge of the District Court relating
30 to the expenditures of public ~~moneys~~ money for the
32 maintenance and operation of the Judicial Department; and

34 E. Develop a uniform set of accounting and budgetary
36 accounts, based on generally accepted fiscal and accounting
38 procedures, for the Supreme Judicial Court, for the Superior
40 Court and for the District Court and serve as auditor of the
42 Judicial Department;

36 **Sec. C-7. 4 MRSA §17, sub-§15, as amended by PL 1991, c. 885,**
38 **Pt. E, §3 and affected by §47, is further amended to read:**

38 **15. Provide for court security.** Plan and implement
40 arrangements for safe and secure court premises to ensure the
42 orderly conduct of judicial proceedings. This includes the
44 authority to contract for the services of qualified deputy
46 sheriffs and other qualified individuals as needed on a per diem
48 basis to perform court security-related functions and services.
50 "Qualified deputy sheriffs and other qualified individuals" means
52 those individuals who hold valid certification as law enforcement
officers, as defined by the Maine Criminal Justice Academy,
pursuant to Title 25, chapter 341, to include successful
completion of such additional training in court security as
provided by the academy or equivalent training. When under such
that contract and then only for the assignment specifically
contracted for, the qualified deputy sheriffs or other qualified
individuals have the same duties and powers throughout the

counties of the State as sheriffs have in their respective
2 counties. Qualified deputy sheriffs performing these contractual
3 services continue to be employees of the counties in which they
4 are deputized. Other qualified individuals performing such these
5 contractual services may not be considered employees of the State
6 for any purpose, ~~provided that~~ as long as the other qualified
7 individuals are treated as employees of the State for purposes of
8 the Maine Tort Claims Act and the Maine Workers' Compensation Act
9 of 1992. They must be paid a reasonable per diem fee plus
10 reimbursement of their actual, necessary and reasonable expenses
11 incurred in the performance of their duties, consistent with
12 policies established by the State Court Administrator.
13 Notwithstanding any other provision of law, such the plans,
14 arrangements and files involving court security matters are
15 confidential. Nothing in this section precludes dissemination of
16 such that information to another criminal justice agency.

18 In addition to the foregoing authority, the State Court
19 Administrator may employ other qualified individuals to perform
20 court security-related functions and services. These employees
21 must have a valid certification as law enforcement officers, as
22 defined by Title 25, chapter 341, including successful completion
23 of additional training in court security as provided by the Maine
24 Criminal Justice Academy or equivalent training and, when on
25 assignment for court security functions, have the same powers and
26 duties throughout the counties of the State as sheriffs have in
27 their respective counties. These individuals are state employees
28 for all purposes; and

30 **Sec. C-7. 4 MRSA §17, sub-§16**, as enacted by PL 1991, c. 622,
31 Pt. L, §6, is amended to read:

32 **16. Report on out-of-state travel.** Submit to the joint
33 standing committee of the Legislature having jurisdiction over
34 appropriations and financial affairs a quarterly report on
35 out-of-state travel activity of the Judicial Department. The
36 report must be submitted within 15 days after the end of each
37 quarter and must include, for each individual who has been
38 authorized to travel, the destination, purpose and cost by
39 funding source of each trip; and

42 **Sec. C-7. 4 MRSA §17, sub-§17** is enacted to read:

44 **17. Statement of fiscal effect on judicial system.** Apply
45 the following requirements when the State Court Administrator
46 prepares statements pertaining to the impact that executive
47 orders and proposed legislation have upon judicial system
48 resources, including the cost or savings to the judicial system.

50 A. The State Court Administrator shall furnish the
51 statements to the legislative staff office designated to
52 collect and assemble fiscal information for use of

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legislative committees under Title 3, section 163-A, subsection 10 and to:

(1) The Governor for judicial impact statements on executive orders; and

(2) The appropriate committee of the Legislature for the information of its members for proposed legislation.

B. The statement on a particular executive order prepared by the State Court Administrator must be included in the executive order if the executive order has a fiscal impact on the judicial system, as determined by the State Court Administrator.

C. The statement on proposed legislation prepared by the State Court Administrator must be considered in the preparation of the fiscal note included in a committee amendment or other amendment if the legislation or amendment has a fiscal impact on the judicial system, as determined by the State Court Administrator.

Sec. C-8. 4 MRSA §24, as amended by PL 1983, c. 269, §§6 and 9, is further amended to read:

§24. Operating budgets

The State Court Administrator shall, subject to the approval of the Chief Justice, prepare biennially a consolidated operating budget for all courts in the State to be known as the Judicial Department operating budget. ~~He shall~~ The administrator may be assisted in this task by the Chief Justice of the Superior Court and the Chief Judge of the District Court.

The State Court Administrator shall prepare the consolidated court budget according to procedures prescribed by the State Budget Officer. Budget requests and other additional information as requested shall must be transmitted to the State Budget Officer on or before September 1st of the even--numbered even-numbered years. The Governor shall include in the budget submission the judicial budget without revision, in accordance with Title 5, section 1664, but with such recommendations as ~~he~~ may-deem the Governor considers proper.

The State Court Administrator, subject to the approval of the Chief Justice, shall prescribe the financial management procedures to be used in all courts of the Judicial Department.

Sec. C-9. 5 MRSA §1664, last ¶ is enacted to read:

If the Governor submits legislation setting forth appropriations or allocations for the Judicial Department that

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2 differ from the full budget request submitted by the Judicial
3 Department under Title 4, section 24, the Governor shall
4 simultaneously submit a report to the joint standing committees
5 of the Legislature having jurisdiction over appropriations and
6 financial affairs and judiciary matters explaining why the
7 Governor's budget legislation differs from the Judicial
8 Department's budget submission.

9 **Sec. C-10. 5 MRSA Pt. 27 is enacted to read:**

10 **PART 27**

11 **INTERBRANCH COMMUNICATION AND COORDINATION**

12 **CHAPTER 555**

13 **INTERBRANCH COMMUNICATION AND COORDINATION**

14 **§21201. Findings**

15 The Legislature finds that difficulties in interactions
16 among the Executive Department, the Legislature and the Judicial
17 Department often arise from the lack of understanding of the
18 functions, structures, needs and perspectives of the 3 separate
19 but coequal branches of government. Increased communication and
20 coordination in daily activities as well as in long-range
21 planning are possible to improve the effectiveness and efficiency
22 of all 3 branches without the imposition of the views or
23 directions of one or 2 branches upon another.

24 **§21202. Interbranch forum**

25 1. Annual interbranch forum. Beginning in February 1995
26 and at least every year thereafter, the Chief Justice of the
27 Supreme Judicial Court, the Governor, the President of the Senate
28 and the Speaker of the House of Representatives shall jointly
29 convene an interbranch forum.

30 2. Purpose of forum. The purpose of the interbranch forum
31 is to provide for discussions among the top policymakers from
32 each branch of government to address the need for cooperation and
33 coordination at all levels. Topics to be discussed may include,
34 but are not limited to:

35 A. An integrated system of communication;

36 B. A technology plan;

37 C. Long-range planning; and

38 D. The allocation and use of resources.

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2 3. More frequent forums. Representatives of the 3 branches
may convene a forum as often as they determine it is appropriate.

4 4. Expenses. Each branch absorbs the expenses for
convening and holding interbranch forums within the general
6 operating budgets for each department.

8
10 **PART D**

12 **Sec. D-1. 5 MRSA §8001**, as reallocated by PL 1977, c. 696,
§48, is further amended to read:

14 **§8001. Short title**

16 This chapter ~~and Title 4, chapter 25~~ shall along with the
18 administrative provisions of Title 4, section 105 and Title 4,
section 152, subsection 9 may be known and may be cited as the
20 "Maine Administrative Procedure Act."

22 **Sec. D-2. 7 MRSA §1456**, as repealed and replaced by PL 1977,
c. 694, §118, is amended to read:

24 **§1456. Cancellation of permit**

26 The permit to operate the sales rings may be canceled by the
28 Administrative District Court pursuant to Title 4, ~~chapter 25~~
section 152, subsection 9.

30 **Sec. D-3. 7 MRSA §2955, 4th ¶**, as amended by PL 1977, c. 694,
§141, is further amended to read:

32 The Administrative District Court as designated by Title 4,
34 ~~chapter 25~~ section 152, subsection 9 may, upon proper evidence,
36 decline to grant a license or may suspend or revoke a license
38 already granted upon due notice and after hearing. Violation of
40 this chapter or of any order, rule or regulation made, or
conviction of violating any other law or regulation of the State
relating to the production, distribution and sale of milk, shall
be is sufficient cause to suspend, revoke or withhold such the
license.

42 **Sec. D-4. 7 MRSA §3991, sub-§2, ¶D**, as enacted by PL 1987, c.
44 383, §3, is amended to read:

46 D. If the board concludes that suspension or revocation of
48 the license is in order, shall file a complaint in the
Administrative District Court in accordance with Title 4,
50 ~~chapter 25~~ section 152, subsection 9.

52 **Sec. D-5. 8 MRSA §271, sub-§1**, as amended by PL 1991, c. 579,
§10, is further amended to read:

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2 1. **Licensing.** If the commission is satisfied that all of
 4 this chapter and rules prescribed by the commission have been
 6 substantially complied with during the past year and will be
 8 fully complied with during the coming year by the person,
 10 association or corporation applying for a license; that the
 12 applicant, its members, directors, officers, shareholders,
 14 employees, creditors and associates are of good moral character;
 16 that the applicant is financially responsible; and that the award
 18 of racing dates to the applicant is appropriate under the
 20 criteria contained in subsection 2, it may issue a license for
 22 the holding of harness horse races or meets for public exhibition
 24 with pari-mutuel pools, which ~~must--expire~~ expires on December
 26 31st. The commission shall set licensing and license renewal
 28 fees sufficient to carry out the administration and enforcement
 30 of the licensing program. These fees may not exceed annually the
 32 greater of \$100 or \$10 for each calendar week or part of a week
 34 of harness racing regardless of whether pari-mutuel pools are
 36 sold. The commission shall provide a booklet containing harness
 38 racing laws and rules and relevant portions of the Maine
 40 Administrative Procedure Act to every initial licensee and a fee
 42 not to exceed \$10 must be included in the license fee to cover
 44 the cost of this publication. The commission shall provide
 46 necessary revisions of this booklet to those persons renewing
 licenses at the time of renewal and shall include the cost of the
 revisions, not to exceed \$10, in the renewal fee. The license
 must set forth the name of the licensee, the place where the
 races or race meets are to be held and the specific dates and
 time of day or night during which racing may be conducted by the
 licensee. The location stated in the license where the race or
 race meet is to be held may be transferred to any other licensee
 on the dates set forth in the license during which the racing may
 be conducted, but, with respect to that transfer, the transfer
 may only be made to another licensee and the licensee is liable
 for compliance with all laws and regulations governing the
 conduct of harness racing. Any such license issued is not
 transferable or assignable. The Administrative District Court
 Judge, as designated in Title 4, ~~chapter--25~~ section 152,
subsection 9, may revoke any license issued at any time for
 violation of the commission's rules or licensing provisions upon
 notice and hearing. The license of any corporation is
 automatically revoked, subject to Title 5, chapter 375, upon the
 change in ownership, legal or equitable, of 50% or more of the
 voting stock of the corporation and the corporation may not hold
 a harness horse race or meet for public exhibition without a new
 license.

48 **Sec. D-6. 12 MRSA §6371, sub-§3,** as enacted by PL 1977, c.
 50 661, §5, is amended to read:

52 **3. Suspension for violations.** Violation of any section of
 marine resources' laws shall-be is grounds for suspension of any

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and all licenses or certificates issued under this Part. In order to suspend a license or certificate for a violation, the commissioner shall follow the procedures for license suspension or revocation in the Administrative District Court, as provided under Title 4, ~~chapter-25~~ section 152, subsection 9.

Sec. D-7. 12 MRSA §6373, first ¶, as enacted by PL 1977, c. 661, §5, is amended to read:

In order to suspend a license or certificate for refusal to allow a shellfish inspection or for violation of shellfish sanitation regulations, the commissioner shall follow the procedures for license suspension or revocation in the Administrative District Court, as provided under Title 4, ~~chapter 25~~ section 152, subsection 9. The suspension for these reasons shall ~~be~~ is a summary action necessary to prevent an immediate threat to the public health, safety and welfare and shall ~~must~~ be an emergency proceeding under Title 4, section 1153.

Sec. D-8. 12 MRSA §8833, sub-§2, as enacted by PL 1979, c. 545, §3, is amended to read:

2. Revocation. The director may revoke, suspend or refuse to renew any registration of any mill for violation of sections 8830 and 8831 under the authority granted in Title 5, section 10004. The Administrative District Court, acting pursuant to Title 4, ~~chapter-25~~ section 152, subsection 9, may revoke the registration granted to any mill for violation of sections 8830 and 8831 for a period not to exceed 2 years, after which time the mill may make application for reinstatement as a registered mill.

Sec. D-9. 12 MRSA §9321, sub-§2, as repealed and replaced by PL 1983, c. 504, §2, is amended to read:

2. Revocation. The director or ~~his~~ the director's delegate may revoke any permit during a period of high forest fire danger or any permit which that results in creation of a nuisance condition without compliance with the provisions of Title 4, ~~chapter-25~~ section 152, subsection 9 or Title 5, chapter 375.

Sec. D-10. 12 MRSA §9322, sub-§3, as amended by PL 1985, c. 108, §6, is further amended to read:

3. Resident guides. On application to the director, a statewide yearly permit for out-of-door fires shall must be issued to resident guides licensed by the Department of Inland Fisheries and Wildlife. The director may restrict the scope of a permit to correspond with the classification of the guide license. Use of the permit shall ~~be~~ is conditional upon such the guides notifying a forest ranger in person or by telephone each time they enter an area to guide a party. ~~Wherever~~ The director shall revoke the permit of any person who violates this

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subsection shall have his permit revoked by the director, when, in taking this action, the director need not comply with the provisions of Title 4, ~~chapter 25~~ section 152, subsection 9 and Title 5, chapter 375.

Sec. D-11. 13-A MRSA §1210, sub-§1, as amended by PL 1989, c. 501, Pt. L, §19, is further amended by amending the first paragraph to read:

1. Notwithstanding Title 4, ~~chapter 25~~ section 152, subsection 9, and Title 5, chapter 375, the authority of a foreign corporation to do business in this State may be revoked by the Secretary of State, as provided by subsections 2 and 3 when:

Sec. D-12. 13-A MRSA §1302, sub-§1, as amended by PL 1991, c. 780, Pt. U, §7, is further amended to read:

1. A corporation required to deliver an annual report for filing as provided by section 1301 that fails to deliver its properly completed annual report to the Secretary of State shall pay, in addition to the regular annual report fee, the sum of \$25, providing the report is received by the Secretary of State prior to revocation or suspension. Upon failure to file the annual report and to pay the annual report fee or the penalty, the Secretary of State, notwithstanding Title 4, ~~chapter 25~~ section 152, subsection 9 and Title 5, chapter 375, shall revoke a foreign corporation's authority to do business in this State and suspend a domestic corporation from doing business. The Secretary of State shall use the procedures set forth in section 1210, relative to revoking the right of foreign corporations to do business in this State, for suspending domestic corporations. A foreign corporation whose authority to do business in this State has been revoked under this subsection that wishes to do business again in this State must be authorized as provided in section 1202. A domestic corporation that has been suspended under this subsection may be reinstated by filing the current annual report, together with the current annual filing fee, and by paying the sum of \$125 for each year the corporation failed to file an annual report.

Sec. D-13. 13-B MRSA §1302, sub-§1, as repealed and replaced by PL 1993, c. 349, §36, is amended to read:

1. **Failure to file annual report.** Any corporation that is required to deliver an annual report for filing, as provided by section 1301, and fails to deliver its properly completed annual report to the Secretary of State, shall pay the sum of \$10 for each failure to file on time. Upon failure to file the annual report and to pay the annual report fee and the penalty, the Secretary of State, notwithstanding Title 4, ~~chapter 25~~ section 152, subsection 9 and Title 5, chapter 375, shall revoke a

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2 foreign corporation's authority to carry on activities in this
3 State and suspend a domestic corporation from carrying on
4 activities. The Secretary of State shall use the procedures set
5 forth in section 1210, relative to revoking the right of foreign
6 corporations to carry on activities in this State, for suspending
7 domestic corporations. A foreign corporation whose authority to
8 carry on activities in this State has been revoked under this
9 subsection that wishes to carry on activities again in this State
10 must be authorized as provided in section 1202. A domestic
11 corporation that has been suspended under this subsection may be
12 reinstated by filing the current annual report and by paying the
13 penalty accrued.

14 **Sec. D-14. 22 MRSA §1471-D, sub-§7, ¶D,** as enacted by PL 1977,
15 c. 694, §339, is amended to read:

16 D. This subsection shall ~~is~~ is not be governed by the
17 provisions of Title 4, ~~chapter-25~~ section 152, subsection 9
18 or Title 5, chapter 375.

20 **Sec. D-15. 22 MRSA §1471-D, sub-§8,** as amended by PL 1983, c.
21 819, Pt. A, §49, is further amended by amending the first
22 paragraph to read:

24 **8. Revocation.** The Administrative District Court may
25 suspend or revoke the certification or license of a licensee or
26 certificate holder upon a finding that the applicant:

28 **Sec. D-16. 30-A MRSA §4451, sub-§6,** as amended by PL 1991, c.
29 163, is further amended to read:

32 **6. Certification; terms; revocation.** The office shall
33 certify individuals as to their competency to successfully
34 enforce ordinances and other land use regulations and permits
35 granted under those ordinances and regulations and shall issue
36 certificates attesting to the competency of those individuals to
37 act as code enforcement officers. Certificates are valid for 5
38 years unless revoked by the Administrative District Court. An
39 examination is not required for recertification of code
40 enforcement officers. The office shall recertify a code
41 enforcement officer if the code enforcement officer successfully
42 completes at least 12 hours of approved training in each area of
43 job responsibility during the 5-year certification period.

44 **A.** The Administrative District Court may revoke the
45 certificate of a code enforcement officer, in accordance
46 with Title 4, ~~chapter-25~~ section 152, subsection 9, when it
47 finds that:

- 50 (1) The code enforcement officer has practiced fraud
51 or deception;

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2 (2) Reasonable care, judgment or the application of a
duly trained and knowledgeable code enforcement
4 officer's ability was not used in the performance of
the duties of the office; or

6 (3) The code enforcement officer is incompetent or
unable to perform properly the duties of the office.

8
10 B. Code enforcement officers whose certificates are
invalidated under this subsection may be issued new
12 certificates provided that they are newly certified as
provided in this section.

14 **Sec. D-17. 31 MRSA §498, sub-§2, ¶A,** as amended by PL 1991, c.
16 780, Pt. U, §28, is further amended to read:

18 A. Notwithstanding Title 4, ~~chapter--25~~ section 152,
subsection 9 and Title 5, chapter 375, the authority of a
20 foreign limited partnership to do business in this State may
be revoked by the Secretary of State as provided in
22 paragraphs C and D when:

24 (1) The foreign limited partnership fails to deliver
its annual report for filing within the time specified
26 by this chapter or fails to pay any fees or penalties
as prescribed by this chapter when they become due and
payable;

28 (2) The foreign limited partnership fails to appoint
30 and maintain a registered agent in this State as
required by section 494;

32 (3) The foreign limited partnership fails, after change
34 of its registered office or registered agent, to file
with the Secretary of State a statement of the change
36 required by section 494;

38 (4) The foreign limited partnership has failed to file
40 with the Secretary of State an amended application for
authority required by section 495; or

42 (5) A misrepresentation of a material fact is made in
44 any application, report, affidavit or other document
required by this chapter.

46 **Sec. D-18. 31 MRSA §530, sub-§1,** as enacted by PL 1991, c.
48 780, Pt. U, §33, is amended to read:

50 1. **Failure to file annual report.** A limited partnership
required to deliver an annual report for filing as provided by
52 section 529 that fails to deliver its properly completed annual
report to the Secretary of State shall pay, in addition to the

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2 regular annual report fee, the sum of \$25, providing the report
is received by the Secretary of State prior to revocation or
4 suspension of the limited partnership. Upon failure to file the
annual report and to pay the annual report fee or the penalty,
6 the Secretary of State, notwithstanding Title 4, ~~chapter--25~~
section 152, subsection 9 and Title 5, chapter 375, shall revoke
8 a foreign limited partnership's authority to do business in this
State and suspend a domestic limited partnership from doing
10 business. The Secretary of State shall use the procedures set
forth in section 498, subsection 2, relative to revoking the
12 right of foreign limited partnerships to do business in this
State, for suspending domestic limited partnerships. A foreign
14 limited partnership whose authority to do business in this State
has been revoked under this subsection that wishes to do business
16 again in this State must be authorized as provided in section
492. A domestic limited partnership that has been suspended
18 under this subsection may be reinstated by filing the current
annual report together with the current annual filing fee and by
20 paying the sum of \$125 for each year the limited partnership
failed to file an annual report.

22 **Sec. D-19. 32 MRSA §64-A, sub-§1, ¶D,** as enacted by PL 1983,
c. 378, §2, is amended to read:

24 D. If the board concludes that suspension or revocation of
26 the license is in order, the board shall file a complaint in
the Administrative District Court in accordance with Title
28 4, ~~chapter--25~~ section 152, subsection 9.

30 **Sec. D-20. 32 MRSA §90-A, sub-§4, ¶D,** as enacted by PL 1987,
c. 273, §8, is amended to read:

32 D. Except in the specific circumstances where the Maine
34 Administrative Procedure Act, Title 5, section 10004 may be
invoked, if the board concludes that suspension or
36 revocation of the license is in order, the board shall hold
a hearing or file a complaint in the Administrative District
38 Court in accordance with Title 4, ~~chapter--25~~ section 152,
subsection 9, to commence either full or emergency
40 proceedings.

42 **Sec. D-21. 32 MRSA §503-A, sub-§1, ¶D,** as enacted by PL 1983,
c. 378, §4, is amended to read:

44 D. If the board concludes that suspension or revocation of
46 the license is in order, the board shall file a complaint in
the Administrative District Court in accordance with Title
48 4, ~~chapter--25~~ section 152, subsection 9.

50 **Sec. D-22. 32 MRSA §1077, sub-§1, ¶D,** as enacted by PL 1983,
c. 378, §7, is amended to read:
52

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2 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
4 the Administrative District Court in accordance with Title
4, ~~chapter-25~~ section 152, subsection 9.

6 **Sec. D-23. 32 MRSA §1356, first ¶,** as repealed and replaced by
PL 1983, c. 413, §49, is amended to read:

8
10 The board may suspend or revoke the registration of an
engineer or the certificate of an engineer-in-training pursuant
12 to Title 5, section 10004. The board may refuse to issue or renew
or the Administrative District Court, pursuant to Title 4,
14 ~~chapter-25~~ section 152, subsection 9, may revoke, suspend or
refuse to renew the registration of a registered professional
16 engineer or the certificate of an engineer-in-training who is
found guilty of:

18 **Sec. D-24. 32 MRSA §2105-A, sub-§1-A, ¶E,** as enacted by PL
1985, c. 724, §12, is amended to read:

20
22 E. If the board concludes that suspension or revocation of
the license is in order, file a complaint in the
24 Administrative District Court in accordance with Title 4,
~~chapter-25~~ section 152, subsection 9.

26 **Sec. D-25. 32 MRSA §2431-A, sub-§1, ¶D,** as enacted by PL 1983,
c. 378, §30, is amended to read:

28
30 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
32 the Administrative District Court in accordance with Title
4, ~~chapter-25~~ section 152, subsection 9.

34 **Sec. D-26. 32 MRSA §2591-A, sub-§1, ¶D,** as enacted by PL 1983,
c. 378, §38, is amended to read:

36
38 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
40 the Administrative District Court in accordance with Title
4, ~~chapter-25~~ section 152, section 9.

42 **Sec. D-27. 32 MRSA 3282-A, sub-§1, ¶D,** repealed and replaced
by PL 1991, c. 824, Pt. A, §68, is amended to read:

44
46 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
48 the Administrative District Court in accordance with Title
4, ~~chapter-25~~ section 152, subsection 9.

50 **Sec. D-28. 32 MRSA §3655-A, sub-§1, ¶D,** as enacted by PL 1983,
c. 378, §59, is amended to read:

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2 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
4 the Administrative District Court in accordance with Title
4, chapter-25 section 152, subsection 9.

6 **Sec. D-29. 32 MRSA §4175, 2nd ¶**, as amended by PL 1977, c.
694, §635, is further amended to read:

8
10 Certificates shall continue in effect unless revoked by the
Administrative District Court.

12 **Sec. D-30. 32 MRSA §4175, 3rd ¶**, as amended by PL 1989, c.
890, Pt. A, §5 and affected by §40, is further amended to read:

14
16 The Administrative District Court may revoke the certificate
of an operator, in accordance with Title 4, chapter-25 section
18 152, subsection 9, when it is found that the operator has
practiced fraud or deception; that reasonable care, judgment or
20 the application of the operator's knowledge or ability was not
used in the performance of the operator's duties; or that the
operator is incompetent or unable properly to perform the
22 operator's duties.

24 **Sec. D-31. 32 MRSA §4864, first ¶**, as repealed and replaced by
PL 1977, c. 694, §641, is amended to read:

26
28 The board on its own motion or upon complaint made to it,
may hold a hearing to determine whether or not violations of this
chapter or the standards for the practice of veterinary medicine
30 adopted by the board have been violated. Hearings conducted under
this section shall-be are considered "adjudicatory proceedings"
32 and shall must be conducted in accordance with the provisions of
Title 5, chapter 375, subchapter IV. The board shall-have has
34 authority to issue subpoenas subject to the provisions of Title
5, section 9060. If the board considers a licensee has committed
36 any of the acts set forth in this section, it shall either report
its findings to the Attorney General for prosecution in the
38 Administrative District Court for suspension or revocation in
accordance with Title 4, chapter-25 section 152, subsection 9, or
40 place the licensee on probation for a certain period of time
during which the licensee shall file periodic affidavits of his
42 the licensee's practice in accordance with the standards set by
the board, or censure, by letter, the licensee. The following
44 acts are grounds for disciplinary action by the board or for
revocation or suspension by the Administrative District Court:

46
48 **Sec. D-32. 32 MRSA §4865-A, first ¶**, as amended by PL 1993, c.
404, Pt. A, §11, is further amended to read:

50 The board, on the board's own motion or upon complaint made
to the board, may hold a hearing held in accordance with rules
52 adopted by the board to determine whether or not violations of

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2 this chapter relating to veterinary technicians have occurred.
 3 Hearings conducted under this section are considered
 4 "adjudicatory proceedings" and are conducted in accordance with
 5 the provisions of Title 5, chapter 375, subchapter IV. The board
 6 may issue subpoenas subject to the provisions of Title 5, section
 7 9060. If the board considers that a veterinary technician has
 8 committed any of the acts set forth in this section, the board
 9 shall either report the board's findings to the Attorney General
 10 for prosecution in the Administrative District Court for
 11 suspension or revocation of the veterinary technician's
 12 registration in accordance with Title 4, chapter-25 section 152,
 13 subsection 9; place the licensee on probation for a certain
 14 period of time during which the licensee shall file periodic
 15 affidavits of the licensee's duties in accordance with the
 16 standards set by the board; or censure, by letter, the veterinary
 17 technician. The following acts are grounds for disciplinary
 18 action by the board or for revocation or suspension by the
 19 Administrative District Court:

20 **Sec. D-33. 32 MRSA §4913, sub-§1,** as amended by PL 1983, c.
 21 413, §184, is further amended by amending the first paragraph to
 22 read:

23 **1. Powers of board and District Court Judge concerning**
 24 **complaints.** The board shall investigate or cause to be
 25 investigated all complaints against certified geologists or soil
 26 scientists and persons granted temporary authorizations pursuant
 27 to this chapter and all cases of violations of this chapter. The
 28 board may, pursuant to Title 5, section 10004, suspend or revoke
 29 a license issued by it. In addition, the board may refuse to
 30 issue or renew the license, or the Administrative District Court
 31 may, pursuant to Title 4, chapter-25 section 152, subsection 9,
 32 suspend, revoke or refuse to renew the license of any registrant
 33 who is found guilty of:
 34

35 **Sec. D-34. 32 MRSA §5018, first ¶,** as amended by PL 1987, c.
 36 395, Pt. A, §190, is further amended to read:

37
 38 The board may, pursuant to Title 5, section 10004, revoke or
 39 suspend the license of a professional forester. In addition, the
 40 board may refuse to issue or renew the license, or the
 41 Administrative District Court may, pursuant to Title 4, chapter
 42 25 section 152, subsection 9, revoke, suspend or refuse to renew
 43 the license, of a professional forester who has been found guilty
 44 of any deceit, misconduct, misrepresentation, fraud, incompetence
 45 or gross negligence in his the forester's practice, or has been
 46 guilty of any fraud or deceit in obtaining his the forester's
 47 license, or aids or abets any person alledged alleged to have
 48 been defrauded in the violation of any provisions of this chapter
 49 or fails in any material respect to comply with the provisions of
 50 this chapter.
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STATEMENT OF FACT

This is the majority report of the Joint Standing Committee on Judiciary.

This amendment replaces the bill to make the changes more easily understandable. Part A of this amendment includes subject matter included in Parts A and C of the bill. Part B of this amendment is made up of sections from Part D of the bill. Part C of this amendment includes the sections from Part F of the bill. Part B of the bill, concerning alternative dispute resolution and negotiated rulemaking, is deleted entirely. The subject matter is being reviewed by the Advisory Committee on Alternative Dispute Resolution in the Public Sector, which will report back to the Legislature in 1995. Part E of the bill, changing the Probate Court structure, is deleted entirely. Part G of the bill, establishing 2 studies, is also deleted.

Part A

The Maine Revised Statutes, Title 5, section 51 is enacted to enhance access to justice by requiring the use of interpreters or interpretation services by courts and agencies when personal or property interests are at stake and the person does not speak English. The agency or court will compensate the interpreter if required by law. Otherwise, it is in the discretion of the court or agency to provide compensation or require one or more of the parties to provide compensation to the interpreter.

Title 5, section 3360-L is enacted to require the Attorney General to develop a fact sheet on programs available to victims of crimes. Prosecutors and law enforcement agencies will distribute the fact sheets to crime victims and their families.

A new Part 8 is added to Title 15 concerning victim involvement in the justice system. Whenever practicable, prosecutors must make a good faith effort to inform victims of certain serious crimes about the programs for victims, the victim's rights concerning negotiated plea agreements, the time and place of trial, the victim's right to make an oral or written statement at time of sentencing and the final disposition of the case. Whenever practicable, the prosecutor must make a good faith effort to notify the judge about the victim's or victim's family's position on any plea agreement or on sentencing.

Part B

Several sections of Part B of this amendment transfer the administrative jurisdiction and duties of the Administrative Court to the District and Superior Courts, and abolish the

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2 Administrative Court effective January 1, 1995. Most of the
4 current jurisdiction of the Administrative Court is transferred
6 to the District Court, although the appellate jurisdiction will
8 be taken over by the Superior Court. One justice position is
10 created in the Superior Court and one judge position is created
12 in the District, so there is no net loss of judicial resources.
14 Transition provisions transfer the person serving as the
16 Administrative Court Judge into the new District Court Judge
18 position, and the person serving as the Associate Administrative
20 Court Judge and who directs the family court project into the new
22 Superior Court Justice position. The transition provisions
24 direct the Chief Justice of the Supreme Judicial Court to develop
26 a plan to ensure that the District Court and Superior Court
28 provide as close to the same level of service as provided by the
30 Administrative Court. This plan is to include a system for
32 centralized filing and docketing, and assignment of judges and
34 justices to make use of their administrative experience.

20 Several sections of Part B eliminate the dichotomy of
22 resident judges and judges-at-large within the District Court.
24 Duties currently handled by resident judges will be taken over by
26 the Chief Judge of the District Court.

24 Title 14, section 1901 is repealed and replaced, but the
26 provision for appeals directly to the Supreme Judicial Court in
28 actions of foreclosure and sale is retained. The new language
30 also provides that, if all parties to a civil matter, including
32 any family matters, agree, a final appeal may be made to the
34 Superior Court in lieu of a 2nd appeal to the Supreme Judicial
36 Court.

32 The language adopted during the First Regular Session
34 concerning the family court project is amended to accommodate the
36 transfer of the Administrative Court.

36 The Commission to Study the Future of Maine's Courts
38 recommended that the titles and salaries of District Court Judges
40 and Superior Court Justices be equalized in part to recognize the
42 fact that both courts are trial courts. This amendment charges
44 the Supreme Judicial Court to develop plans by January 1995 plans
46 to put both objectives into effect.

Part C

44 Part C adopts administrative and financial changes
46 recommended by the Special Commission on Governmental
48 Restructuring. These changes include revising the
50 responsibilities of the State Court Administrator, consolidating
52 administrative supervision and providing for long-range
planning. Executive orders and legislative documents must
include Judicial Department fiscal impact statements if prepared
by the Judicial Department.

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2 Title 5, section 1664 is amended to treat the Judicial
4 Department as a coequal branch of government when submitting its
6 budget. If the Governor submits a budget that does not contain
8 the Judicial Department's budget as submitted by the Judicial
10 Department, the Governor must provide a report to the Joint
Standing Committee on Judiciary and the Joint Standing Committee
on Appropriations and Financial Affairs explaining why the budget
legislation differs from the Judicial Department's submission.

12 A new Part to Title 5 is added to provide a forum for the 3
14 branches of government to communicate on a regular basis. This
16 will allow the executive, legislative and judicial branches to
discuss cooperation and coordination, especially in the areas of
an integrated system of communication, a technology plan,
long-range planning and the allocation and use of resources.

18 This amendment adds a fiscal note to the bill and also
20 conforms existing law to current drafting standards.

Part D

22 Part D makes necessary corrections to references to the
24 Administrative Court.