

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 719

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H.P. 530

House of Representatives, March 5, 2021

**Resolve, To Establish the Commission To Create a Plan To  
Incorporate the Probate Courts into the Judicial Branch**

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Received by the Clerk of the House on March 3, 2021. Referred to the Committee on  
Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

ROBERT B. HUNT  
Clerk

Presented by Representative CARDONE of Bangor.

1           **Preamble. Whereas,** the existing probate court system established pursuant to the  
2 Constitution of Maine, Article VI, Section 6 was conditionally repealed by a vote of the  
3 people of Maine in 1967; and

4           **Whereas,** the effective date of repeal was dependent upon the creation of a different  
5 probate court system with full-time probate judges by the Legislature; and

6           **Whereas,** a different probate court system has not been created since the repeal and  
7 the Legislature has not considered a plan to establish a probate court system with full-time  
8 judges; and

9           **Whereas,** to honor the intent of a long-standing vote of Maine people and ensure that  
10 Maine people currently have the same access to justice in all Maine courts; now, therefore,  
11 be it

12           **Sec. 1. Commission established. Resolved:** That the Commission To Create a  
13 Plan To Incorporate the Probate Courts into the Judicial Branch, referred to in this resolve  
14 as "the commission," is established.

15           **Sec. 2. Commission membership. Resolved:** That, notwithstanding Joint Rule  
16 353, the commission consists of 15 members appointed as follows:

17           1. Two members of the Senate appointed by the President of the Senate, including one  
18 member from each of the 2 parties holding the largest number of seats in the Legislature;

19           2. Three members of the House of Representatives appointed by the Speaker of the  
20 House of Representatives, including members from each of the 2 parties holding the largest  
21 number of seats in the Legislature;

22           3. Three members appointed by the Chief Justice of the Supreme Judicial Court;

23           4. One member who is a member of the Maine Probate Judges Assembly appointed  
24 by the Speaker of the House of Representatives;

25           5. One member who is a register of probate appointed by the Speaker of the House of  
26 Representatives;

27           6. One member who is a judicial branch clerk appointed by the Chief Justice of the  
28 Supreme Judicial Court;

29           7. One member who is a member of the Probate and Trust Law Advisory Commission  
30 appointed by that commission;

31           8. One member who is a member of the Family Law Advisory Commission appointed  
32 by that commission; and

33           9. Two members who are members of the Maine State Bar Association, one of whom  
34 is a member of a nonprofit organization providing statewide free legal services, appointed  
35 by the Speaker of the House of Representatives.

36           **Sec. 3. Chairs; subcommittees. Resolved:** That the first-named Senate member  
37 is the Senate chair and the first-named House of Representatives member is the House chair  
38 of the commission. The chairs of the commission are authorized to establish  
39 subcommittees to work on the duties listed in section 5 and to assist the commission. Any  
40 subcommittees established by the chairs must be composed of members of the commission

1 and interested persons who are not members of the commission and who volunteer to serve  
2 on the subcommittees without reimbursement.

3 **Sec. 4. Appointments; convening of commission. Resolved:** That all  
4 appointments must be made no later than 30 days following the effective date of this  
5 resolve. The appointing authorities shall notify the Executive Director of the Legislative  
6 Council once all appointments have been completed. After appointment of all members,  
7 the chairs shall call and convene the first meeting of the commission. If 30 days or more  
8 after the effective date of this resolve a majority of but not all appointments have been  
9 made, the chairs may request authority and the Legislative Council may grant authority for  
10 the commission to meet and conduct its business.

11 **Sec. 5. Duties. Resolved:** That the commission shall create a plan for a probate  
12 court system with full-time judges. The commission may consider for inclusion in the plan  
13 any features that the commission determines relevant, including, but not limited to, features  
14 that will ensure timely, convenient and meaningful access to justice, promote judicial  
15 responsibility and adherence to the code of judicial responsibility, provide for qualified  
16 full-time judges, provide adequate professional staff, reflect efficient practices in  
17 scheduling and case management throughout the system, allow for convenient and  
18 consumer-friendly processing of matters that are not contested and reflect economies of  
19 scale in all appropriate operational aspects. The commission shall describe how the system  
20 would be funded.

21 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide  
22 necessary staffing services to the commission, except that Legislative Council staff support  
23 is not authorized when the Legislature is in regular or special session.

24 **Sec. 7. Information and assistance. Resolved:** That the Administrative Office  
25 of the Courts and registers of probate shall provide to the commission information and  
26 assistance requested by the commission and required for the commission to perform its  
27 duties.

28 **Sec. 8. Report. Resolved:** That, no later than December 1, 2021, the commission  
29 shall submit a report that includes its findings and recommendations, including suggested  
30 legislation, for presentation to the Joint Standing Committee on Judiciary. The Joint  
31 Standing Committee on Judiciary may report out a bill regarding the subject matter of the  
32 report to the Second Regular Session of the 130th Legislature.

### 33 SUMMARY

34 This resolve establishes the Commission To Create a Plan To Incorporate the Probate  
35 Courts into the Judicial Branch including Legislators and interested parties to create a plan  
36 describing how a probate system with full-time judges can be created and funded. The  
37 Joint Standing Committee on Judiciary has authority to report out a bill regarding the plan  
38 to the Second Regular Session of the 130th Legislature.