

MAINE STATE LEGISLATURE

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Date: 5-26-09

(Filing No. S-233)

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STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 423, L.D. 1132, Bill, "An Act To Establish the Maine Commission on Indigent Legal Services"

Amend the bill in the emergency preamble by striking out all of the 2nd indented paragraph (page 1, lines 3 to 5 in L.D.) and inserting the following:

'Whereas, under the United States Constitution and the Constitution of Maine, an indigent person who is facing incarceration in a criminal case, who is charged with a juvenile crime, who is a parent subject to a child protection action or who is facing involuntary commitment to a psychiatric hospital is entitled to counsel at state expense; and'

Amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 2 MRSA §6, sub-§12 is enacted to read:

12. Range 52. The salary of the executive director of the Maine Commission on Indigent Legal Services is within salary range 52.'

Amend the bill in section 1 in §1801 in the first paragraph by striking out all of the first underlined sentence (page 2, lines 10 to 14 in L.D.) and inserting the following: 'The Maine Commission on Indigent Legal Services, established by Title 5, section 12004-G, subsection 25-A, is an independent commission whose purpose is to provide efficient, quality indigent legal services, including representation to indigent criminal defendants, juvenile defendants, parents in child protective cases and people facing involuntary commitment to a psychiatric hospital, consistent with federal and state constitutional and statutory obligations.'

Amend the bill in section 1 in §1802 in subsection 1 in the 2nd line (page 2, line 23 in L.D.) by striking out the following: "court" and inserting the following: 'commission'

Amend the bill in section 1 in §1803 in subsection 1 by inserting at the end a new blocked paragraph to read:

COMMITTEE AMENDMENT

1 'In determining the appointments and recommendations under this subsection, the
2 Governor, the President of the Senate, the Speaker of the House of Representatives and
3 the Chief Justice of the Supreme Judicial Court shall consider input from persons and
4 organizations with an interest in the delivery of indigent legal services.'

5 Amend the bill in section 1 in §1803 by striking out all of subsection 2 (page 3, lines
6 13 to 15 in L.D.) and inserting the following:

7 '2. Qualifications. Individuals appointed to the commission must have
8 demonstrated a commitment to quality representation for persons who are indigent and
9 have the skills and knowledge required to ensure that quality of representation is provided
10 in each area of law. No more than 3 members may be attorneys engaged in the active
11 practice of law.'

12 Amend the bill in section 1 in §1804 by striking out all of subsection 1 (page 3, lines
13 28 to 30 in L.D.) and inserting the following:

14 '1. Executive director. The commission shall hire an executive director. The
15 executive director must have experience in the legal field, including, but not limited to,
16 the provision of indigent legal services.'

17 Amend the bill in section 1 in §1804 in subsection 2 in paragraph E in the first line
18 (page 4, line 1 in L.D.) by striking out the following: "competent" and inserting the
19 following: 'quality'

20 Amend the bill in section 1 in §1804 in subsection 3 in paragraph A in the 2nd and
21 3rd lines (page 4, lines 9 and 10 in L.D.) by striking out the following: "any other
22 program necessary to provide high-quality" and inserting the following: 'consider other
23 programs necessary to provide quality'

24 Amend the bill in section 1 in §1804 in subsection 3 by striking out all of paragraph E
25 (page 4, lines 20 to 22 in L.D.) and inserting the following:

26 'E. Establish minimum qualifications to ensure that attorneys are qualified and
27 capable of providing quality representation in the case types to which they are
28 assigned, recognizing that quality representation in each of these types of cases
29 requires counsel with experience and specialized training in that field.'

30 Amend the bill in section 1 in §1804 in subsection 3 in paragraph H in the last line
31 (page 4, line 28 in L.D.) by striking out the following: "and"

32 Amend the bill in section 1 in §1804 in subsection 3 in paragraph I in the last line
33 (page 4, line 31 in L.D.) by striking out the following: "." and inserting the following: ';
34 and'

35 Amend the bill in section 1 in §1804 in subsection 3 by inserting after paragraph I the
36 following:

37 'J. Develop an administrative review and appeal process for attorneys who are
38 aggrieved by a decision of the executive director, including but not limited to
39 nonpayment of attorney vouchers, contract payments and the awarding of
40 appointments or contracts.'

1 Amend the bill in section 1 in §1804 in subsection 4 in paragraph D in the last line
2 (page 5, line 3 in L.D.) by inserting after the following: "2-A" the following: 'except
3 that rules adopted to establish standards under subsection 2, paragraph B are major
4 substantive rules as defined in Title 5, chapter 375, subchapter 2-A and must be reviewed
5 before final approval by the joint standing committee of the Legislature having
6 jurisdiction over judiciary matters'

7 Amend the bill by inserting after section 1 the following:

8 'Sec. 2. 5 MRSA §959 is enacted to read:

9 **§959. Maine Commission on Indigent Legal Services**

10 **1. Major policy-influencing positions.** The following positions are major policy-
11 influencing positions within the Maine Commission on Indigent Legal Services.
12 Notwithstanding any other provision of law, these positions and their successor positions
13 are subject to this chapter:

14 **A. Executive director.'**

15 Amend the bill in section 2 in subsection 25-A in the 3rd column (page 6, line 7 in
16 L.D.) by striking out the following: "Expenses Only" and inserting the following:
17 'Legislative Per Diem Plus Expenses'

18 Amend the bill by inserting after section 4 the following:

19 'Sec. 5. Appropriations and allocations. The following appropriations and
20 allocations are made.

21 **JUDICIAL DEPARTMENT**

22 **Courts - Supreme, Superior and District 0063**

23 Initiative: Transfers funds to create the Maine Commission on Indigent Legal Services,
24 including the transfer of 2 Assistant Clerk positions and 2 Financial Screener positions in
25 fiscal year 2009-10 and 6 Financial Screener positions in fiscal year 2010-11.

26	GENERAL FUND	2009-10	2010-11
27	POSITIONS - LEGISLATIVE COUNT	(4,000)	(10,000)
28	Personal Services	(\$108,632)	(\$503,415)
29	All Other	(\$154,152)	(\$9,959,426)
30			
31	GENERAL FUND TOTAL	<u>(\$262,784)</u>	<u>(\$10,462,841)</u>

32 **Courts - Supreme, Superior and District 0063**

33 Initiative: Transfers funds to the Maine Commission on Indigent Legal Services for the
34 cost of court-appointed counsel for indigent legal services. These costs are reimbursed
35 from individuals who are partially indigent.

12.073

1	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
2	All Other	\$0	(\$363,897)
3			
4	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>(\$363,897)</u>

5	JUDICIAL DEPARTMENT		
6	DEPARTMENT TOTALS	2009-10	2010-11
7			
8	GENERAL FUND	(\$262,784)	(\$10,462,841)
9	OTHER SPECIAL REVENUE FUNDS	\$0	(\$363,897)
10			
11	DEPARTMENT TOTAL - ALL FUNDS	<u>(\$262,784)</u>	<u>(\$10,826,738)</u>

12 **MAINE COMMISSION ON INDIGENT LEGAL SERVICES**

13 **Maine Commission on Indigent Legal Services N077**

14 Initiative: Transfers funds to create the Maine Commission on Indigent Legal Services,
 15 including funds for one Executive Director position, one Staff Attorney position, one
 16 Administrative Assistant position, one Accounting Clerk position in fiscal year 2009-10
 17 and 6 Financial Screener positions in fiscal year 2010-11.

18	GENERAL FUND	2009-10	2010-11
19	POSITIONS - LEGISLATIVE COUNT	4.000	10.000
20	Personal Services	\$108,632	\$503,415
21	All Other	\$154,152	\$9,959,426
22			
23	GENERAL FUND TOTAL	<u>\$262,784</u>	<u>\$10,462,841</u>

24 **Maine Commission on Indigent Legal Services N077**

25 Initiative: Transfers funds to the Maine Commission on Indigent Legal Services for the
 26 cost of court-appointed counsel for indigent legal services. These costs are reimbursed
 27 from individuals who are partially indigent.

28	OTHER SPECIAL REVENUE FUNDS	2009-10	2010-11
29	All Other	\$0	\$363,897
30			
31	OTHER SPECIAL REVENUE FUNDS TOTAL	<u>\$0</u>	<u>\$363,897</u>

1	MAINE COMMISSION ON INDIGENT LEGAL		
2	SERVICES		
3	DEPARTMENT TOTALS	2009-10	2010-11
4			
5	GENERAL FUND	\$262,784	\$10,462,841
6	OTHER SPECIAL REVENUE FUNDS	\$0	\$363,897
7			
8	DEPARTMENT TOTAL - ALL FUNDS	\$262,784	\$10,826,738

9	SECTION TOTALS	2009-10	2010-11
10			
11	GENERAL FUND	\$0	\$0
12	OTHER SPECIAL REVENUE FUNDS	\$0	\$0
13			
14	SECTION TOTAL - ALL FUNDS	\$0	\$0
15			

16 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
17 section number to read consecutively.

18 **SUMMARY**

19 This amendment clarifies language in the emergency preamble and elsewhere in the
20 bill to correctly describe when the State is obligated to provide indigent legal services.

21 This amendment revises language to maintain consistency throughout the bill with
22 regard to quality indigent legal services.

23 This amendment clarifies that the Maine Commission on Indigent Legal Services
24 designates assigned counsel.

25 This amendment requires the Governor, the Chief Justice of the Supreme Judicial
26 Court, the President of the Senate and the Speaker of the House of Representatives, when
27 making recommendations and appointments to the commission, to consider input from
28 persons and organizations with an interest in the delivery of indigent legal services.

29 This amendment requires that the individuals appointed to the commission must
30 have, in addition to the qualifications listed in the bill, the skills and knowledge required
31 to ensure that quality representation is provided in each area of law.

32 This amendment revises the qualifications for the executive director of the Maine
33 Commission on Indigent Legal Services to provide that the executive director must have
34 experience in the legal field, including, but not limited to, the provision of indigent legal
35 services, but need not be an attorney licensed in this State.

36 This amendment requires the commission to consider other programs necessary to
37 provide quality and efficient indigent legal services and to recognize, when establishing
38 minimum attorney qualifications, that quality representation in each of these types of
39 cases requires counsel with experience and specialized training in that field.

1 This amendment requires the commission to develop an administrative and review
2 process for attorneys who are aggrieved by a decision of the executive director.

3 This amendment provides that the commission's rules concerning standards
4 governing experience, training and other qualifications for contract counsel and assigned
5 counsel are major substantive rules and must be submitted to and reviewed by the joint
6 standing committee of the Legislature having jurisdiction over judiciary matters before
7 they take effect.

8 This amendment establishes the executive director as a major policy-influencing
9 position and sets the salary at range 52. This amendment authorizes payment of the
10 legislative per diem to 5 commission members, in addition to expenses.

11 This amendment also adds an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



124th MAINE LEGISLATURE

LD 1132

LR 461(02)

An Act To Establish the Maine Commission on Indigent Legal Services

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	2009-10	2010-11	Projections 2011-12	Projections 2012-13
Net Cost (Savings)				
General Fund	\$0	\$0	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$0	\$0	\$0
Other Special Revenue Funds	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

This bill has no net General Fund impact in the 2010-2011 biennium. It transfers a General Fund appropriation of \$262,784 in fiscal year 2009-10 and \$10,462,841 in fiscal year 2010-11 and an Other Special Revenue Funds allocation of \$363,897 in fiscal year 2010-11 from the Judicial Department to the Maine Commission on Indigent Legal Services to establish an independent commission to coordinate the delivery of indigent legal services.