

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1817

H.P. 1259

House of Representatives, February 1, 2018

**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**

(EMERGENCY)

Reported by Representative MOONEN of Portland for the Joint Standing Committee on
Judiciary pursuant to Public Law 2017, chapter 284, Part UUUU, section 17.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint
Rule 218.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the Maine Commission on Indigent Legal Services consists of 5 members,
4 although there are currently only 3 sitting commissioners; and

5 **Whereas,** the Working Group to Improve the Provision of Indigent Legal Services
6 recommended that the membership be expanded in number and diversity; and

7 **Whereas,** new appointments to the commission should be made consistent with the
8 recommendation to adjust the makeup of the commission, and the commission should be
9 operating at full strength as soon as possible; and

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

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

15 **Sec. 1. 4 MRSA §1803, sub-§§1, 2 and 4,** as enacted by PL 2009, c. 419, §2, are
16 amended to read:

17 **1. Members; appointment; chair.** The commission consists of 5 9 members
18 appointed by the Governor and subject to review by the joint standing committee of the
19 Legislature having jurisdiction over judiciary matters and confirmation by the
20 Legislature. The Governor shall designate one member to serve as chair of the
21 commission. One of the members must be appointed from a list of qualified potential
22 appointees provided by the President of the Senate. One of the members must be
23 appointed from a list of qualified appointees provided by the Speaker of the House of
24 Representatives. ~~One~~ Two of the members must be appointed from a list of qualified
25 potential appointees provided by the Chief Justice of the Supreme Judicial Court. Two of
26 the members must be appointed from a list of qualified potential appointees provided by
27 the president of a statewide organization representing attorneys. One of the members
28 must be appointed from a list of qualified appointees provided by the Dean of the
29 University of Maine School of Law.

30 In determining the appointments and recommendations under this subsection, the
31 Governor, the President of the Senate, the Speaker of the House of Representatives ~~and,~~
32 the Chief Justice of the Supreme Judicial Court, the president of the statewide
33 organization representing attorneys and the Dean of the University of Maine School of
34 Law shall consider input from persons and organizations with an interest in the delivery
35 of indigent legal services.

36 **2. Qualifications.** Individuals appointed to the commission must have demonstrated
37 a commitment to quality representation for persons who are indigent and have the skills
38 and knowledge required to ensure that quality of representation is provided in each area
39 of law. No more than ~~3~~ 7 members may be attorneys engaged in the active practice of
40 law. A person who is a sitting judge, prosecutor, law enforcement official or indigent

1 legal services provider, or an employee of such a person, may not be appointed to the
2 commission.

3 **4. Quorum.** ~~Three~~ Five members of the commission constitutes a quorum. A
4 vacancy in the commission does not impair the power of the remaining members to
5 exercise all the powers of the commission.

6 **Emergency clause.** In view of the emergency cited in the preamble, this
7 legislation takes effect when approved.

8 **SUMMARY**

9 This bill is a recommendation of the Working Group to Improve the Provision of
10 Indigent Legal Services. It amends the makeup of the Maine Commission on Indigent
11 Legal Services, based on suggestions of the Sixth Amendment Center, to include
12 appointments suggested by the Dean of the University of Maine School of Law and the
13 president of a statewide organization representing attorneys. It also increases the number
14 of appointments from a list suggested by the Chief Justice of the Supreme Judicial Court
15 from one to 2. The number of members required for a quorum is adjusted from 3 to 5.

16 In order to ensure the independence of the commission and ensure no appearance of
17 conflict of interest, the bill prohibits the appointment to the commission of a person who
18 is a sitting judge, prosecutor, law enforcement official or indigent legal services provider,
19 or an employee of such a person.