

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 852

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H.P. 603

House of Representatives, March 5, 2013

### **An Act To Amend Certain Provisions of Law Affecting the Judicial Branch**

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Submitted by the Judicial Department pursuant to Joint Rule 204.  
Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PRIEST of Brunswick.  
Cosponsored by Senator VALENTINO of York and  
Representatives: BEAULIEU of Auburn, CROCKETT of Bethel, FREDETTE of Newport,  
MONAGHAN-DERRIG of Cape Elizabeth, MORIARTY of Cumberland, Senators: BURNS  
of Washington, KATZ of Kennebec.

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

2 **Sec. 1. 4 MRSA §17-A**, as enacted by PL 1993, c. 172, §1, is amended to read:

3 **§17-A. Publications and technology**

4 **1. Informational publications.** The State Court Administrator may establish a fee  
5 schedule to cover the cost of printing and distribution of publications and forms and the  
6 procedures for the sale of these publications and forms.

7 **2. Fund; fees deposited.** All fees collected under this section from the sale of  
8 publications or forms must be deposited in a fund for use by the State Court  
9 Administrator to ~~replace and update publications and forms and to fund new publications,~~  
10 forms and information technology.

11 **Sec. 2. 4 MRSA §153, first ¶**, as amended by PL 2005, c. 397, Pt. C, §4 and  
12 affected by §8, is further amended to read:

13 The State is divided into ~~28~~ judicial divisions, named and defined as follows, and  
14 with places for holding court in those divisions as follows:

15 **Sec. 3. 4 MRSA §153, sub-§19** is repealed.

16 **Sec. 4. 4 MRSA §153, sub-§19-A** is enacted to read:

17 **19-A. Northern and Central Penobscot.** Northern and Central Penobscot consists  
18 of the municipalities and unorganized territory of Hopkins Academy Grant Township,  
19 Long A Township, Medway, TA R7 WELS, Burlington, Edinburg, Lakeville, Lagrange,  
20 Lowell, Passadumkeag, Twombly, Pukakon Township and all municipalities and  
21 unorganized territory in Penobscot County lying to the north of these. The District Court  
22 for Northern and Central Penobscot must be held at Millinocket and Lincoln. The Chief  
23 Judge shall determine the level of service at each location.

24 **Sec. 5. 4 MRSA §153, sub-§20** is repealed.

25 **Sec. 6. 4 MRSA §183, sub-§1, ¶H** is enacted to read:

26 H. The Chief Judge of the District Court may employ a retired family law magistrate  
27 to serve on a per diem basis as an active retired family law magistrate. An active  
28 retired family law magistrate employed pursuant to this paragraph has the same  
29 jurisdiction and is subject to the same restrictions as before retirement. An active  
30 retired family law magistrate serves at the direction of the Chief Judge of the District  
31 Court and is compensated at the per diem rate of \$250 per day or \$150 per half-day,  
32 as long as the total of the per diem compensation and the active retired family law  
33 magistrate's state retirement pension received in any calendar year does not exceed  
34 the annual salary of a family law magistrate. Active retired family law magistrates  
35 are entitled to receive reimbursement for any expenses actually and reasonably  
36 incurred in the performance of their duties.

1           **Sec. 7. 4 MRSA §183, sub-§3**, as amended by PL 2005, c. 384, §1, is further  
2 amended to read:

3           **3. Reports.** The State Court Administrator shall keep statistical records relating to  
4 the cases handled by the Family Division and report this information to the Supreme  
5 Judicial Court annually and to the joint standing committee of the Legislature having  
6 jurisdiction over judiciary matters by ~~January~~ February 15th of each odd-numbered  
7 calendar year.

8           A. The State Court Administrator shall evaluate the functioning of the family law  
9 magistrates in providing a system of justice that is responsive to the needs of families  
10 and the support of their children in light of the jurisdiction given to the family law  
11 magistrates under this section. The State Court Administrator shall report to the joint  
12 standing committee of the Legislature having jurisdiction over judiciary matters no  
13 later than January 15, 1999 with recommendations, if any, for changing the duties  
14 provided in subsection 1, paragraph D.

15           B. The State Court Administrator shall report to the joint standing committee of the  
16 Legislature having jurisdiction over judiciary matters by January 15, 1999 explaining  
17 the justification for the particular geographic assignments of the family law  
18 magistrates.

19           **Sec. 8. 4 MRSA §423, first ¶**, as enacted by PL 1999, c. 780, §1, is amended to  
20 read:

21           The Judicial Department shall report to the joint standing committee of the  
22 Legislature having jurisdiction over judiciary matters by ~~January 15, 2002 and February~~  
23 15th annually ~~thereafter~~ on the establishment and operation of alcohol and drug treatment  
24 programs in the courts. The report must cover at least the following:

25           **Sec. 9. 4 MRSA §454, 2nd ¶**, as amended by PL 1997, c. 134, §6, is further  
26 amended to read:

27           ~~The~~ When sufficient funding is allocated by the Legislature, the institute shall meet ~~at~~  
28 ~~least once every 3 years~~, at the call of the Chief Justice of the Supreme Judicial Court, for  
29 a 2-day period to discuss recommendations for changes in the sentencing authority and  
30 policies of the State's criminal and juvenile courts, in response to current law enforcement  
31 problems and the available alternatives for criminal and juvenile rehabilitation within the  
32 State's correctional system. Inasmuch as possible the deliberations of the institute must be  
33 open to the general public.

34           **Sec. 10. 4 MRSA §1802, sub-§1-A** is enacted to read:

35           **1-A. Appellate counsel.** "Appellate counsel" means an attorney who is entitled to  
36 payment under Title 15, section 2115-A, subsection 8 or 9.

37           **Sec. 11. 4 MRSA §1804, sub-§3, ¶I**, as enacted by PL 2009, c. 419, §2, is  
38 amended to read:

1 I. Approve and submit a biennial budget request to the Department of Administrative  
2 and Financial Services, Bureau of the Budget, including supplemental budget  
3 requests as necessary; ~~and~~

4 **Sec. 12. 4 MRSA §1804, sub-§3, ¶J**, as repealed and replaced by PL 2011, c.  
5 141, §1, is amended to read:

6 J. Develop an administrative review and appeal process for attorneys who are  
7 aggrieved by a decision of the executive director, or the executive director's designee,  
8 determining:

9 (1) Whether an attorney meets the minimum eligibility requirements to receive  
10 assignments or to receive assignments in specialized case types pursuant to any  
11 commission rule setting forth eligibility requirements;

12 (2) Whether an attorney previously found eligible is no longer eligible to receive  
13 assignments or to receive assignments in specialized case types pursuant to any  
14 commission rule setting forth eligibility requirements; and

15 (3) Whether to grant or withhold a waiver of the eligibility requirements set forth  
16 in any commission rule.

17 All decisions of the commission, including decisions on appeals under subparagraphs  
18 (1), (2) and (3), constitute final agency action. All decisions of the executive  
19 director, or the executive director's designee, other than decisions appealable under  
20 subparagraphs (1), (2) and (3), constitute final agency action; ~~and~~

21 **Sec. 13. 4 MRSA §1804, sub-§3, ¶K** is enacted to read:

22 K. Pay appellate counsel.

23 **Sec. 14. 15 MRSA §2115-A, sub-§8**, as amended by PL 1979, c. 663, §110, is  
24 further amended to read:

25 **8. Fees and costs.** The Law Court shall allow reasonable counsel fees and costs for  
26 the defense of appeals under this section, to be paid by the Maine Commission on  
27 Indigent Legal Services under Title 4, section 1801.

28 **Sec. 15. 15 MRSA §2115-A, sub-§9**, as enacted by PL 1987, c. 461, is amended  
29 to read:

30 **9. Appeals to Federal Court; fees and costs.** The Law Court shall allow  
31 reasonable ~~attorneys~~ attorney's fees for court appointed counsel when the State appeals a  
32 judgment to any Federal Court or to the United States Supreme Court on certiorari. Any  
33 fees allowed pursuant to this subsection ~~shall~~ must be paid out of the accounts of the  
34 ~~Judicial Department~~ Maine Commission on Indigent Legal Services under Title 4, section  
35 1801.

36 **SUMMARY**

37 This bill does the following.

1           1. It authorizes the State Court Administrator to use the fees generated from the sale  
2 of publications or forms to fund forms and information technology.

3           2. It combines the judicial divisions of Northern Penobscot and Central Penobscot  
4 into Northern and Central Penobscot and authorizes the Chief Judge to determine the  
5 level of service at the sites of the district courts for that judicial division.

6           3. It permits the Chief Judge of the District Court to employ retired family law  
7 magistrates.

8           4. It changes the reporting dates for the Judicial Department and the State Court  
9 Administrator from January 15th to February 15th.

10          5. It requires the Maine Criminal Justice Sentencing Institute to meet only when  
11 sufficient funding has been allocated for that purpose, instead of every 3 years as in  
12 current law.

13          6. It requires attorney's fees for the defense of appeals by the State to be paid by the  
14 Maine Commission on Indigent Legal Services.