



129th MAINE LEGISLATURE

SECOND SPECIAL SESSION-2020

Legislative Document

No. 2170

H.P. 1553

House of Representatives, July 28, 2020

An Act Authorizing Rulemaking Concerning Attorney Training, Standards and Qualifications by the Maine Commission on Indigent Legal Services

(EMERGENCY)

Reported by Representative BAILEY of Saco for the Joint Standing Committee on Judiciary pursuant to Joint Order 2019, H.P. 1541.

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,** rules governing attorney training, standards and qualifications adopted by 4 the Maine Commission on Indigent Legal Services are designated as major substantive 5 rules; and
- 6 **Whereas,** the rules governing attorney training, standards and qualifications need 7 immediate strengthening, as recommended by the Sixth Amendment Center; and

8 Whereas, waiting for submission of stronger rules to the 130th Legislature prolongs 9 the existing challenges to those in need of high-quality attorneys appointed to represent 10 indigent defendants, juveniles, parents and others; and

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

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

- Sec. 1. 4 MRSA §1804, sub-§4, ¶D, as amended by PL 2013, c. 368, Pt. RRR,
 §1 and affected by §4, is further amended to read:
- 18 D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, 19 subchapter 2-A, except that rules adopted to establish standards under subsection 2, 20 21 paragraph B and rates of compensation for assigned counsel and contract counsel under subsection 2, paragraph F are major substantive rules as defined in Title 5, 22 chapter 375, subchapter 2-A. Notwithstanding this paragraph, until October 1, 2021, 23 rules adopted to establish standards under subsection 2, paragraph B are routine 24 technical rules as defined in Title 5, chapter 375, subchapter 2-A; and 25
- 26 **Emergency clause.** In view of the emergency cited in the preamble, this 27 legislation takes effect when approved.
- 28 SUMMARY
 29 This bill amends the provisions governing the rule

This bill amends the provisions governing the rule-making authority of the Maine Commission on Indigent Legal Services to create a time period during which the rules governing attorney training, standards and qualifications are routine technical rules. This allows the commission to adopt strengthened rules through regular rulemaking and have the rules in place more quickly than the major substantive rules process would allow. Any rules adopted after October 1, 2021 are major substantive rules.