

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1372

H.P. 992

House of Representatives, March 4, 1997

An Act to Unify the Court System.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative JABAR of Waterville.

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

4 **Sec. 1. 4 MRSA c. 3, as amended, is repealed.**

6 **Sec. 2. 4 MRSA c. 5, as amended, is repealed.**

8 **Sec. 3. 4 MRSA c. 24 is enacted to read:**

10 **CHAPTER 24**

12 **SUPERIOR COURT**

14 **SUBCHAPTER I**

16 **GENERAL PROVISIONS**

18 **§1081. Superior Court established**

20 The Superior Court is established as the state trial court
of record. The Superior Court Council shall establish a seal for
the Superior Court.

22 **§1082. Authority of court**

24 The Superior Court may administer all necessary oaths,
render judgment and issue execution, punish for contempt and
compel attendance. The provisions of law relative to the
jurisdiction of the Supreme Judicial Court in each of the
judicial districts over parties, the arrest of persons,
attachment of property, the time and mode of service of precepts,
proceedings in court, the taxation of costs, the rendition of
judgments, the issuing, service and return of executions and all
other subjects apply to the Superior Court in all respects,
except so far as they are modified by law. The Superior Court
has all the powers necessary for the performance of all its
duties.

36 **§1083. Jurisdiction**

38 **1. Law and equity jurisdiction.** The Superior Court has
original jurisdiction in all matters, whether cognizable in law
or equity, except that it does not have the jurisdiction of the
Supreme Judicial Court sitting as a law court.

40 **2. Former Superior Court and District Court jurisdiction.**
The Superior Court has jurisdiction over all matters within the
jurisdiction of the former Superior Court and the former District
Court as in existence on December 31, 1999.

2 **3. Justice of the Supreme Judicial Court.** A single Justice
3 of the Supreme Judicial Court has and shall exercise jurisdiction
4 and has and shall exercise all of the powers, duties and
5 authority necessary for exercising the jurisdiction of the
6 Superior Court to hear and determine any issue in a civil action
7 in the Superior Court as to which the parties have no right to
8 trial by jury or in which the right to trial by jury has been
waived, except actions for divorce, annulment or separation.

10 **4. Jurisdiction of Passamaquoddy Tribe or Penobscot Nation;**
11 **process.** The Superior Court has jurisdiction to issue process
12 with respect to any violation over which the Passamaquoddy Tribal
13 Court or the Penobscot Nation Tribal Court exercises exclusive
14 jurisdiction under Title 30, section 6209-A or 6209-B.

16 **5. Examination to determine sanity of accused.** A Superior
17 Court Judge may order a person who is accused of an offense to be
18 examined by a physician without delay to determine whether or not
19 the person is insane. The cost of the examination must be paid
20 from the treasury of the county or counties of the judicial
21 district in which the action is pending.

22 **6. Administrative search warrants.** A Superior Court Judge
23 may issue warrants to conduct administrative searches in the
24 manner, for the purposes and under circumstances as the Supreme
25 Judicial Court provides by rule.

26 **7. Site inspection warrants.** A Superior Court Judge may
27 issue warrants to conduct surveys and tests on land that is under
28 consideration for purchase or taking through eminent domain by
29 the State or any of its political subdivisions. The Supreme
30 Judicial Court shall provide by rule the manner and circumstances
31 for the issuance of such warrants subject to the following
32 conditions:
33

34 **A. There is a compelling need for the issuance of the**
35 **warrant, such as required compliance with state statutes or**
36 **regulations or protection of the public health, safety or**
37 **welfare;**

38 **B. The owner of the land must be served notice at least 14**
39 **days prior to the day when any survey or test is initiated;**

40 **C. All tests and surveys must be completed within 30 days**
41 **of entry;**

42 **D. No soils test may be conducted within 200 yards of an**
43 **occupied dwelling;**

2 E. Upon completion of any soils test or analysis, all
4 holes, pits or trenches created by the test or analysis must
be filled in and the site restored as best practicable to
its original condition; and

6 F. The owner of land subject to a survey or test has the
8 right to be compensated for any actual damage caused as a
10 result of the surveys and tests. Upon request of the
12 landowner within 30 days after entry on the landowner's
14 premises, the governmental unit shall hold a public hearing
16 to determine whether the landowner is entitled to
18 compensation for actual damages caused by the testing. The
20 governmental unit shall publish a notice of the time and
22 place of hearing in a newspaper having general circulation
in its area at least 7 days before the hearing. The
governmental unit shall pay the landowner immediately the
amount of compensation to which it determines the landowner
is entitled. If the landowner is aggrieved by the decision
of the governmental unit, the landowner may appeal to the
Superior Court as provided in the Maine Rules of Civil
Procedure, Rule 80B.

24 **§1084. Trial terms**

26 1. Times and places. Each judicial district shall
28 establish the times and places for holding court and shall
schedule the business to be conducted.

30 2. Grand jury. Each judicial district shall specify when
32 the grand jury will be summoned. A grand jury may be specially
summoned at any time by order of a Superior Court Judge.

34 3. Continued after adjournment. When court is adjourned,
36 the clerk shall enter the actions brought that, with all actions
on the docket, must be continued to the next court day.

38 **§1085. Simultaneous and special sessions**

40 1. Simultaneous sessions. Two or more simultaneous
42 sessions of the Superior Court may be held in the same judicial
44 district or special sessions may be held in any judicial district
when the judicial district determines that it is required for
public convenience. The business may be divided to secure its
speedy and convenient disposal.

46 2. Special sessions. Special sessions of the Superior
48 Court for the transaction of civil or criminal business or both
50 may be held in any judicial district at any time when the
judicial district determines that it is required by public
convenience and necessity.

2 **§1086. Sheriff or deputy to attend court**

4 The sheriff of each of the county, when requested, shall
6 attend the Superior Court of that judicial district or the
8 Supreme Judicial Court when either court is in session in that
 judicial district or the sheriff shall specially designate a
 deputy, approved by the court, to serve as bailiff.

10 **§1087. Funds**

12 1. Superior Court funds. Except as otherwise provided by
14 law, all fines, forfeitures, surcharges, assessments and fees
16 collected in any judicial district of the Superior Court or by
18 the Violations Bureau accrue to the State and must be paid to the
20 clerk of that Superior Court who shall deposit them in a special
22 account in a timely manner. Once each month, the clerk shall
 remit the sums to the Treasurer of State who shall credit them to
 the General Fund. At the same time, the clerk shall remit the
 sums that have been collected in accordance with section 1057;
 Title 5, chapter 316-A; and Title 29-A, section 2411, subsection
 7.

24 2. Monthly report. The Superior Court shall file a monthly
26 report with the State Auditor itemizing the amount of fines,
 surcharges and assessments imposed and to whom each is payable.

28 3. Expenses. The Treasurer of State shall pay all sums of
30 money produced by cases in the Superior Court that are due to
32 state departments and agencies, municipalities and state, county
 and municipal offices.

34 4. Bail. Funds received by the clerk of the Superior Court
36 as bail in criminal cases must be deposited daily in a special
38 account. The clerk shall deposit the funds in an
40 interest-bearing account unless the clerk determines that it is
 not cost-effective to do so. Interest accrued in the account is
 the property of and accrues to the State. The forfeiture and
 setoff of bail is as otherwise provided by law.

42 **§1088. Fees**

44 The Supreme Judicial Court may prescribe rules establishing
 the fees of the Superior Court.

46 **§1089. Service of process statewide**

48 All process of the Superior Court runs throughout the
 State. Process served outside of the judicial district of the

2 Superior Court has the same effect as when it is served within
3 the judicial district.

4 **§1091. Form of summonses, writs and processes; facsimile**
5 **signature of clerk**

6
7 All summonses, writs and other processes of the Superior
8 Court must be in the name of the State under the seal of the
9 Superior Court. They must be signed by any one of the clerks and
10 obeyed and executed throughout the State. The clerk in any
11 judicial district may sign and issue any such summonses, writs or
12 other processes for an action in the Superior Court in any other
13 judicial district in which the action might legally be brought. A
14 facsimile of the signature of the clerks of the Superior Court
15 imprinted by or at their direction upon any writs, summonses,
16 subpoenas, orders or notices or orders of attachment, except
17 executions and criminal process, has the same validity as their
18 written signature.

19
20 **SUBCHAPTER II**

21
22 **JUDICIAL DISTRICTS**

23
24 **§1101. Judicial districts**

25 The State is divided into the following 8 judicial districts.

26
27 **1. Judicial District Number 1. Judicial District Number 1**
28 **consists of York County.**

29
30 **2. Judicial District Number 2. Judicial District Number 2**
31 **consists of Cumberland County.**

32
33 **3. Judicial District Number 3. Judicial District Number 3**
34 **consists of Oxford, Franklin and Androscoggin counties.**

35
36 **4. Judicial District Number 4. Judicial District Number 4**
37 **consists of Kennebec and Somerset counties.**

38
39 **5. Judicial District Number 5. Judicial District Number 5**
40 **consists of Penobscot and Piscataquis counties.**

41
42 **6. Judicial District Number 6. Judicial District Number 6**
43 **consists of Sagadahoc, Lincoln, Knox and Waldo counties.**

44
45 **7. Judicial District Number 7. Judicial District Number 7**
46 **consists of Hancock and Washington counties.**

47
48 **8. Judicial District Number 8. Judicial District Number 8**
49 **consists of Aroostook County.**
50

2 **§1102. Locations**

4 The Superior Court shall hold sessions in at least one
6 location in each judicial district as provided in this section.
8 The locations must include suitable quarters and must be
 adequately furnished and equipped.

10 **1. Negotiation of leases; county facilities.** In each
12 judicial district, the place for holding court must be located in
14 a building designated by the Chief Justice of the Supreme
16 Judicial Court or the Chief Justice's designee, who, with the
18 advice and approval of the Bureau of Public Improvements, shall
20 negotiate on behalf of the State the leases, contracts and other
22 arrangements the Chief Justice considers necessary within the
 limits of appropriations and other funds available to the
 Judicial Department for the Supreme Judicial Court or Superior
 Court in each judicial district. The county commissioners in each
 county shall continue to provide for the use of the Supreme
 Judicial Court and the Superior Court the quarters, facilities,
 furnishings and equipment in existing county buildings as were in
 use on January 1, 1976, without charge.

24 **2. Negotiation of leases; privately owned buildings.** If
26 the Chief Justice of the Supreme Judicial Court or the Chief
28 Justice's designee is unable to negotiate the leases, contracts
30 and other arrangements as provided in subsection 1, the Chief
32 Justice may, with the advice and approval of the Bureau of Public
34 Improvements, negotiate on behalf of the State the leases,
 contracts and other arrangements the Chief Justice considers
 necessary within the limits of the budget and funds available to
 each court for the Supreme Judicial Court or Superior Court in
 privately owned buildings.

36 **3. Use of facilities.** The facilities of the Superior Court
38 in each judicial district, when that court is not in session, are
40 available for other purposes. The Chief Justice of the Supreme
42 Judicial Court or the Chief Justice's designee shall make
44 arrangements for such use.

46 **§1103. Venue**

48 **1. Juvenile proceeding or criminal prosecution.** A juvenile
 proceeding, criminal prosecution or traffic prosecution may be
 brought in the judicial district in which the offense charged
 took place, but if the proceeding involves 2 or more offenses
 committed in different judicial districts, it may be brought in
 any one of them.

2 **2. Forcible entry and detainer; replevin; trustee process;**
3 **attachment.** An action for forcible entry and detainer or replevin
4 may be brought in the judicial district in which the property
5 involved is located. Any action commenced by trustee process may
6 be brought in accordance with Title 14, chapter 501. Any action
7 involving attachment may be brought in the judicial district
8 where the plaintiff resides or where the defendant resides or
9 where the property involved is located.

10 **3. Divorce; separation; annulment; support.** An action or
11 proceeding for divorce, separation, annulment of marriage or for
12 support may be brought in the judicial district where either the
13 plaintiff or the defendant resides.
14

15 **4. Other civil actions.** Any other civil action or
16 proceeding may be brought in the judicial district where any
17 plaintiff or defendant resides, but if all defendants are
18 nonresidents of the State, it may be brought in any judicial
19 district of the plaintiff's choice.
20

21 **5. Corporation.** A corporation is deemed a resident of any
22 judicial district in which it maintains a place of business.
23

24 **6. Brought in any district with consent.** Notwithstanding
25 subsections 1 to 5, all parties, with the approval of any
26 Superior Court Judge, may consent to any action, proceeding or
27 prosecution being brought and determined in any judicial district.
28

29 **7. Improper venue.** If any action or proceeding, civil or
30 criminal, is brought in the wrong judicial district, the Superior
31 Court Judge, upon motion or on the judge's own initiative, may
32 transfer the action or proceeding to a proper judicial district.
33 Any objection to improper venue is waived unless the objection is
34 asserted by motion to transfer the case made before the
35 commencement of trial or, in the event of default in appearance
36 or answer, before the entry of judgment.

37 **8. Transfer of any case.** The Superior Court Judge may, upon
38 motion or on the judge's own initiative, transfer any case to
39 another judicial district for the convenience of parties or
40 witnesses or in the interest of justice.
41

42 **SUBCHAPTER III**

43 **COURT DIVISIONS**

44 **§1111. Divisions**

2 The Superior Court is divided into divisions based on
3 subject matter as provided in this subchapter. Each judicial
4 district includes all divisions.

6 **§1112. Family division**

8 The family division considers the following matters:

10 1. Divorce. Divorce proceedings;

12 2. Parental rights and responsibilities. Proceedings
13 involving parental rights and responsibilities;

14 3. Abuse and neglect. Proceedings concerning child
15 protection and adult abuse and neglect; and

16 4. Protection from abuse. Proceedings concerning
17 protection from abuse and protection from harassment.

18 **§1113. Criminal law division**

20 The criminal law division considers the following matters:

22 1. Traffic and motor vehicle infractions and other civil
23 violations. Proceedings involving traffic infractions, motor
24 vehicle infractions and other civil violations;

26 2. Murder, Class A, B and C crimes. Proceedings involving
27 murder and Class A, Class B and Class C crimes; and

28 3. Class D and E crimes. Proceedings involving Class D and
29 Class E crimes.

30 **§1114. Juvenile division**

32 The juvenile division considers proceedings under the Maine
33 Juvenile Code in which the Superior Court sits as the Juvenile
34 Court.

35 **§1115. Civil division**

37 The civil division considers the following matters:

38 1. Jury and nonjury. All civil proceedings regardless of
39 whether a jury is requested or required;

40 2. Small claims. Small claims proceedings;

41 3. Enforcement of judgments. Proceedings involving the
42 enforcement of judgments, including disclosure proceedings; and

2 4. Other civil matters. All other civil matters, including
but not limited to enforcement of municipal ordinances.

4 **§1116. Appellate Division**

6 The appellate division considers the following matters:

8 **1. Administrative appeals.** Administrative appeals under
10 the Maine Rules of Civil Procedure, Rules 80B and 80C and the
Maine Administrative Procedure Act;

12 **2. Workers' Compensation Board appeals.** Appeals from the
14 Workers' Compensation Board;

16 **3. Intermediate appellate.** Appeals in the following
matters:

18 A. Small claims;

20 B. Forcible entry and detainer;

22 C. Convictions for Class D and Class E crimes; and

24 D. Civil violations.

26 The Supreme Judicial Court shall establish by rule the makeup and
28 procedures of intermediate appellate panels; and

30 **4. Other.** Any other matters as the Supreme Judicial Court
may direct by rule.

32 **SUBCHAPTER IV**

34 **SUPERIOR COURT JUDGES**

36 **§1121. Superior Court Judges**

38 **1. Appointments.** The Superior Court consists of 43
40 Superior Court Judges and any number of Active Retired Judges
appointed by the Governor and subject to review by the joint
42 standing committee of the Legislature having jurisdiction over
judiciary matters and confirmation by the Legislature. At least
44 3 judges who are residents of the judicial district must be
appointed for each judicial district. The term "Superior Court
46 Judge" includes Administrative Judges and Associate Judges.

48 **2. Term.** A Superior Court Judge's term is 7 years.

2 3. Qualifications for judges. To be eligible for
appointment as a Superior Court Judge, a person must be a member
of the bar of the State.

4
6 4. Full-time duties. A Superior Court Judge shall devote
full time to judicial duties. During the judge's term of office,
the judge may not practice law and may not be the partner or
8 associate of any person in the practice of law.

10 **§1122. Administrative Judge**

12 1. Selection. The Chief Justice of the Supreme Judicial
Court shall select one judge from each judicial district to serve
14 as the Administrative Judge for that judicial district.

16 2. Powers and duties. The Administrative Judge for each
judicial district shall:

18 A. Serve as the judicial district administrative
20 coordinator;

22 B. Represent the judicial district on the Superior Court
Council;

24 C. Hold court in any location within the judicial district
26 when the Administrative Judge determines it is necessary
28 because of illness, absence or disability of the judge
regularly assigned or by reason of an excessive case load;

30 D. Appoint bail commissioners pursuant to Title 15, section
1023 for any judicial division;

32 E. Assign judges to hold court in any location within the
34 judicial district where they are needed; and

36 F. Determine the times for the vacations of all judges
within the judicial division.

38 **§1123. Superior Court Council**

40 The Superior Court Council shall:

42 1. Consistent practices and procedures; judicial district
44 needs. Meet on a regular basis to ensure consistency of
46 practices and procedures throughout the judicial districts of the
Superior Court, while taking into consideration the individual
48 needs of each judicial district;

50 2. Records and reports. Prescribe, subject to the approval
of the Chief Justice of the Supreme Judicial Court or the Chief

Justice's designee, the records to be kept and destroyed and the reports to be made by each Superior Court Judge;

3. Statistics. Collect statistics and other information pertaining to the business of the Superior Court requested by the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee;

4. Budget. Utilizing assistance from the Administrative Office of the Courts, prepare and submit a proposed annual budget for each judicial district to the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee;

5. Report. Render to the Chief Justice of the Supreme Judicial Court an annual report on the state of business in the Superior Court;

6. Courtroom facilities. Make necessary arrangements for proper courtroom facilities for all locations of the Superior Court pursuant to section 1102, establish headquarters with appropriate facilities for the Superior Court Council and establish quarters and facilities for all Superior Court judges;

7. Violations Bureau. Establish the Violations Bureau as provided in subchapter V;

8. Development and implementation of administrative concepts. Carry on a continuous survey and study of the organization, operation and condition of business, practice and procedure of the Superior Court and make recommendations to the Chief Justice of the Supreme Judicial Court concerning the number of judges and other personnel required for the efficient administration of justice and examine, with the advice of the Superior Court Judges, the status of dockets of the various Superior Courts to determine whether the business of the court is being carried out in an efficient manner. From such an examination, the Superior Court Council shall annually make recommendations to the Chief Justice of the Supreme Judicial Court for guidelines and policies for the scheduling and trial of matters before the Superior Court. In providing recommendations, the Superior Court Council shall give due and appropriate regard to the recommendations of the judges and other personnel of the Superior Court and shall provide a mechanism whereby their individual recommendations and comments may be brought to the attention of the Chief Justice. The final decision as to the management of personnel and the implementation of guidelines, policies and procedures for the scheduling of trials and management of matters before the Superior Court may be made by the Chief Justice only after consultation with the Superior Court Council;

2 **9. Fisheries and wildlife bureau.** Establish in each
3 judicial district a fisheries and wildlife bureau. The Superior
4 Court Council shall appoint a clerk of the Superior Court in each
5 judicial district as violations clerk for the fisheries and
6 wildlife bureau in that judicial district. The violations clerk
7 shall accept written appearances, waivers of trial, pleas of
8 guilty and payments of fines and costs in fisheries and wildlife
9 offense cases, subject to the limitations prescribed in this
10 subsection. The violations clerk serves under the direction and
11 control of the Superior Court Judge in the judicial district for
12 which the violations clerk is appointed. The Supreme Judicial
13 Court shall adopt rules governing the fisheries and wildlife
14 bureau;

16 **10. Marine resources bureau.** Establish in each judicial
17 district a marine resources bureau. The Superior Court Council
18 shall appoint a clerk of the Superior Court in each judicial
19 district as violations clerk for the marine resources bureau in
20 that judicial district. The violations clerk shall accept
21 written appearances, waivers of trial, pleas of guilty and
22 payments of fines and costs in marine resources offense cases,
23 subject to the limitations prescribed in this subsection. The
24 violations clerk serves under the direction and control of the
25 Superior Court Judge in the judicial district for which the
26 violations clerk is appointed. The Supreme Judicial Court shall
27 adopt rules governing the marine resources bureau;

28 **11. Forest service bureau.** Establish in each judicial
29 district a forest service bureau. The Superior Court Council
30 shall appoint a clerk of the Superior Court in each judicial
31 district as violations clerk for the forest service bureau in
32 that judicial district. The violations clerk shall accept
33 written appearances, waivers of trial, pleas of guilty and
34 payments of fines and costs in forest service offense cases,
35 subject to the limitations prescribed in this subsection. The
36 violations clerk serves under the direction and control of the
37 Superior Court Judge in the judicial district for which that
38 clerk is appointed. The Supreme Judicial Court shall adopt rules
39 governing the forest service bureau; and

42 **12. Additional duties.** Perform additional duties assigned
43 by the Chief Justice of the Supreme Judicial Court.

44 Powers not enumerated in this section but necessary or
45 desirable for the proper administration of the Superior Courts
46 may be adopted and assigned, from time to time, by rule of the
47 Supreme Judicial Court.

50 **§1124. Compensation**

2 1. Administrative Judge. The Administrative Judge of each
judicial district of the Superior Court shall receive a salary
4 equal to 105% of the salary of an Associate Superior Court Judge.

6 2. Associate Judge. Each Associate Judge of the Superior
Court shall receive a salary of \$85,863.

8 3. Cost-of-living adjustment. The salaries of the
10 Associate Judges must be adjusted as established in section 4,
subsection 2-A.

12 4. Expenses. The State shall reimburse each Superior Court
14 Judge, upon presentation to the State Controller of a detailed
statement, for those expenses approved by the Superior Court
16 Council as actually and reasonably incurred in the performance of
that judge's duties.

18 5. Exception. The salary provisions of this section do not
20 apply to Superior Court Judges who have retired prior to December
1, 1984.

22 **§1125. Active retired judges**

24 Any Superior Court Judge who has retired from the court in
26 effect prior to December 1, 1984, or any Superior Court Judge who
retires or terminates service on the court in accordance with
28 chapter 27, except for a disability retirement, is eligible for
appointment as an Active Retired Superior Court Judge. The
30 Governor, subject to review by the joint standing committee of
the Legislature having jurisdiction over judiciary matters and to
32 confirmation by the Legislature, may appoint any eligible judge
as an Active Retired Superior Court Judge for a term of 7 years.
34 That judge may be reappointed for a like term. Any judge
appointed as an Active Retired Superior Court Judge is a part of
36 the court from which the judge has retired, has the same
jurisdiction and is subject to the same restrictions as before
38 retirement, except that the judge may act only in the cases and
matters and hold court only at the terms and times as the judge
40 may be directed and assigned to by the Chief Justice of the
Supreme Judicial Court. Any Active Retired Superior Court Judge
42 may be directed by the Chief Justice to hold any term of the
Superior Court in any judicial district and has the same
44 authority and jurisdiction as if the judge were the regular judge
of that court. Whenever the Chief Justice of the Supreme Judicial
46 Court so orders, that judge may hear all matters and issue all
orders, notices, decrees and judgments in vacation that any Judge
48 of that Superior Court is authorized to hear and issue.

50 **§1126. Per diem compensation for Active Retired**

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

Superior Court Judges

Any Active Retired Superior Court Judge who performs judicial service at the direction and assignment of the Chief Justice of the Supreme Judicial Court must be compensated for those services at the rate of \$150 per day or \$90 per 1/2 day, provided that the total per diem compensation and retirement pension received by an Active Retired Superior Court Judge in any calendar year does not exceed the annual salary of a Superior Court Judge.

SUBCHAPTER V

VIOLATIONS BUREAU

§1131. Violations Bureau

The Violations Bureau is established as a part of the Superior Court. The Superior Court Council shall oversee all activities and personnel of the Violations Bureau.

1. Jurisdiction. The Violations Bureau has jurisdiction over all traffic infractions committed in this State. Unless otherwise ordered by a court, trial of a traffic infraction must be in the judicial district in which the alleged infraction was committed.

2. Designated fines. The Chief Justice of the Supreme Judicial Court by order, which may from time to time be amended, shall designate the amount of fines imposed for traffic infractions.

3. Maine Rules of Civil Procedure. The Maine Rules of Civil Procedure apply in all traffic infraction proceedings.

4. Acceptance of pleadings and fines. The clerk of each judicial district has the authority to accept pleadings and fines on behalf of the Violations Bureau.

SUBCHAPTER VI

SUPERIOR COURT CLERKS

§1135. Clerks; appointment

The Superior Court Council shall appoint clerks and deputy clerks as necessary for each judicial district, for the Violations Bureau and for the office of the Superior Court Council. If the business of any judicial district or the Violations Bureau does not require the full-time service of a

2 clerk, the Superior Court Council may appoint a part-time clerk
3 for that judicial district or the Violations Bureau. Whenever
4 the clerk is unable to perform the duties of that office or so
5 directs, the deputy clerk has all the power and performs all the
6 duties of clerk. Whenever a clerk is absent or temporarily
7 unable to perform the duties as clerk and there is no deputy
8 clerk authorized or available to exercise the powers and perform
9 the duties of clerk and an existing or immediate session of the
10 court renders it necessary, the Superior Court Council may
11 designate a clerk pro tempore who has the same powers and duties
12 of the clerk.

13 **§1136. Acceptance of fine and guilty plea**

14
15 The clerk of each judicial district may accept a guilty plea
16 to a criminal traffic offense upon payment of a fine and
17 surcharge in accordance with a schedule of offenses and fines
18 established by the Superior Court Council. A person tendering
19 payment of a fine without filing a signed waiver is deemed to
20 have read and waived that person's rights, to understand that
21 tendering payment is deemed a waiver and has the same effect as a
22 judgment of the court and to understand that the record of the
23 judgment will be sent to the Secretary of State.

24 **§1137. Judge unable to attend; continuance**

25
26 Whenever a Superior Court Judge is unable to attend court,
27 any clerk of the Superior Court may continue the case in that
28 court for a period of not more than 14 days.

29
30 **SUBCHAPTER VII**

31 **MISCELLANEOUS PROVISIONS**

32
33 **§1141. Complaints; warrants and summonses**

34
35 **1. Criminal complaint.** When complaint is made to the
36 proper officer of the Superior Court charging a person with the
37 commission of a criminal offense, the court officer shall issue a
38 warrant for the person's arrest or a summons in the form and
39 under the circumstances as established by rule adopted by the
40 Supreme Judicial Court. The court officer may require offenders
41 to find sureties for keeping the peace.

42
43 **2. Warrants.** Warrants issued by the proper officer of the
44 Superior Court in criminal cases must be signed by that officer
45 at the time the warrants are issued.

46
47 **3. Traffic infraction.** When a complaint is made to the
48 proper officer of the Superior Court charging a person with the
49 commission of a traffic infraction, the court officer shall issue a
50 warrant for the person's arrest or a summons in the form and

2 commission of a traffic infraction, the officer of the Superior
3 Court shall cause to be served upon the person a Violation
4 Summons and Complaint or other process in the form and under the
5 circumstances as established by rule adopted by the Supreme
6 Judicial Court.

7 4. Civil violations. When a complaint is made to the
8 proper officer of the Superior Court charging a person with the
9 commission of a civil violation other than a traffic infraction,
10 the officer of the Superior Court shall cause to be served upon
11 the person a Uniform Summons and Complaint or other process in
12 the form and under the circumstances as established by rule
13 adopted by the Supreme Judicial Court.

14 **§1142. Costs and fees; criminal**

15 1. Definition. As used in this section, unless the context
16 otherwise indicates, the term "law enforcement officer" means any
17 person who by virtue of that person's public employment is vested
18 by law with a duty to enforce any criminal law of this State by
19 making arrests, whether that duty extends to all crimes or is
20 limited to specific crimes, or with a duty to enforce any law of
21 this State establishing a civil violation.

22 2. Limitations. This section applies only to costs and fees
23 arising from the criminal and civil violation proceedings in the
24 Superior Court.

25 A. When any criminal or civil violation case is appealed
26 from the Superior Court to the Supreme Judicial Court, the
27 latter may tax and impose costs from its proceeding, which
28 may not include any fees or costs arising from the
29 proceedings or arrest in the lower court.

30 B. Nothing in this section may be interpreted to prohibit a
31 Superior Court from filing a case upon payment of costs
32 without a conviction or adjudication, provided that upon
33 motion at any time by either party, the court shall bring a
34 filed case forward and proceed to a disposition of the
35 pending complaint.

36 C. Nothing in this section may be interpreted to deprive a
37 law enforcement officer of compensation for services and
38 expenses, but this section may shift the responsibility for
39 providing such compensation.

40 3. Defendant not to be sentenced to pay costs of court. The
41 Superior Court may not, in any criminal proceeding, sentence any
42 defendant to pay costs of court, but may take the costs into
43 consideration and include in any fine imposed a sum adequate to
44 cover the costs of court.

2 cover all or any part of the costs without reference to the costs
3 and without taxing the costs, provided the maximum fine for the
4 particular offense is not exceeded.

4 **4. Costs in traffic infraction or civil violation cases.**

6 The Superior Court Council shall establish costs to be paid by a
7 defendant to reopen a traffic infraction or civil violation case
8 after the case has been disposed of by default resulting from the
9 defendant's failure to file a timely answer or the defendant's
10 failure to appear in court.

12 In addition to other penalties provided by law, the Superior
13 Court may impose on the defendant reasonable costs for the
14 defendant's failure to answer or the defendant's failure to
15 appear in court.

16 **5. Law enforcement reimbursement.** The Superior Court shall
18 compensate law enforcement officers appearing or required to be
19 present in court as follows.

20 **A.** All law enforcement officers appearing for a scheduled
21 trial in Superior Court at times other than their regular
22 working hours, at the order of a prosecuting official and
23 whether or not they are called upon to give testimony, must
24 be compensated at the rate of \$10 for each day or part of a
25 day but no more than \$10 for any one day that the officer is
26 required to be physically present.

28 **B.** The court officer required to be present at an
29 arraignment may be an officer other than the arresting
30 officer if the municipality or county has designated the
31 officer to handle the arraignment case load of that
32 municipality or county. One or more municipalities and
33 counties may designate either a municipal law enforcement
34 officer or a county law enforcement officer to represent the
35 municipalities and counties at arraignments on a rotating
36 schedule. A deputy sheriff designated as bailiff under
37 section 1086 may not serve as a court officer for any law
38 enforcement agency.

40 The Superior Court shall pay the municipality or county a
41 flat fee of \$10 for each day or part of a day but no more
42 than \$10 for any one day, that a municipal law enforcement
43 officer, designated by the municipality as its court
44 officer, is required to be physically present in a Superior
45 Court in order to adequately handle that municipality's case
46 load.

48 **C.** The court shall pay the municipality a flat fee of \$10
49 per day for every day or part of a day, but no more than \$10
50 per day for every day or part of a day, but no more than \$10

2 for any one day that the municipality loses the services of
4 one or more law enforcement officers because the officer or
6 officers are performing an act authorized or required by the
 Maine Rules of Criminal Procedure or are witnesses in a
 criminal or traffic infraction case within the jurisdiction
 of the Superior Court.

8 A municipality is considered to have lost the services of a
10 law enforcement officer when the officer who normally
12 performs duties of patrolling or maintaining order is
 physically unable to perform those duties of patrolling and
 maintaining order for the municipality.

14 6. Reimbursement to appointed counsel. The Superior Court
16 shall reimburse appointed counsel for reasonable disbursements
 made in behalf of the client, including but not limited to
18 witness fees, sheriff's fees and travel, upon approval of these
 disbursements by the court.

20 §1143. Costs taxable for the State in civil violation or traffic
22 infraction proceedings

24 Costs in the amount of \$25 are automatically taxable for the
 State in civil violation and traffic infraction proceedings for
26 failure to pay a fine imposed for the commission of a civil
 violation or traffic infraction within 30 days of entry of
28 judgment or within 30 days of the date fixed for a final
 installment payment if the fine is to be paid under a plan
30 approved under Title 14, section 3141, subsection 4.

32 §1144. Ex officio, notary public; may administer oaths

34 Judges and clerks of the Superior Court are ex officio
 notaries public, and all their official acts, attested by them in
36 either capacity, except those pertaining to the exclusive
 jurisdiction of judges and clerks of Superior Courts, are of
38 equal effect. Judges and clerks of the Superior Court and
 notaries public may administer all oaths required by law unless
40 another officer is specifically required to do it.

42 §1145. Justice of the peace; appointment; duties; salary

44 The Chief Justice of the Supreme Judicial Court may
 authorize any attorney-at-law who is duly licensed to practice
46 law in the State to receive complaints and to issue process for
 the arrest of persons charged with offenses, to issue search
48 warrants and to endorse certificates of commitment of the
 mentally ill, all in accordance with law, and to perform all
50 other such acts and duties that are or may be authorized by law.
 The powers to issue process for the arrest of persons charged

2 with offenses and to issue search warrants extend to offenses
3 subject to the exclusive jurisdiction of the Passamaquoddy Tribal
4 Court or the Penobscot Nation Tribal Court under the terms of
5 Title 30, section 6209-A or 6209-B. That attorney may be known as
6 a justice of the peace.

7 The justice of the peace serves at the pleasure of the Chief
8 Justice of the Supreme Judicial Court, but no term for which a
9 justice of the peace is appointed may exceed 5 years.

10 The justice of the peace is entitled to receive the salary
11 that is determined by the Chief Justice and paid as an expense of
12 the Supreme Judicial Court.

13 The Chief Justice of the Supreme Judicial Court may also
14 authorize any clerk or deputy clerk of the Superior Court to
15 issue process for the arrest of persons charged with offenses if
16 the Chief Justice is satisfied that the clerk or deputy clerk has
17 the necessary training and learning to perform that function.
18 When acting in that capacity, the clerk or deputy clerk is
19 considered a justice of the peace and shall serve at the pleasure
20 of the Chief Justice.

21 **Sec. 4. Court Reform Commission.** The Court Reform
22 Commission, referred to in this section as the "commission," is
23 established to recommend changes in statutes and court rules and
24 procedures that are necessary to carry out the unification of the
25 courts in this State into one trial court and to make the
26 transition as smooth as possible.

27 **1. Membership.** The commission consists of 18 members,
28 appointed as follows:

29 A. A member of the Senate or House of Representatives,
30 appointed jointly by the President of the Senate and the
31 Speaker of the House of Representatives to serve as
32 commission chair;

33 B. Two members of the Senate, appointed by the President of
34 the Senate;

35 C. Two members of the House of Representatives, appointed
36 by the Speaker of the House of Representatives;

37 D. Four members, appointed by the Chief Justice of the
38 Supreme Judicial Court, representing the District Court, the
39 Superior Court, the State Court Administrator and court
40 clerks;

2 E. Four members of the general public, appointed by the
Governor;

4 F. Four attorneys, one each appointed by the Maine
Prosecutors Association, the Maine Defense Attorneys
6 Association, the Maine Trial Lawyers Association and the
Maine State Bar Association; and

8 G. The Attorney General or the Attorney General's designee.

10 All appointments must be made and communicated to the Attorney
12 General within 30 days of the effective date of this section.

14 **2. Duties.** The commission has the following duties.

16 A. The commission shall review the laws of the State to
18 identify changes necessary to establish a unified trial
court.

20 B. The commission shall review court rules and procedures
22 to identify changes necessary to establish a unified trial
court.

24 C. The commission shall review the facilities available for
26 court proceedings and offices and shall make recommendations
concerning the location, allocation and use of facilities to
28 increase access to justice and to improve the quality and
timeliness of services.

30 D. The commission shall hold public hearings to obtain
32 input from people affected by the unification of the courts.

34 **3. Compensation.** Commission members are not entitled to
compensation.

36 **4. Report.** The commission shall report its
38 recommendations, including any recommended legislation, to the
joint standing committee of Legislature having jurisdiction over
40 judiciary matters by January 15, 1999.

42 **Sec. 5 Effective date.** Sections 1, 2 and 3 of this Act take
effect January 1, 2000. Section 4 takes effect 90 days after the
44 adjournment of the Legislature.

46 **SUMMARY**

48 This bill unifies the trial courts in this State into one
trial court, called the Superior Court, effective January 1,
50 2000. The Superior Court will consist of 8 judicial districts

2 that are the same as the current 8 prosecutorial districts. The
3 Superior Court will have jurisdiction over all matters currently
4 within the jurisdiction of the current Superior Court and current
5 District Court. All trial court judges will be known as Superior
6 Court Judges. The Chief Justice of the Supreme Judicial Court
7 shall select a judge in each judicial district to serve as
8 Administrative Judge for that judicial district. The
9 Administrative Judge will have administrative and coordinating
10 responsibilities and will serve on the 8-member Superior Court
11 Council. The Superior Court Council will establish consistent
12 practices and procedures for the judicial districts, while
13 ensuring that the needs of the individual districts are met.

14 Each judicial district will handle cases based on subject
15 matter within the divisions of the Superior Court. The divisions
16 will be the family division, the civil division, the juvenile
17 division, the criminal division and the appellate division.

18 The Court Reform Commission is established to make
19 recommendations for changes in the statutes and in court rules to
20 carry out the unification of the trial courts. The commission
21 shall report to the joint standing committee of the Legislature
22 having jurisdiction over judiciary matters by January 15, 1999
23 with recommended legislation to carry out the unification of the
24 courts by January 1, 2000.