

MAINE STATE LEGISLATURE

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L.D. 1817

Date: 4/12/18

Majority

(Filing No. H-756)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1259, L.D. 1817, Bill, "An Act To Implement the Recommendations of the Working Group To Improve the Provision of Indigent Legal Services Concerning the Membership of the Maine Commission on Indigent Legal Services"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

'Sec. 1. 4 MRSA §1803, sub-§1, as enacted by PL 2009, c. 419, §2, is repealed and the following enacted in its place:

1. Members; appointment; chair. The commission consists of 9 members appointed by the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over judiciary matters and confirmation by the Legislature. The Governor shall designate one member to serve as chair of the commission. The membership consists of the following:

A. One member from a list of qualified potential appointees, provided by the President of the Senate;

B. One member from a list of qualified potential appointees, provided by the Speaker of the House of Representatives;

C. Three members from a list of qualified potential appointees, provided by the Chief Justice of the Supreme Judicial Court;

D. One member with experience in administration and finance;

E. One member with experience providing representation in child protection proceedings;

F. One member from a list of qualified potential appointees who are attorneys engaged in the active practice of law and provide indigent legal services, provided by the president of the Maine State Bar Association. This member is a nonvoting member of the commission; and

1 G. One member from a list of qualified potential appointees who are attorneys
2 engaged in the active practice of law and provide indigent legal services, provided by
3 the president of a statewide organization, other than the Maine State Bar Association,
4 that represents criminal defense attorneys. This member is a nonvoting member of
5 the commission.

6 In determining the appointments and recommendations under this subsection, the
7 Governor, the President of the Senate, the Speaker of the House of Representatives, the
8 Chief Justice of the Supreme Judicial Court, the president of the Maine State Bar
9 Association and the president of the statewide organization that represents criminal
10 defense attorneys shall consider input from individuals and organizations with an interest
11 in the delivery of indigent legal services. Recommendations provided by the president of
12 the Maine State Bar Association and the president of the statewide organization
13 representing criminal defense attorneys must consist of attorneys providing indigent legal
14 services as a majority of their law practices.

15 **Sec. 2. 4 MRSA §1803, sub-§§2 and 4**, as enacted by PL 2009, c. 419, §2, are
16 amended to read:

17 **2. Qualifications.** Individuals appointed to the commission must have demonstrated
18 a commitment to quality representation for persons who are indigent and have the skills
19 and knowledge required to ensure that quality of representation is provided in each area
20 of law. No more than 3 7 members may be attorneys engaged in the active practice of
21 law. A person who is a sitting judge, prosecutor or law enforcement official, or an
22 employee of such a person, may not be appointed to the commission. A voting member
23 and the immediate family members living in the same household as the member may not
24 receive compensation from the commission, other than that authorized in Title 5, section
25 12004-G, subsection 25-A, while the member is serving on the commission.

26 The limitations on members receiving compensation from the commission do not apply to
27 any member serving on the commission as of April 1, 2018 for the duration of the
28 member's term.

29 **4. Quorum.** ~~Three~~ A majority of the current voting members of the
30 commission constitutes a quorum. A vacancy in the commission does not impair the
31 power of the remaining members to exercise all the powers of the commission.

32 **Sec. 3. Initial appointments.** Notwithstanding the Maine Revised Statutes, Title
33 4, section 1803, subsection 3, when appointing the members to fill the 4 new seats on the
34 Maine Commission on Indigent Legal Services pursuant to this Act, the Governor shall
35 designate one member to serve an initial term of 3 years, 2 members to serve an initial
36 term of 2 years and one member to serve an initial term of one year. Members serving on
37 the commission on the effective date of this Act continue to serve until the expiration of
38 their terms.'

39 **SUMMARY**

40 This amendment is the majority report of the Joint Standing Committee on Judiciary.
41 This amendment replaces the bill while retaining the original purpose to expand the
42 membership of the Maine Commission on Indigent Legal Services.

1 Like the bill, the amendment expands the number of commission members from 5 to
2 9. The Governor is still responsible for appointing all members. The amendment
3 increases the number to be appointed from a list of qualified potential appointees
4 provided by the Chief Justice of the Supreme Judicial Court from one, as in current law,
5 to 3. The amendment requires one appointment from a list of qualified potential
6 appointees submitted by the Maine State Bar Association and one appointed from a list
7 provided by a statewide organization, other than the Maine State Bar Association, that
8 represents criminal defense attorneys. The amendment requires the Governor to appoint
9 a member who has experience in administration and finance as well as a member who has
10 experience providing representation in child protection proceedings.

11 Current law requires appointees to have the knowledge and skills required to ensure
12 that quality of representation is provided in each area of law. The amendment removes
13 the skill requirement. The amendment provides that no more than 7 members may be
14 attorneys engaged in the active practice of law.

15 The amendment also addresses issues regarding potential conflicts of interest. It
16 provides that no voting members may receive compensation from the commission, other
17 than the per diem and expenses authorized by statute, while a member of the commission.
18 The limitation on compensation from the commission also applies to a member whose
19 immediate family member living in the same household is receiving compensation from
20 the commission. The limitation on compensation does not apply to any member serving
21 on the commission on April 1, 2018 for the duration of that member's term.

22 In addition, the amendment makes ineligible for appointment a person who is a
23 sitting judge, a prosecutor or a law enforcement official or an employee of any of these
24 individuals.

25 The amendment addresses the issue of how many members constitute a quorum. The
26 amended language defines a quorum as a majority of the current voting members, which
27 will allow the commission to function as it transitions from 5 members to 7 voting
28 members.

29 As 4 additional members will be appointed to the commission, the amendment directs
30 the Governor to designate one of the new members to serve a full 3-year term, 2 members
31 to serve an initial 2-year term and one member to serve an initial term of one year.

32 **FISCAL NOTE REQUIRED**

33 **(See attached)**



Approved: 03/15/18 *MJC*

128th MAINE LEGISLATURE

LD 1817

LR 2892(02)

An Act To Implement the Recommendations of the Working Group To Improve the Provision of Indigent Legal Services Concerning the Membership of the Maine Commission on Indigent Legal Services

Fiscal Note for Bill as Amended by Committee Amendment A (H-756)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Maine Commission on Indigent Legal Services is expected to be minimal and can be managed within current resources.