

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

No. 1553

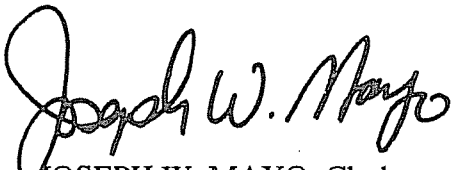
H.P. 1154

House of Representatives, June 4, 1993

**An Act to Expand the Duties of the Judicial Council to Include
Implementing the Recommendations of the Commission to Study the
Future of Maine's Courts and to Implement Certain Other
Recommendations of the Commission.**

(EMERGENCY)

Reported by Representative COTE for the Joint Standing Committee on Judiciary pursuant to
Joint Order H.P. 1134.


JOSEPH W. MAYO, Clerk

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the recommendations of the Commission to Study the Future of Maine's Courts are comprehensive and include incremental changes over a long period of time, necessitating a group interested in putting into place the recommendations to ensure that the changes are implemented; and

Whereas, the Judicial Council is the appropriate body, when augmented by persons who were involved in the commission's efforts, to oversee the implementation of the recommendations; and

Whereas, the Commission to Study the Future of Maine's Courts goes out of existence this year, and no other entity has the statutory mandate to continue the work; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 4 MRSA §451, as amended by PL 1989, c. 891, Pt. A, §8, is further amended to read:

§451. Establishment

A Judicial Council, as established by Title 5, section 12004-I, subsection 51, shall make a continuous study of the organization, rules and methods of procedure and practice of the judicial system of the State, the work accomplished and the results produced by that system and its various parts. The council is charged with the responsibility to monitor, adapt as necessary and work to implement the recommendations of the Commission to Study the Future of Maine's Courts. The council must be composed of the Chief Justice of the Supreme Judicial Court, who shall also serve as chair, the Attorney General, the Chief Justice of the Superior Court, the Chief Judge of the District Court, the chairs of the joint standing committee of the Legislature having jurisdiction over judiciary matters or their designees, and the Dean of the University of Maine System School of Law, each to serve ex officio, and an Active or Retired Justice of the Supreme Judicial Court, one Justice of the Superior Court, one Judge of the District Court, one Judge of a Probate Court, one clerk of the judicial courts, 2 members of the bar and, 6 members of the public, and 4 persons who served on or participated in the activities of the Commission to Study the Future of Maine's Courts to be appointed by the Governor. The

2 appointments by the Governor are for such periods, not exceeding
4 years, as the Governor determines.

4 **Sec. 2. 4 MRSA §451-A is enacted to read:**

6 **§451-A. Courts' future implementation by Judicial Council**

8 The Judicial Council shall monitor, adapt as necessary and
10 work to implement the recommendations of the Commission to Study
12 the Future of Maine's Courts, established by Public Law 1989,
14 chapter 891, Part B.

14 The Judicial Council shall report on the status of
16 implementation of the recommendations, accompanied by any
18 suggested legislation, by January 31st of each year.

18 The Judicial Council is authorized to seek funding from
20 sources other than the General Fund.

20 **Sec. 3. 14 MRSA §7482, as amended by PL 1983, c. 678, is**
22 **further amended to read:**

22 **§7482. Definition of a small claim**

24 A "small claim" means a right of action cognizable by a
26 court if the debt or damage does not exceed \$1,400 ~~\$3,000~~
28 exclusive of interest and costs. It shall does not include an
action involving the title to real estate.

30 Effective July 1, 1997 and every 4 years after that date,
32 the joint standing committee of the Legislature having
34 jurisdiction over judiciary matters shall review the monetary
36 limit on small claims actions and the Judicial Department shall
periodically provide information and comments on the monetary
limit on small claims actions to that committee.

38 **Sec. 4. Interim Advisory Committee on Alternative Dispute**
40 **Resolution in the Public Sector.** There is established the Interim
42 Advisory Committee on Alternative Dispute Resolution in the
44 Public Sector, referred to in this section as the "committee," to
46 provide assistance to state, municipal and other governmental
entities in developing plans and policies for negotiated
rulemaking and dispute resolution as recommended in the final
report of the Commission to Study the Future of Maine's Courts,
established by Public Law 1989, chapter 891, Part B.

48 **1. Charge.** The committee shall:

50 A. Conduct a systematic inventory and review of present
52 state agency dispute resolution policies and procedures and
make recommendations designed to encourage the effective use
of dispute resolution in State Government;

- 2 B. Study the use of negotiated rulemaking by state agencies
and by agencies of the federal and other state governments
4 and make recommendations designed to expand and encourage
the use of negotiated rulemaking by state agencies;
6
- 8 C. Provide guidance and expertise to state agencies,
municipalities and other governmental entities in developing
negotiated rulemaking and dispute resolution plans, policies
10 and procedures;
- 12 D. Design and initiate a continuing study and analysis of
the costs and benefits of negotiated rulemaking and public
14 sector alternative dispute resolution to governmental
agencies, private groups and individuals;
16
- 18 F. Seek funding to support the committee's work and to
provide training for agency personnel; and
- 20 E. Develop a proposal for a state center for dispute
resolution that will assume the responsibilities and
22 functions of the committee.

24 **2. Appointment.** The committee consists of 11 members
appointed or designated as follows:
26

- 28 A. Two members with experience as municipal officials, one
appointed by the President of the Senate and one appointed
by the Speaker of the House of Representatives;
30
- 32 B. Two members with professional experience in dispute
resolution or negotiated rulemaking, one appointed by the
President of the Senate and one appointed by the Speaker of
34 the House of Representatives;
- 36 C. Four members from state agencies, who shall coordinate
and communicate with the Maine Administrative Procedure Act
38 liaisons of all state agencies, appointed by the Governor;
- 40 D. Two members representing the general public, one
appointed by the Governor and one appointed by the Speaker
42 of the House of Representatives; and
- 44 E. The Attorney General or the Attorney General's designee.

46 **3. Convening of committee.** When the appointment of all
committee members is completed, the Executive Director of the
48 Legislative Council shall convene the first meeting. The members
shall elect a chair from among the membership.
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52 **4. Reports; legislation.** The committee shall submit a
progress report to the Joint Standing Committee on Judiciary by

2 January 1, 1994. The committee may recommend legislation at any
3 time. The committee shall present a summary of its activities
4 and findings, together with any recommended legislation, to the
5 First Regular Session of the 117th Legislature by January 31,
6 1995.

7 **5. Staffing.** If funding permits, the committee may employ
8 staff and may contract for administrative, professional and
9 clerical services.

10 **6. Assistance.** The committee may request assistance from
11 the Legislative Council with drafting legislation.

12 **7. Funding.** The committee is authorized to seek, accept
13 and expend funds from outside sources to carry out the
14 committee's activities. Expenditures that have an impact on the
15 General Fund may not be incurred.

16 **8. Compensation.** The members of the committee shall serve
17 without compensation.

18 **Sec. 5. Family court project continuation and expansion.** The
19 family court project established pursuant to Public Law 1989,
20 chapter 891, Part A, section 12 may be continued and expanded
21 into other geographic areas with large numbers of family law
22 cases as well as in other areas determined appropriate. The
23 current jurisdiction of the Superior Court, District Court and
24 Administrative Court is not altered to ensure access. In those
25 areas in which the family court project exists or into which the
26 project is expanded, it must be structured as the Family Court
27 Division of the District Court, Superior Court and Administrative
28 Court. The Chief Justice of the Supreme Judicial Court shall
29 designate one judge or justice from the Superior Court, District
30 Court or Administrative Court to direct the project. The
31 designated judge shall convene a preliminary planning committee
32 on the development of a nonadversarial administrative forum that
33 includes social services for family matters. The designated
34 judge shall report to the Joint Standing Committee on Judiciary
35 by January 15, 1994, and annually thereafter, and shall make a
36 final report concerning the family court project by January 15,
37 1999.

38 **Emergency clause.** In view of the emergency cited in the
39 preamble, this Act takes effect when approved.

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STATEMENT OF FACT

This bill is the unanimous recommendation of the Joint
Standing Committee on Judiciary. This bill takes the place of
Legislative Document 1373, which would have established a
separate temporary commission to guide the implementation of the

2 recommendations of the Commission to Study the Future of Maine's
3 Courts. This bill instead directs the Judicial Council to carry
4 out those functions and adds to the membership of the Judicial
5 Council to include members of or participants in the commission's
6 work. No additional appropriation is necessary if these duties
7 are absorbed by the Judicial Council.

8 This bill covers 3 recommendations included by the
9 Commission to Study the Future of Maine's Courts in Legislative
10 Document 1354.

12 An interim advisory committee on alternative dispute
13 resolution and negotiated rulemaking is created. It is smaller
14 than that included in Legislative Document 1354, but still
15 requires that General Fund money not be used.

16 The jurisdictional limit for small claims cases is raised
17 from \$1,400 to \$3,000, and the Joint Standing Committee on
18 Judiciary is required to review the limit, with the help of the
19 Judicial Department, every 4 years.

22 The family court project, started in 1990 at the same time
23 the Commission to Study the Future of Maine's Courts was
24 established, is continued until 1999.