

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1950

H.P. 1453

House of Representatives, January 26, 2022

**An Act To Implement the Recommendations of the Commission To
Create a Plan To Incorporate the Probate Courts into the Judicial
Branch**

(EMERGENCY)

Reported by Representative HARNETT of Gardiner for the Joint Standing Committee on
Judiciary pursuant to Resolve 2021, chapter 104, section 8.

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 existing Probate Court system established pursuant to the Constitution
4 of Maine, Article VI, Section 6 was conditionally repealed by a vote of the people of Maine
5 in 1967; and

6 **Whereas,** the effective date of the repeal was dependent on the establishment of a
7 different Probate Court system with full-time judges by the Legislature; and

8 **Whereas,** this legislation implements the recommendations of the Commission To
9 Create a Plan To Incorporate the Probate Courts into the Judicial Branch, which was
10 established by Resolve 2021, chapter 104 to honor the intent of a long-standing vote of
11 Maine people and directed to create a plan for a Probate Court system with full-time judges;
12 and

13 **Whereas,** enactment of this legislation will trigger the repeal of the Constitution of
14 Maine, Article VI, Section 6, which provides for the election of county probate judges and
15 county registers of probate, some of whom are subject to primary and general elections this
16 year; and

17 **Whereas,** it is therefore necessary to clarify the statutory processes by which probate
18 court judges and registers of probate are selected before the date of the June 14, 2022
19 primary; and

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

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

25 **PART A**

26 **Sec. A-1. Legislative intent.** In 1967, the Legislature finally passed Resolve 1967,
27 chapter 77, which proposed to amend the Constitution of Maine by repealing Article VI,
28 Section 6, "effective at such time as the Legislature by proper enactment shall establish a
29 different Probate Court system with full-time judges." The constitutional amendment in
30 Resolve 1967, chapter 77 was approved by a majority of the voters of Maine on November
31 7, 1967. It is the intent of the Legislature that the enactment of this Act, which creates a
32 statewide Probate Court with full-time judges, triggers the repeal of the Constitution of
33 Maine, Article VI, Section 6 pursuant to Resolve 1967, chapter 77.

34 **PART B**

35 **Sec. B-1. 4 MRSA §9-A, first ¶,** as amended by PL 1987, c. 736, §2, is further
36 amended to read:

37 The Supreme Judicial Court ~~shall have~~ has the power and authority to prescribe, repeal,
38 add to, amend or modify rules of evidence with respect to any and all civil actions or other
39 proceedings; and any and all proceedings in criminal cases before justices of the peace,
40 District Courts, ~~probate courts~~ Probate Courts, Superior Courts and the Supreme Judicial
41 Court.

1 **Sec. B-2. 4 MRSA §9-B**, as amended by PL 1999, c. 547, Pt. B, §3 and affected by
2 §80, is further amended to read:

3 **§9-B. Committee on judicial responsibility and disability**

4 The Supreme Judicial Court has the power and authority to prescribe, repeal, add to,
5 amend or modify rules relating to a committee to receive complaints, make investigations
6 and make recommendations to the Supreme Judicial Court in regard to discipline,
7 disability, retirement or removal of justices of the Supreme Judicial Court and the Superior
8 Court and judges of the District Court and the ~~probate courts~~ Probate Courts.

9 **Sec. B-3. 4 MRSA §57, first ¶**, as amended by PL 1999, c. 731, Pt. ZZZ, §2 and
10 affected by §42, is further amended to read:

11 The following cases only come before the court as a court of law: Cases on appeal from
12 the District Court, the Superior Court or a single Justice of the Supreme Judicial Court or
13 from the ~~probate courts~~ Probate Court; questions of law arising on reports of cases,
14 including interlocutory orders or rulings of such importance as to require, in the opinion of
15 the justice, review by the Law Court before any further proceedings in the action; agreed
16 statement of facts; cases presenting a question of law; all questions arising in cases in which
17 equitable relief is sought; motions to dissolve injunctions issued after notice and hearing or
18 continued after a hearing; questions arising on habeas corpus, mandamus and certiorari and
19 questions of state law certified by the federal courts. They must be marked "law" on the
20 docket of the county or district where they are pending, and there continued until their
21 determination is certified by the Clerk of the Law Court to the Register of Probate or clerk
22 of courts of the county and the court shall immediately after the decision of the question
23 submitted to it make such order, direction, judgment or decree as is fit and proper for the
24 disposal of the case, and cause a rescript in all civil actions, briefly stating the points therein
25 decided, to be filed therein, which rescript must be certified by the Clerk of the Law Court
26 to the Register of Probate or clerk of courts of the county or district where the action is
27 pending and to the Reporter of Decisions. If no further opinion is written out, the reporter
28 shall publish in the next volume of reports thereafter issued the case, together with such
29 rescript, if the reporter deems the same of sufficient importance for publication.

30 **Sec. B-4. 4 MRSA §105, sub-§2, ¶A**, as enacted by PL 1999, c. 731, Pt. ZZZ, §3
31 and affected §42, is amended to read:

32 A. Concurrent or exclusive jurisdiction is vested in the District Court or the Probate
33 Court; or

34 **Sec. B-5. 4 MRSA §152, sub-§4**, as repealed and replaced by PL 2013, c. 21, §1,
35 is amended to read:

36 **4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the
37 Superior Court or Probate Court, of mental health commitment hearings under Title 34-B,
38 chapter 3, subchapter 4; habitual truancy actions under Title 20-A, chapters 119 and 211
39 under which equitable relief may be granted; and small claims actions under Title 14,
40 chapter 738;

41 **Sec. B-6. 4 MRSA §152, sub-§5-A**, as amended by PL 2017, c. 402, Pt. C, §3 and
42 affected by PL 2019, c. 417, Pt. B, §14, is further amended to read:

1 **5-A. Actions involving minors under Title 18-C.** Exclusive jurisdiction of actions
2 for guardianship, adoption, change of name or other matters involving custody or other
3 parental rights brought under Title 18-C if proceedings involving custody or other parental
4 rights with respect to a minor child, including but not limited to adoption, divorce, parental
5 rights and responsibilities, grandparents' rights, protective custody, change of name,
6 guardianship, paternity, termination of parental rights and protection from abuse or
7 harassment, are pending in the District Court.

8 A. The District Court presiding over any matter involving custody or other parental
9 rights with respect to a minor child shall require all parties to disclose whether they
10 have knowledge of:

11 (1) Any interim or final order then in effect concerning custody or other parental
12 rights with respect to the minor child;

13 (2) Any proceeding involving custody or other parental rights with respect to the
14 minor child currently filed or pending before any court of this State or another
15 state, including before a ~~probate court in this State~~ the Probate Court; or

16 (3) Any other related action currently filed or pending before any court of this
17 State or another state, including before a ~~probate court in this State~~ the Probate
18 Court.

19 B. If the District Court presiding over any matter involving custody or other parental
20 rights with respect to a minor child becomes aware that a proceeding for guardianship,
21 adoption or change of name or another matter involving custody or other parental rights
22 with respect to the minor child is pending in a ~~probate court in this State~~ the Probate
23 Court, the District Court shall notify the Probate Court and take appropriate action to
24 facilitate a transfer of the matter from the Probate Court;

25 **Sec. B-7. 4 MRS §201** is repealed.

26 **Sec. B-8. 4 MRS §201-A** is enacted to read:

27 **§201-A. Establishment; court of record; seal; process; contempt power**

28 **1. Definition.** As used in this Title, unless the context otherwise indicates, "Probate
29 Court" includes:

30 A. Prior to January 1, 2025, each county Probate Court for which the term of the
31 county's Probate Court Judge elected or appointed under the former Constitution of
32 Maine, Article VI, Section 6 or elected under section 301-A, subsection 1 has not yet
33 expired. This paragraph does not include any county probate court in which a vacancy
34 occurs after January 1, 2023 due to the death, resignation, removal from the county or
35 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of the elected
36 county Probate Court Judge; and

37 B. Beginning January 1, 2023, the Probate Court established under subsection 2,
38 paragraph B in each county in which the term of the most recent county Probate Court
39 Judge elected under the former Constitution of Maine, Article VI, Section 6 or under
40 section 301-A, subsection 1 has expired or in which a vacancy occurs after January 1,
41 2023 due to the death, resignation, removal from the county or permanent incapacity
42 as defined in Title 30-A, section 1, subsection 2-A of the elected county Probate Court
43 Judge.

1 **2. Establishment; court of record; seal.** The provisions of this section govern the
2 Probate Court.

3 A. Each county Probate Court described in subsection 1, paragraph A, as heretofore
4 established, is a court of record. The Register of Probate shall maintain custody of the
5 official seal of the county Probate Court.

6 B. A Probate Court for the State is established on January 1, 2023 as a court of record
7 in the counties described in subsection 1, paragraph B. The Chief Judge of the Probate
8 Court shall establish the official seal of the court and provide the official seal to the
9 Register of Probate in each county described in subsection 1, paragraph B.

10 **3. Process; contempt power.** The Probate Court may issue any process necessary for
11 the discharge of official duties and may punish for contempt of the court's authority.

12 **Sec. B-9. 4 MRSA §202**, as amended by PL 1981, c. 456, Pt. A, §5, is further
13 amended to read:

14 **§202. Oaths and acknowledgments**

15 All oaths required to be taken by personal representatives, trustees, guardians, ~~or~~
16 conservators, or of any other persons in relation to any proceeding in the ~~probate court~~
17 Probate Court, or to perpetuate the evidence of the publication of any order of notice, may
18 be administered by the ~~judge Probate Court Judge or register of probate~~ Register of Probate
19 or any notary public. A certificate thereof, when taken out of court, ~~shall~~ must be returned
20 into the registry of probate and there filed. When any person of whom such oath is required,
21 including any parent acknowledging consent to an adoption, resides temporarily or
22 permanently ~~without~~ outside of the State, the oath or acknowledgment may be taken before
23 and be certified by a notary public ~~without the State~~ in another state, a commissioner for
24 the State of ~~Maine~~ or a United States Consul.

25 **Sec. B-10. 4 MRSA §203** is amended to read:

26 **§203. Rights of claimants under heir**

27 Any person claiming under an heir at law has the same rights as the heir in all
28 proceedings in ~~probate courts~~ Probate Court, including rights of appeal.

29 **Sec. B-11. 4 MRSA §251**, as corrected by RR 2015, c. 2, §1, is further amended to
30 read:

31 **§251. General jurisdiction**

32 Each ~~judge~~ Probate Court may take the probate of wills and grant letters testamentary
33 or of administration on the estates of all deceased persons who, at the time of their death,
34 were inhabitants or residents of the ~~judge's~~ county in which the Probate Court is located or
35 who, not being residents of the State, died leaving an estate to be administered in ~~the judge's~~
36 that county, or whose estate is afterwards found therein; and has jurisdiction of all matters
37 relating to the settlement of such estates. ~~A judge may grant leave to adopt children, change~~
38 ~~the names of persons, appoint guardians for minors and others according to law and has~~
39 ~~jurisdiction as to persons under guardianship, and as to whatever else is conferred by law,~~
40 ~~except in cases in which the District Court has jurisdiction over a child pursuant to section~~
41 152, subsection 5-A. Except in cases in which the District Court has exclusive jurisdiction
42 over a child pursuant to section 152, subsection 5-A, each Probate Court has jurisdiction to
43 the extent authorized in Title 18-C over adoptions, name change petitions, guardianships.

1 conservatorships and other protective arrangements; has jurisdiction to the extent
2 authorized in Title 18-C as to persons under guardianship, conservatorship or other
3 protective arrangements; and has jurisdiction over any other matter as provided by law.

4 **Sec. B-12. 4 MRSA §251-A**, as enacted by PL 2015, c. 460, §4, is amended to read:

5 **§251-A. Other proceedings involving parental rights; transfer to District Court**

6 **1. Disclosure of orders and proceedings.** ~~The judge of probate presiding over any~~
7 ~~matter involving guardianship, adoption or change of name or another matter involving~~
8 ~~custody or other parental rights with respect to a minor child~~ Probate Court shall require
9 all parties in any matter involving guardianship, adoption or change of name or another
10 matter involving custody or other parental rights with respect to a minor child to disclose
11 whether they have knowledge of:

12 A. Any interim or final order then in effect concerning custody or other parental rights
13 with respect to the minor child;

14 B. Any proceeding involving custody or other parental rights with respect to the minor
15 child currently filed or pending before any court of this State or another state, including
16 the District Court; or

17 C. Any other related action currently filed or pending before any court of this State or
18 another state, including the District Court.

19 **2. Transfer to District Court.** If in a matter before the Probate Court concerning a
20 minor child ~~a judge of probate~~ the Probate Court becomes aware that a proceeding
21 involving custody or other parental rights with respect to the minor child is pending in the
22 District Court, the ~~judge~~ Probate Court shall notify the District Court and take appropriate
23 action to facilitate a transfer of the matter to the District Court.

24 **Sec. B-13. 4 MRSA §252** is amended to read:

25 **§252. Equity jurisdiction**

26 ~~The courts of probate shall have~~ Probate Court has jurisdiction in equity, concurrent
27 with the Superior Court, of all cases and matters relating to the administration of the estates
28 of deceased persons, to wills and to trusts ~~which that~~ are created by will or other written
29 instrument. Such jurisdiction may be exercised upon complaint according to the usual
30 course of proceedings in civil actions in which equitable relief is sought.

31 **Sec. B-14. 4 MRSA §253**, as amended by PL 2017, c. 402, Pt. C, §4 and affected
32 by PL 2019, c. 417, Pt. B, §14, is further amended to read:

33 **§253. Jurisdiction in court where proceedings originate**

34 Subject to Title 18-C, sections 1-303 ~~and~~, 3-201, 5-106 and 9-104, and except as
35 otherwise provided in Title 18-C, section 5-105, when a case is originally within the
36 jurisdiction of the ~~probate court~~ Probate Court in 2 or more counties, the one that first
37 commences proceedings ~~therein~~ retains the same exclusively throughout. The jurisdiction
38 assumed in any case, except in cases of fraud, so far as it depends on the residence of any
39 person or the locality or amount of property, may not be contested in any proceeding
40 ~~whatever~~, except on an appeal or removal from the ~~probate court~~ Probate Court in the
41 original case or when the want of jurisdiction appears on the same record.

42 **Sec. B-15. 4 MRSA §301**, as amended by PL 1995, c. 683, §1, is repealed.

1 **Sec. B-16. 4 MRSA §301-A** is enacted to read:

2 **§301-A. Judges; election or appointment; term; qualifications; salary; expenses; full-**
3 **time duties**

4 **1. Election; term.** Probate Court Judges are elected to the county Probate Courts
5 described in section 201-A, subsection 2, paragraph A as follows.

6 A. A county Probate Court Judge elected or appointed under the former Constitution
7 of Maine, Article VI, Section 6 may serve until the expiration of that judge's term of
8 office.

9 (1) A vacancy occurring during the term of a county Probate Court Judge elected
10 on November 6, 2018 due to the death, resignation, removal from the county or
11 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of the
12 judge may be filled by the Governor by appointment. In the case of a vacancy in
13 the term of a county Probate Court Judge who was nominated by primary election
14 before the general election, the individual appointed by the Governor to fill the
15 vacancy must be enrolled in the same political party as the judge whose term is
16 vacant. In making the appointment, the Governor shall choose from any
17 recommendations submitted to the Governor by the county committee of the
18 political party from which the appointment is to be made. The term of the
19 successor judge appointed by the Governor under this paragraph ends on December
20 31, 2022.

21 (2) A vacancy occurring before January 1, 2023 during the term of a county Probate
22 Court Judge elected on November 3, 2020 due to the death, resignation, removal
23 from the county or permanent incapacity as defined in Title 30-A, section 1,
24 subsection 2-A of the judge must be filled by election under paragraph B; in the
25 meantime, the Governor may fill such a vacancy by appointment. In the case of a
26 vacancy in the term of a county Probate Court Judge who was nominated by
27 primary election before the general election, the individual appointed by the
28 Governor to fill the vacancy must be enrolled in the same political party as the
29 judge whose term is vacant. In making the appointment, the Governor shall choose
30 from any recommendations submitted to the Governor by the county committee of
31 the political party from which the appointment is to be made. The term of the
32 successor judge appointed by the Governor under this paragraph ends on December
33 31, 2022.

34 (3) Vacancies occurring after January 1, 2023 during the term of any county
35 Probate Court Judge elected under the former Constitution of Maine, Article VI,
36 Section 6 due to the death, resignation, removal from the county or permanent
37 incapacity as defined in Title 30-A, section 1, subsection 2-A of the judge may not
38 be filled.

39 B. A county Probate Court Judge must be elected in Androscoggin, Franklin, Knox and
40 Penobscot counties, and in any county in which a vacancy described in paragraph A,
41 subparagraph (2) occurs, by a plurality of the votes cast in the respective county at an
42 election on the Tuesday following the first Monday of November in 2022. Each county
43 Probate Court Judge elected under this subsection has a term of office of 2 years,
44 commencing January 1, 2023. Vacancies occurring in offices governed by this
45 paragraph due to the death, resignation, removal from the county or permanent

1 incapacity as defined in Title 30-A, section 1, subsection 2-A of the county Probate
2 Court Judge may not be filled.

3 **2. Appointment; term.** Probate Court Judges are appointed to the state Probate Court
4 established in section 201-A, subsection 2, paragraph B as follows.

5 A. The Governor, subject to review by the joint standing committee of the Legislature
6 having jurisdiction over judiciary matters and to confirmation by the Legislature, shall
7 appoint 4 judges for terms that commence no earlier than January 1, 2023. Each Probate
8 Court Judge appointed under this paragraph has a term of office of 7 years.

9 B. Beginning January 1, 2023, if the Chief Justice of the Supreme Judicial Court
10 determines that the number of Probate Court Judges appointed under paragraph A is
11 insufficient to provide for the efficient administration of justice in the Probate Court
12 established in section 201-A, subsection 2, paragraph B, the Chief Justice may request
13 that the Governor appoint an additional judge. Upon receipt of a request from the Chief
14 Justice under this paragraph, the Governor, subject to review by the joint standing
15 committee of the Legislature having jurisdiction over judiciary matters and to
16 confirmation by the Legislature, may appoint an additional judge to the Probate Court
17 established in section 201-A, subsection 2, paragraph B. In no event may more than 9
18 Probate Court Judges be appointed to the Probate Court established in section 201-A,
19 subsection 2, paragraph B. Each Probate Court Judge appointed under this paragraph
20 has a term of office of 7 years.

21 **3. Qualifications.** To be eligible for election or appointment as a Probate Court Judge,
22 an individual must be a member of the bar of the State.

23 **4. Salary; expenses.** Each Probate Court Judge elected under subsection 1 or elected
24 or appointed under the former Constitution of Maine, Article VI, Section 6 is entitled to
25 receive an annual salary as established by the judge's county pursuant to Title 30-A, chapter
26 3 and the fees provided in section 304. Beginning January 1, 2023 and except as provided
27 in subsection 5 for the Chief Judge of the Probate Court, each Probate Court Judge
28 appointed under subsection 2 is entitled to receive a salary equivalent to the salary of an
29 Associate Judge of the District Court under section 157, subsections 4 and 4-A and to
30 reimbursement by the State for expenses to the same extent that a District Court Judge is
31 entitled to reimbursement by the State for expenses under section 157, subsection 5.

32 **5. Designation of Chief Judge; salary; expenses.** Beginning January 1, 2023, the
33 Chief Justice of the Supreme Judicial Court shall designate one Probate Court Judge
34 appointed under subsection 2 as the Chief Judge of the Probate Court. The Chief Judge is
35 entitled to receive a salary equivalent to the salary of the Chief Judge of the District Court
36 under section 157, subsection 2 and to reimbursement by the State for expenses to the same
37 extent that a District Court Judge is entitled to reimbursement by the State for expenses
38 under section 157, subsection 5.

39 **6. Full-time duties.** Beginning January 1, 2023, a Probate Court Judge appointed
40 under subsection 2 shall devote full time to that Probate Court Judge's judicial duties.
41 During that Probate Court Judge's term of office, that judge may not practice law or be the
42 partner or associate of any person in the practice of law.

1 **7. Exception.** Subsection 6 does not apply to a county Probate Court Judge elected
2 under subsection 1 or elected or appointed under the former Constitution of Maine, Article
3 VI, Section 6.

4 **Sec. B-17. 4 MRSA §302**, as corrected by RR 2021, c. 1, Pt. B, §8, is amended to
5 read:

6 **§302. Officers execute processes and attend courts**

7 Sheriffs, their deputies and constables shall execute all legal processes directed to them
8 by ~~any such judge of probate~~ a Probate Court Judge, who may, when necessary, require
9 such officer, when not in attendance upon any other court, to attend during the sitting of
10 the ~~probate court~~ Probate Court, for which that officer must be paid as in other courts for
11 similar services.

12 **Sec. B-18. 4 MRSA §303**, as amended by PL 1965, c. 238, is further amended to
13 read:

14 **§303. Continuous session; return day for matters requiring public notice**

15 ~~The Probate court~~ Court shall always be open in each county for all matters over which
16 it has jurisdiction, except upon days on which by law no court is held, but it shall have
17 certain fixed days and places to be made known by public notification thereof in their
18 respective counties to which all matters requiring public notice ~~shall~~ must be made
19 returnable, except as otherwise ordered by the ~~judge~~ Probate Court Judge. In case of the
20 absence of the judge ~~or vacancy in the office~~ at the time of holding any court, the ~~register~~
21 Register of Probate or acting register may adjourn the same until the judge can attend or
22 ~~some other probate judge~~ another Probate Court Judge can be notified and attend.

23 **Sec. B-19. 4 MRSA §304**, as corrected by RR 2021, c. 1, Pt. B, §9, is amended to
24 read:

25 **§304. Equity and contested cases; time and place of hearing**

26 ~~Judges of probate~~ The Probate Court may hold hearings for matters in equity and
27 contested cases at such time and place in the county as the ~~judge of probate~~ Probate Court
28 may appoint and make all necessary orders and decrees relating thereto, ~~and when hearings~~
29 ~~are held at other places than those fixed for holding the regular terms of court, the judge is~~
30 ~~allowed, in addition to that judge's regular salary, \$5 per day and actual expenses, which~~
31 ~~must be paid by the State unless otherwise provided by law.~~

32 When a Probate Court in a county described in section 201-A, subsection 1, paragraph
33 A holds a hearing in a place other than the place fixed for holding the regular terms of the
34 court, the Probate Court Judge is allowed, in addition to that judge's regular salary, \$5 per
35 day and actual expenses, which must be paid by the State unless otherwise provided by
36 law.

37 **Sec. B-20. 4 MRSA §305**, as repealed and replaced by PL 1979, c. 41, is amended
38 to read:

39 **§305. Term of Fort Kent and Caribou probate court**

40 ~~The judge of probate~~ Probate Court in and for the County of Aroostook shall hold a
41 court ~~of probate~~ at least twice ~~in~~ each year at Fort Kent and at least 4 times each year at

1 Caribou in the county. The time for holding the court shall ~~must~~ be appointed by the judge
2 and made known by public notification as provided in section 303.

3 **Sec. B-21. 4 MRSA §306**, as corrected by RR 2021, c. 1, Pt. B, §10, is amended to
4 read:

5 **§306. Interchange of judicial duties; expenses**

6 ~~During the~~ With respect to a Probate Court Judge in a county described in section
7 201-A, subsection 1, paragraph A, during a period of sickness; or absence from the State
8 or inability of any the judge of probate to hold the regular terms of that judge's court, such
9 the terms, at the judge's request or that of the register Register of Probate of the county,
10 may be held by the judge of any other county any other Probate Court Judge. The judges
11 Probate Court Judges in counties described in section 201-A, subsection 1, paragraph A
12 may interchange service or perform each others' duties when they find it necessary or
13 convenient, and in case of a vacancy in the office of a judge, all necessary terms of the
14 probate court for the county may, at the request of the register, be held by the judge of
15 another county until the vacancy is filled. The orders, decrees and decisions of the judge
16 Probate Court Judge holding such terms have the same force and validity as if made by the
17 judge Probate Court Judge of the county in which such terms are held.

18 When any judge of probate Probate Court Judge in a county described in section 201-A,
19 subsection 1, paragraph A holds court or a hearing in any probate matter, or in equity, in
20 any county other than the one in which that judge resides, that judge must be reimbursed
21 by the county in which such court or hearing is held for that judge's expenses actually and
22 reasonably incurred, upon presentation to the county commissioners of that county of a
23 detailed statement of such expenses.

24 **Sec. B-22. 4 MRSA §307**, as corrected by RR 2021, c. 1, Pt. B, §11, is amended to
25 read:

26 **§307. Conflict of interest; transfer of case**

27 When a judge Probate Court Judge or register of probate Register of Probate is
28 interested in that judge's or register of probate's register's own right, trust, or in any other
29 manner, or is within the degree of kindred, by which in law that judge or register of probate
30 may, by possibility, be heir to any part of the estate of the person deceased, or is named as
31 executor, trustee or guardian of minor children in the will of any deceased resident of the
32 county, such estate must be settled in the probate court Probate Court of any adjoining
33 county, which has as full jurisdiction thereof as if the deceased had died in that adjoining
34 county. If the judge's or register of probate's register's interest arises after jurisdiction of
35 such estate has been regularly assumed or existed at the time of the judge's or register of
36 probate's register's appointment to office, and in all cases where when an executor,
37 administrator, guardian or trustee, whose trust is not fully executed, becomes judge or
38 register of probate for the county in which that judge's or register of probate's register's
39 letters were granted, further proceedings in that county must be transferred to the probate
40 court Probate Court in any adjoining county and there remain until completed, as if such
41 court had had original jurisdiction thereof, unless said disability is removed before that
42 time. Whenever in any case within under this section the disability of the judge or register
43 is removed before the proceedings have been fully completed, the proceedings must then
44 be transferred to the probate court Probate Court in the county of original jurisdiction or to
45 the probate court Probate Court that otherwise would have had jurisdiction. In all such

1 cases the register in such adjoining county shall transmit copies of all records relating to
2 such estate to the probate office of the county where such estate belongs, to be there
3 recorded.

4 This section may not be construed to require removal to another county by reason of
5 the ~~judge~~ Probate Court Judge or ~~register of probate~~ Register of Probate having been named
6 as executor, trustee or guardian of minor children in a will, as long as the judge or register
7 ~~of probate~~ does not receive a benefit from the will and the record of the court discloses the
8 filing of the judge's or ~~register of probate's~~ register's declination to act as such executor,
9 trustee or guardian, if no objection is raised by any interested party at the hearing on the
10 petition for probate of the will.

11 A ~~judge~~ Probate Court Judge in a county described in section 201-A, subsection 1,
12 paragraph A is considered to be interested in an estate or other probate proceeding,
13 including adoptions, if the judge or a person with whom the judge practices law represents
14 a party in the proceeding. When such representation begins, the judge shall transfer the
15 matter as provided in this section, after which transfer the judge or the person with whom
16 the judge practices law may continue such representation, except that, after a formal
17 probate proceeding has been initiated before a judge, that judge is forever barred from
18 assuming representation of a party in that same proceeding without regard to whether or
19 not the proceeding has been transferred. A petition requesting a transfer and the petition
20 related to the matter being transferred filed simultaneously are not considered formal
21 probate proceedings for the purposes of this paragraph.

22 **Sec. B-23. 4 MRSA §308**, as corrected by RR 2021, c. 1, Pt. B, §12, is amended to
23 read:

24 **§308. Certification of unfinished acts of predecessor judge**

25 Every ~~judge~~ Probate Court Judge in a county described in section 201-A, subsection 1,
26 paragraph A, upon entering on the duties of that judge's office, shall examine the records,
27 decrees, certificates and all proceedings connected therewith that the judge's predecessor
28 left unsigned or unauthenticated. If the judge finds them correct, the judge shall sign and
29 authenticate them and they are then as valid to all intents and purposes as if such duty had
30 been done by the judge's predecessor while in office.

31 **Sec. B-24. 4 MRSA §309**, as corrected by RR 2021, c. 1, Pt. B, §13, is amended to
32 read:

33 **§309. Judge not to counsel or draft documents**

34 A ~~judge of probate~~ Probate Court Judge may not have a voice in judging and
35 determining or be attorney or counselor in or out of court in any civil action or matter that
36 depends on or relates to any sentence or decree made by that judge ~~of probate~~ in that ~~judge~~
37 ~~of probate's~~ judge's office, or in any civil action for or against any executor, administrator,
38 guardian or trustee under any last will and testament, as such, within that ~~judge of probate's~~
39 judge's county. Any process or proceeding commenced by a ~~judge of probate~~ Probate Court
40 Judge in the ~~probate court for that judge of probate's county~~ Probate Court in violation of
41 this section is void, and that judge ~~of probate~~ is liable to the party injured in damages. A
42 ~~judge of probate~~ Probate Court Judge may not draft or aid in drafting any document or
43 paper that the judge ~~of probate~~ is by law required to pass upon.

44 **Sec. B-25. 4 MRSA §310** is amended to read:

1 **§310. Perpetual care of cemetery lots by order**

2 ~~Judges of probate, in~~ In any case in which an estate is under ~~their~~ the Probate Court's
3 jurisdiction for probate, shall have the power to the Probate Court exercising jurisdiction
4 over the estate may order that an appropriate amount out of the estate be set aside for
5 perpetual care and suitable memorials for the cemetery lot in which the deceased is buried,
6 and to order special care of such lots when the conditions and size of the estate seem to
7 warrant such order.

8 **Sec. B-26. 4 MRSA §311**, as enacted by PL 1969, c. 434, is amended to read:

9 **§311. Contracts for support**

10 All contracts for support for life ~~shall~~ must be approved by the Probate Court in the
11 county in which the support for life is to be rendered. The Probate Court shall grant
12 approval after such reasonable notice as the court ~~shall determine~~ determines to be
13 appropriate, if the court ~~shall find~~ finds, after hearing, that the contract is just and equitable
14 under all of the circumstances.

15 A contract or agreement for support for life without such Probate Court approval ~~shall~~
16 may not be received in evidence unless the person offering the contract or agreement ~~shall~~
17 establish establishes by a preponderance of the evidence that the contract or agreement is
18 just and equitable under all of the circumstances.

19 This section ~~shall~~ does not apply to ~~such~~ contracts or agreements for support for life
20 between persons related within the 3rd degree.

21 **Sec. B-27. 4 MRSA §312**, as enacted by PL 1993, c. 695, §1, is amended to read:

22 **§312. Political activities of judges of probate**

23 As a candidate for the elective office of ~~judge of probate~~ Probate Court Judge or as an
24 elected ~~judge~~ Probate Court Judge in a county described in section 201-A, subsection 1,
25 paragraph A, a person seeking or holding the office of ~~judge of probate~~ Probate Court Judge
26 in a county described in section 201-A, subsection 1, paragraph A may engage in any
27 political activity that would be lawful for a candidate for any other elected county office or
28 for an incumbent elected county official. Any such judge may hold any other elected office
29 or offices not made incompatible by the Constitution of Maine.

30 This section does not apply to a Probate Court Judge appointed under section 301-A,
31 subsection 2.

32 **Sec. B-28. 4 MRSA c. 7, sub-c. 4**, as amended, is repealed.

33 **Sec. B-29. 4 MRSA §567**, as corrected by RR 2021, c. 1, Pt. B, §17, is amended to
34 read:

35 **§567. No recording officer to be attorney or sue in own court nor draft nor aid in**
36 **drafting paper to be recorded**

37 A clerk, register as defined in Title 18-C, section 1-201, subsection 4~~8~~ or recording
38 officer of any court of the State may not be attorney or counselor in any civil action or
39 matter pending in that court; neither may that person commence actions to be entered
40 therein, or draft or aid in drafting any document or paper that that person is by law required
41 to record, in full or in part. Violation of this section is a civil violation for which a fine not
42 to exceed \$100 may be adjudged. Notwithstanding provisions of this section, clerks may

1 aid litigants in the preparation of small claims filings and registers may provide the
2 assistance described in Title 18-C, section 1-510, subsection 2. Nothing prevents the clerk
3 from rendering assistance of a general nature to the bar or the public.

4 **Sec. B-30. 4 MRSA §751**, as corrected by RR 2021, c. 1, Pt. B, §19, is amended to
5 read:

6 **§751. Duties of reporters**

7 The ~~judge of any court of probate or court of insolvency~~ Probate Court may appoint a
8 reporter to report the proceedings at any hearing or examination in that ~~judge's~~ court,
9 whenever ~~that judge~~ the court considers it necessary or advisable. Such reporter must be
10 sworn to a faithful discharge of that reporter's duty and, under the direction of the judge,
11 shall take full notes of all oral testimony at such hearing or examination and such other
12 proceedings at such hearing or examination as the judge directs; and when required by the
13 judge shall furnish for the files of the court a correct typewritten transcript of that reporter's
14 notes of the oral testimony of any person testifying at such hearing or submitting to such
15 examination, and in making that transcript the reporter shall transcribe that reporter's notes
16 in full by questions and answers.

17 **Sec. B-31. 4 MRSA §752**, as corrected by RR 2021, c. 1, Pt. B, §20, is amended to
18 read:

19 **§752. Reading and signing transcript of testimony**

20 In cases when the person testifying or submitting to examination is required by law to
21 sign that person's testimony or examination, the transcript made as provided in section 751
22 must be read to the person whose testimony or examination it is, at a time and place to be
23 appointed by the ~~judge~~ Probate Court, unless such person or that person's counsel in writing
24 waives such reading. If it is found to be accurate, or if it contains errors or mistakes or
25 alleged errors or mistakes and such errors or mistakes are either corrected or the
26 proceedings had in relation to the same as provided, such transcript must be signed by the
27 person whose testimony or examination it is. When the reading of a transcript is waived as
28 provided by this section, such transcript must be considered correct. In all other cases the
29 transcript need not be signed but must be considered to be complete and correct without
30 signing and has the same effect as if signed.

31 **Sec. B-32. 4 MRSA §754**, as corrected by RR 2021, c. 1, Pt. B, §21, is amended to
32 read:

33 **§754. Correction of mistakes in transcript**

34 Manifest errors or mistakes in any transcript may be corrected, under the direction of
35 the ~~judge~~ Probate Court, according to the facts. When an error or mistake is alleged by the
36 party conducting the hearing or examination or by that party's counsel, or by the person
37 testifying or submitting to examination or by that person's counsel, and those parties cannot
38 agree whether or not there is such an error or mistake as alleged, or what correction should
39 be made, the judge shall decide whether or not such an error or mistake exists, and may
40 allow or disallow a correction according as the judge may find the fact. In such case the
41 judge shall annex to the transcript a certificate signed by the judge stating the alleged error
42 or mistake and by whom alleged, and the correction allowed or disallowed. In case such
43 parties mutually agree that there is an error or mistake in the transcript, and in like manner
44 agree what the correction should be, the transcript may be corrected according to such

1 agreement, but such correction must be stated and made in the presence of the judge.
2 Changes or alterations may not be made in any transcript except in the presence of the
3 judge or the person appointed by the judge to take the examination.

4 **Sec. B-33. 4 MRSA §755** is amended to read:

5 **§755. Appointment of reporter by judge court**

6 When an examination is taken before ~~some~~ a person appointed by the judge Probate
7 Court to take it, the judge court may appoint a reporter to attend such examination for the
8 purposes mentioned in section 751, and the duties of such reporter ~~shall be~~ are the same as
9 in examinations before the judge Probate Court Judge. The powers and duties of any person
10 appointed by the judge court to take an examination ~~shall be~~ are the same at such
11 examination as those of the judge, and the same proceedings for the correction or alteration
12 of transcripts may be had before such person as before the judge.

13 **Sec. B-34. 4 MRSA §756** is amended to read:

14 **§756. Transcripts deemed original papers**

15 All transcripts made and signed as provided ~~shall be~~ in this subchapter are deemed
16 original papers.

17 **Sec. B-35. 4 MRSA §757** is enacted to read:

18 **§757. Applicability; repeal**

19 **1. Applicability.** This subchapter applies to the Probate Court in each county
20 described in section 201-A, subsection 1, paragraph A and does not apply to the state
21 Probate Court established in section 201-A, subsection 2, paragraph B.

22 **2. Repeal.** This subchapter is repealed January 1, 2025.

23 **Sec. B-36. 18-C MRSA §1-201, sub-§8**, as enacted by PL 2017, c. 402, Pt. A, §2
24 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

25 **8. Court.** "Court" Prior to January 1, 2025, "court" means any one of the several
26 courts of probate of this State established as provided in Title 4, sections 201 and 202
27 section 201-A, subsection 2.

28 This subsection is repealed January 1, 2025.

29 **Sec. B-37. 18-C MRSA §1-303**, as enacted by PL 2017, c. 402, Pt. A, §2 and
30 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

31 **§1-303. Venue; multiple proceedings; transfer**

32 **1. Court in county where proceeding first commenced.** If a proceeding under this
33 Code could be maintained in more than one court county in this State, the court located in
34 the county in which the proceeding is first commenced has the exclusive right to proceed.

35 **2. Multiple proceedings.** If proceedings concerning the same estate, protected person,
36 ward or trust are commenced in more than one court courts located in more than one county
37 of this State, the court located in the county in which the proceeding was first commenced
38 shall continue to hear the matter, and the other courts located in the other counties shall
39 hold the matter in abeyance until the question of venue is decided. If the ruling court

1 determines that venue is properly in another court, it shall transfer the proceeding to the
2 other court.

3 **3. Transfer in the interest of justice.** If a court finds that in the interest of justice a
4 proceeding or a file should be ~~located in~~ transferred to the court located in another ~~court~~
5 county of this State, the court making the finding may transfer the proceeding or file to the
6 ~~other court in the other county.~~

7 **Sec. B-38. 18-C MRSA §1-309**, as enacted by PL 2017, c. 402, Pt. A, §2 and
8 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

9 **§1-309. Judges**

10 A judge of the court must be chosen and shall serve as provided in Title 4, sections ~~301-~~
11 301-A to 312.

12 This section is repealed January 1, 2025.

13 **Sec. B-39. 18-C MRSA §1-501**, as enacted by PL 2017, c. 402, Pt. A, §2 and
14 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

15 **§1-501. Election; bond; vacancies; salaries; copies; term**

16 **1. Election.** ~~Registers of probate are~~ The Register of Probate in each county is elected
17 ~~or appointed as provided in the Constitution of Maine by a plurality of the votes cast in the~~
18 respective county at the election on the Tuesday following the first Monday of November
19 in the even-numbered year next preceding the expiration of the term of the incumbent
20 register. The register shall hold office for 4 years, commencing on January 1st following
21 the register's election. A ~~Except to the extent inconsistent with this section, a register's~~
22 election is effected and determined as is provided for county commissioners by Title 30-A,
23 chapter 1, subchapter 2, and a register's term commences on the first day of January
24 following the register's election, except that the term of a register appointed to fill a vacancy
25 commences immediately.

26 **2. Bond.** ~~A register~~ Register of Probate, before acting, shall give bond to the treasurer
27 of the register's county with sufficient sureties in the sum of \$2,500, except that this sum
28 must be \$10,000 for Cumberland County. ~~A~~ The register, having executed the bond, shall
29 file the bond in the office of the county commissioners of the register's county, to be
30 presented to the county commissioners at the next meeting for approval. After the bond is
31 approved, the county commissioners shall retain a copy of the bond and deliver the original
32 bond to the register, who shall deliver the original bond to the treasurer of the county within
33 10 days after the bond's approval. Surety and fidelity insurance coverage provided by a
34 public sector self-funded risk pool organized pursuant to Title 30-A, section 2253 in the
35 sum ordered by the commissioners is deemed to comply with the requirements of this
36 section.

37 **3. Vacancies.** ~~Vacancies~~ A vacancy caused by a Register of Probate's death,
38 resignation, removal from the county, permanent incapacity as defined in Title 30-A,
39 section 1, subsection 2-A or any other reason must be filled ~~as provided in the Constitution~~
40 of Maine by a plurality of the votes cast in the affected county at the next general election.
41 The term of a register elected to fill a vacancy commences on January 1st following the
42 election. In the meantime, the Governor may fill such vacancy by appointment, and the
43 register so appointed shall take office immediately and shall hold office until the

1 commencement of the term of the successor elected to fill the vacancy under this
2 subsection. In the case of a vacancy in the term of a register who was nominated by primary
3 election before the general election, the register appointed by the Governor to fill the
4 vacancy until a successor is chosen at election must be enrolled in the same political party
5 as the register whose term is vacant. In making the appointment, the Governor shall choose
6 from any recommendations submitted to the Governor by the county committee of the
7 political party from which the appointment is to be made.

8 **4. Salary.** A register is entitled to receive an annual salary as established by the
9 register's county pursuant to Title 30-A, chapter 3. The salary of the register must be in
10 full compensation for the performance of all duties required of the register.

11 **5. Copies and fees.** Registers may make copies of wills, accounts, inventories,
12 petitions and decrees and furnish the copies to the persons requesting the copies and may
13 charge a reasonable fee for that service, which is considered a fee for the use of the county.
14 Fees for exemplified copies of the records of the probate of wills and the granting of
15 administrations, guardianships and conservatorships; fees for copies of petitions and orders
16 of notice for personal service; fees for appeal copies; and the statutory fees for abstracts
17 and copies of the waivers of wills and other copies required to be recorded in the registry
18 of deeds are considered official fees for the use of the county. This subsection may not be
19 construed to change or repeal any provisions of law requiring the furnishing of certain
20 copies without charge.

21 **Sec. B-40. 18-C MRSA §1-510, sub-§1, ¶A,** as enacted by PL 2017, c. 402, Pt.
22 A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

23 A. Be an attorney or counselor in or out of court in an action or matter pending in the
24 court ~~of~~ located in the county in which the register is register or in an appeal in such
25 action or matter;

26 **Sec. B-41. 18-C MRSA §1-510, sub-§1, ¶B,** as enacted by PL 2017, c. 402, Pt.
27 A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

28 B. Be an administrator, guardian, commissioner of insolvency, appraiser or divider of
29 an estate, in a case within the jurisdiction of the court ~~of~~ located in the county in which
30 the register is register, except as provided in Title 4, section 307, or be in any manner
31 interested in the fees and emoluments arising from such an estate in that capacity;~~or.~~

32 This paragraph is repealed January 1, 2025;

33 **Sec. B-42. 18-C MRSA §1-510, sub-§2,** as enacted by PL 2017, c. 402, Pt. A, §2
34 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

35 **2. Assistance in drafting.** Except as otherwise provided in this section, a register may
36 not draft or aid in drafting documents or paper that the register is by law required to record
37 in full or in part. A register may aid in drafting applications in informal proceedings,
38 petitions or sworn statements relating to the closing of decedents' estates that have not been
39 contested prior to closing, applications for change of name and petitions for guardians of
40 minors. A register or an employee of a court may not charge fees or accept anything of
41 value for assisting in the drafting of documents to be used or filed in the court ~~of~~ located in
42 the county in which the person is the register or an employee.

1 **Sec. B-43. 18-C MRSA §1-511**, as enacted by PL 2017, c. 402, Pt. A, §2 and
2 affected by PL 2019, c. 417, Pt. B, §14, is amended by enacting a new first paragraph to
3 read:

4 Each county shall provide all necessary printed blanks and record books for the court
5 located in that county, and the record books may be printed to correspond with the printed
6 blanks.

7 **Sec. B-44. Transition; election of Probate Court Judges.** Notwithstanding any
8 provision of law to the contrary, the following provisions govern the election of Probate
9 Court Judges in Androscoggin, Franklin, Knox and Penobscot counties under the Maine
10 Revised Statutes, Title 4, section 301-A, subsection 1, paragraph B.

11 1. Signatures collected by a candidate on a primary petition pursuant to Title 21-A,
12 section 335 to appear on the primary election ballot of a party for the office of Probate
13 Court Judge under the former Constitution of Maine, Article VI, Section 6 in Androscoggin
14 County, Franklin County, Knox County or Penobscot County are deemed to be signatures
15 collected by that candidate to appear on the primary petition election ballot of that party
16 for the office of Probate Court Judge under Title 4, section 301-A, subsection 1, paragraph
17 B in the same county.

18 2. A primary petition accepted by the Secretary of State pursuant to Title 21-A, section
19 337 for a candidate to appear on the primary election ballot of a party for the office of
20 Probate Court Judge under the former Constitution of Maine, Article VI, Section 6 in
21 Androscoggin County, Franklin County, Knox County or Penobscot County is deemed to
22 be accepted by the Secretary of State for that candidate to appear on the primary election
23 ballot of the party for the office of Probate Court Judge under Title 4, section 301-A,
24 subsection 1, paragraph B in the same county.

25 3. Signatures collected by a candidate on a nomination petition pursuant to Title 21-A,
26 section 354 to appear on the general election ballot for the office of Probate Court Judge
27 under the former Constitution of Maine, Article VI, Section 6 in Androscoggin County,
28 Franklin County, Knox County or Penobscot County are deemed to be signatures collected
29 by that candidate to appear on the general election ballot for the office of Probate Court
30 Judge under Title 4, section 301-A, subsection 1, paragraph B in the same county.

31 4. A nomination petition accepted by the Secretary of State pursuant to Title 21-A,
32 section 356 for a candidate to appear on the general election ballot for the office of Probate
33 Court Judge under the former Constitution of Maine, Article VI, Section 6 in Androscoggin
34 County, Franklin County, Knox County or Penobscot County is deemed to be accepted by
35 the Secretary of State for that candidate to appear on the general election ballot for the
36 office of Probate Court Judge under Title 4, section 301-A, subsection 1, paragraph B in
37 the same county.

38 **Sec. B-45. Transition; election of Registers of Probate.** Notwithstanding any
39 provision of law to the contrary, the following provisions govern the election of a Register
40 of Probate in 2022 under the Maine Revised Statutes, Title 18-C, section 1-501, subsection
41 1.

42 1. Signatures collected by a candidate on a primary petition pursuant to Title 21-A,
43 section 335 to appear on the primary election ballot of a party for the office of Register of
44 Probate under the former Constitution of Maine, Article VI, Section 6 are deemed to be

1 signatures collected by that candidate to appear on the primary petition election ballot of
2 that party for the office of Register of Probate under Title 18-C, section 1-501, subsection
3 1 in the same county.

4 2. A primary petition accepted by the Secretary of State pursuant to Title 21-A, section
5 337 for a candidate to appear on the primary election ballot of a party for the office of
6 Register of Probate under the former Constitution of Maine, Article VI, Section 6 is deemed
7 to be accepted by the Secretary of State for that candidate to appear on the primary election
8 ballot of the party for the office of Register of Probate under Title 18-C, section 1-501,
9 subsection 1 in the same county.

10 3. Signatures collected by a candidate on a nomination petition pursuant to Title 21-A,
11 section 354 to appear on the general election ballot for the office of Register of Probate
12 under the former Constitution of Maine, Article VI, Section 6 are deemed to be signatures
13 collected by that candidate to appear on the general election ballot for the office of Register
14 of Probate under Title 18-C, section 1-501, subsection 1 in the same county.

15 4. A nomination petition accepted by the Secretary of State pursuant to Title 21-A,
16 section 356 for a candidate to appear on the general election ballot for the office of Register
17 of Probate under the former Constitution of Maine, Article VI, Section 6 is deemed to be
18 accepted by the Secretary of State for that candidate to appear on the general election ballot
19 for the office of Register of Probate under Title 18-C, section 1-501, subsection 1 in the
20 same county.

21 PART C

22 **Sec. C-1. 4 MRSA §17, sub-§2**, as amended by PL 1983, c. 269, §§1 and 9, is
23 further amended to read:

24 **2. Examine the status of dockets.** Examine the status of dockets of all courts so as
25 to determine cases and other judicial business that have been unduly delayed. From such
26 reports, the administrator shall indicate which courts are in need of additional judicial
27 personnel and make recommendations to the Chief Justice, to the Chief Justice of the
28 Superior Court ~~and~~, to the Chief Judge of the District Court and to the Chief Judge of the
29 Probate Court concerning the assignment or reassignment of personnel to courts that are in
30 need of such personnel. The administrator shall also carry out the directives of the Chief
31 Justice as to the assignment of personnel in these instances;

32 **Sec. C-2. 4 MRSA §17, sub-§5**, as amended by PL 1983, c. 269, §§2 and 9, is
33 further amended to read:

34 **5. Prescribe uniform administrative and business methods, etc.** Prescribe uniform
35 administrative and business methods, systems, forms, docketing and records to be used in
36 the Supreme Judicial Court, in the Superior Court ~~and~~, in the District Court and in the
37 Probate Court;

38 **Sec. C-3. 4 MRSA §17, sub-§7, ¶D**, as amended by PL 1997, c. 24, Pt. II, §1, is
39 further amended to read:

40 D. Collects statistical and other data and makes reports to the Chief Justice, to the
41 Chief Justice of the Superior Court ~~and~~, to the Chief Judge of the District Court and to
42 the Chief Judge of the Probate Court relating to the expenditures of public money for
43 the maintenance and operation of the Judicial Department;

1 **Sec. C-4. 4 MRSA §17, sub-§7, ¶E**, as amended by PL 1997, c. 24, Pt. II, §1, is
2 further amended to read:

3 E. Develops and implements a uniform set of accounting and budgetary accounts,
4 based on generally accepted fiscal and accounting procedures, for the Supreme Judicial
5 Court, for the Superior Court ~~and~~, for the District Court and for the Probate Court; and

6 **Sec. C-5. 4 MRSA §17, sub-§17**, as amended by PL 2007, c. 240, Pt. YYY, §1, is
7 further amended to read:

8 **17. Statement of fiscal effect on judicial system.** Apply the following requirements
9 when the State Court Administrator prepares statements pertaining to the impact that
10 executive orders and proposed legislation have upon judicial system resources, including
11 the cost or savings to the judicial system. The State Court Administrator, in preparing such
12 impact statements, shall make inquiry of the Chief Justice of the Superior Court, the Chief
13 Judge of the District Court, the Chief Judge of the Probate Court, a statewide association
14 of prosecuting attorneys, a statewide association of criminal defense attorneys, a statewide
15 association of trial attorneys and any other parties, as appropriate, in order to provide the
16 most accurate estimate of the judicial branch impact of such legislation, by fiscal year.

17 A. The State Court Administrator shall furnish the statements to the legislative staff
18 office designated to collect and assemble fiscal information for use of legislative
19 committees under Title 3, section 163-A, subsection 10 and to:

20 (1) The Governor for judicial impact statements on executive orders; and

21 (2) The appropriate committee of the Legislature for the information of its
22 members for proposed legislation.

23 B. The statement on a particular executive order prepared by the State Court
24 Administrator must be included in the executive order if the executive order has a fiscal
25 impact on the judicial system, as determined by the State Court Administrator.

26 C. The statement on proposed legislation prepared by the State Court Administrator
27 must be considered in the preparation of the fiscal note included in a committee
28 amendment or other amendment if the legislation or amendment has a fiscal impact on
29 the judicial system, as determined by the State Court Administrator.

30 **Sec. C-6. 4 MRSA §17-A, sub-§1**, as amended by PL 2017, c. 284, Pt. YYYY, §1,
31 is further amended to read:

32 **1. Informational publications and record searches.** ~~The~~ Except as provided in Title
33 18-C, section 1-511, the State Court Administrator may establish a fee schedule to cover
34 the cost of printing and distribution of publications and forms, the procedures for the sale
35 of these publications and forms and record searches performed by Judicial Department
36 employees.

37 **Sec. C-7. 4 MRSA §18-A, sub-§3-A, ¶A**, as amended by PL 2019, c. 509, §2, is
38 further amended to read:

39 A. For all fees collected by the Judicial Department after October 1, 2019, 9% must
40 be deposited in the fund. This paragraph does not apply to fees imposed by the Probate
41 Court or to fees dedicated under section 17-A or section 18-B, subsection 8 or to
42 surcharges imposed pursuant to paragraph C.

1 **Sec. C-8. 4 MRSA §18-A, sub-§3-A, ¶B**, as amended by PL 2005, c. 361, §3, is
2 further amended to read:

3 B. A surcharge of \$10 must be imposed by a court on each civil fine, or penalty or
4 forfeiture imposed by the court and deposited in the fund. This paragraph does not
5 apply to civil fines or penalties imposed by the Probate Court.

6 **Sec. C-9. 4 MRSA §18-B, sub-§6, ¶C-1** is enacted to read:

7 C-1. The Chief Judge of the Probate Court or a designee;

8 **Sec. C-10. 4 MRSA §18-B, sub-§6, ¶F**, as enacted by PL 1995, c. 560, Pt. I, §3,
9 is amended to read:

10 F. A Judge of the District Court, who is appointed by and serves at the pleasure of the
11 Chief Justice of the Supreme Judicial Court; ~~and~~

12 **Sec. C-11. 4 MRSA §18-B, sub-§6, ¶F-1** is enacted to read:

13 F-1. A Judge of the Probate Court, who is appointed by and serves at the pleasure of
14 the Chief Justice of the Supreme Judicial Court; and

15 **Sec. C-12. 4 MRSA §24, first ¶**, as amended by PL 1993, c. 675, Pt. C, §10, is
16 further amended to read:

17 The State Court Administrator shall, subject to the approval of the Chief Justice,
18 prepare biennially a consolidated operating budget for all courts in the State to be known
19 as the Judicial Department operating budget. The Judicial Department operating budget
20 may not include expenses related to the operation of county registries of probate or revenue
21 from fees, fines or penalties collected by the Probate Court and allocated to the county
22 pursuant to Title 18-C, sections 1-501, 1-511, 1-603 and 1-607 or any other provision of
23 law. The administrator may be assisted in this task by the Chief Justice of the Superior
24 Court ~~and~~, the Chief Judge of the District Court and the Chief Judge of the Probate Court.

25 **Sec. C-13. 4 MRSA §115, first ¶**, as corrected by RR 2009, c. 1, §4, is amended
26 to read:

27 ~~In~~ Except as provided in section 301-C, in each county, the place for holding court is
28 located in a building designated by the Chief Justice of the Supreme Judicial Court or the
29 Chief Justice's designee, who, with the advice and approval of the Department of
30 Administrative and Financial Services, Bureau of General Services, is empowered to
31 negotiate, on behalf of the State, the leases, contracts and other arrangements the Chief
32 Justice considers necessary, within the limits of appropriations and other funds available to
33 the Supreme Judicial, Superior and District Courts, to provide suitable quarters, adequately
34 furnished and equipped, for the Supreme Judicial, Superior or District Court in each county.
35 The county commissioners in each county shall continue to provide for the use of the
36 Supreme Judicial, Superior and District Courts such quarters, facilities, furnishings and
37 equipment in existing county buildings as were in use by the Supreme Judicial and Superior
38 Courts on January 1, 1976, without charge. The county commissioners are not required to
39 provide without charge those quarters, facilities, furnishings and equipment in existing
40 county buildings that were in use by the District Courts and were subject to a charge prior
41 to January 1, 1976.

42 **Sec. C-14. 4 MRSA §301-B** is enacted to read:

1 **§301-B. Duties of Chief Judge**

2 The Chief Judge of the Probate Court is responsible to and under the supervision of the
3 Chief Justice of the Supreme Judicial Court for the operation of the Probate Court and shall
4 serve as Chief Judge at the pleasure of the Chief Justice. The Chief Judge shall:

5 **1. Hold court when necessary.** Hold court in any county described in section 201-A,
6 subsection 1, paragraph B when the Chief Judge determines it necessary by reason of
7 illness, absence or disability of the Probate Court Judge regularly assigned or by reason of
8 an excessive case load in any county;

9 **2. Assign judges.** Assign Probate Court Judges to hold court in any county described
10 in section 201-A, subsection 1, paragraph B where, in the judgment of the Chief Judge,
11 they are needed;

12 **3. Days and hours for holding court.** Subject to the requirements of section 305, fix
13 the days and hours for holding court in each county described in section 201-A, subsection
14 1, paragraph B and provide public notification of such days and hours as provided in section
15 303;

16 **4. Vacations.** Determine the time for the taking of vacations by each Probate Court
17 Judge appointed under section 301-A, subsection 2;

18 **5. Records and reports.** Prescribe, subject to the approval of the Chief Justice of the
19 Supreme Judicial Court or the Chief Justice's designee, the records to be kept and destroyed
20 and the reports to be made by each Probate Court Judge appointed under section 301-A,
21 subsection 2;

22 **6. Statistics.** Collect such statistics and other information pertaining to the business of
23 the Probate Court as are requested by the Chief Justice of the Supreme Judicial Court or
24 the Chief Justice's designee;

25 **7. Budget.** Utilizing such assistance from the Administrative Office of the Courts as
26 the Chief Judge may request, prepare and submit a proposed annual budget for the Probate
27 Court established in section 201-A, subsection 2, paragraph B to the Chief Justice of the
28 Supreme Judicial Court or the Chief Justice's designee. The proposed annual budget for
29 the Probate Court may not include expenses related to the operation of county registries of
30 probate or revenue from fees, fines or penalties collected by the Probate Court and allocated
31 to the county pursuant to Title 18-C, sections 1-501, 1-511, 1-603 and 1-607 or any other
32 provision of law;

33 **8. Report.** Render to the Chief Justice of the Supreme Judicial Court an annual report
34 on the state of business in the Probate Court and on the conferences held pursuant to
35 subsection 10;

36 **9. Courtroom facilities.** Pursuant to section 301-C, make necessary arrangements for
37 safe and accessible courtroom facilities in each county described in section 201-A,
38 subsection 1, paragraph B; establish headquarters with appropriate facilities for the Chief
39 Judge; and establish quarters and facilities for each Probate Court Judge appointed under
40 section 301-A, subsection 2;

41 **10. Conference of judges.** Convene at least once annually at such place as the Chief
42 Judge considers appropriate a conference of Probate Court Judges appointed under section
43 301-A, subsection 2 to consider and take action upon or make recommendations with

1 respect to current problems in the operation of the Probate Court. The Chief Judge shall
2 invite any county Probate Court Judge elected under section 301-A, subsection 1 whose
3 term has not yet expired to attend the conference. The expenses of Probate Court Judges
4 appointed under section 301-A, subsection 2 attending this conference are an expense of
5 the Probate Court established in section 201-A, subsection 2, paragraph B;

6 **11. Development and implementation of administrative concepts.** Carry on a
7 continuous survey and study of the organization, operation, condition of business, practice
8 and procedure of the Probate Court and make recommendations to the Chief Justice of the
9 Supreme Judicial Court concerning the number of judges and other personnel, other than
10 personnel in the county registries of probate, required for the efficient administration of
11 justice and examine, with the advice of the Probate Court Judges and Registers of Probate,
12 the status of dockets of the various Probate Courts to determine whether the business of the
13 court is being carried out in an efficient manner and that emergency matters are prioritized
14 and addressed expeditiously. From such an examination, the Chief Judge shall annually
15 make recommendations to the Chief Justice of the Supreme Judicial Court for guidelines
16 and policies for the scheduling and trial of matters before the Probate Court. In providing
17 recommendations, the Chief Judge shall give due and appropriate regard to the
18 recommendations of the Probate Court Judges and the Registers of Probate and shall
19 provide a mechanism whereby their individual recommendations and comments may be
20 brought to the attention of the Chief Justice. The Chief Judge, in advising as to the
21 appropriateness of the methods or systems for scheduling trials and the management of
22 matters before the Probate Court, shall take into consideration systems and methods
23 operational in the Superior Court and the District Court. The final decision as to the
24 management of judicial branch personnel and the implementation of guidelines, policies
25 and procedures for the scheduling of trials and management of matters before the Probate
26 Court must be made by the Chief Justice only after consultation with the Chief Judge; and

27 **12. Other duties.** Perform such additional duties as may be assigned by the Chief
28 Justice of the Supreme Judicial Court.

29 **Sec. C-15. 4 MRSA §301-C** is enacted to read:

30 **§301-C. Place for holding court**

31 **1. Place for holding court.** Except as otherwise required in section 305, in each county
32 described in section 201-A, subsection 1, paragraph B, the Chief Judge of the Probate Court
33 shall designate a place for holding court that is located, to the extent possible given the
34 other requirements of this subsection, in the building holding the office of that county's
35 Register of Probate. The Chief Judge, with the advice and approval of the Department of
36 Administrative and Financial Services, Bureau of General Services, is empowered to
37 negotiate on behalf of the State the leases, contracts and other arrangements the Chief Judge
38 considers necessary, within the limits of the budget and funds available, to provide suitable
39 quarters, adequately furnished and equipped for the Probate Court in each county.

40 If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as
41 provided in this subsection, the Chief Judge may, with the advice and approval of the
42 Bureau of General Services, negotiate on behalf of the State the leases, contracts and other
43 arrangements the Chief Judge considers necessary, within the limits of the budget and funds
44 available, to provide suitable quarters, adequately furnished and equipped for the Probate
45 Court in other publicly owned or privately owned buildings.

1 **2. Use of Superior Court and District Court facilities.** The facilities of the Superior
2 Court and the facilities of the District Court in each county when the court is not in session
3 must be available for use by the Probate Court in that county. Arrangements for such use
4 must be made by the Chief Judge of the Probate Court.

5 **Sec. C-16. 4 MRSA §1201, sub-§12,** as amended by PL 2001, c. 12, §1, is further
6 amended to read:

7 **12. Judge.** "Judge" means a Justice of the Supreme Judicial Court or the Superior
8 Court, any Judge of the District Court, any Probate Court Judge appointed pursuant to
9 section 301-A, subsection 2, any Administrative Court Judge or any Associate
10 Administrative Court Judge who is actively serving as of December 1, 1984, or who is
11 appointed subsequent to December 1, 1984, but does not include Active Retired Judges.

12 This subsection is repealed January 1, 2025.

13 **Sec. C-17. 4 MRSA §1552, sub-§1,** as enacted by PL 2013, c. 406, §1, is amended
14 to read:

15 **1. Guardian ad litem roster.** The division shall assist the Chief Judge of the District
16 Court and the Chief Judge of the Probate Court in the establishment and maintenance of a
17 roster of guardians ad litem pursuant to section 1553.

18 **Sec. C-18. 4 MRSA §1552, sub-§2,** as enacted by PL 2013, c. 406, §1, is amended
19 to read:

20 **2. Administration of guardians ad litem under ~~Title~~ Titles 18-C and 19-A.** For
21 guardians ad litem appointed under ~~Title~~ Titles 18-C and 19-A, the division shall assist the
22 Chief Judge of the District Court and the Chief Judge of the Probate Court in:

23 A. Establishing standardized billing, itemization requirements and time reporting
24 processes for all guardians ad litem;

25 B. Establishing guidelines for preparation of required reports; and

26 C. Collecting, maintaining and reporting data about orders of appointment, submission
27 of required reports, caseloads and other information as directed by the Chief Judge of
28 the District Court or the Chief Judge of the Probate Court.

29 **Sec. C-19. 4 MRSA §1555, sub-§3,** as enacted by PL 2013, c. 406, §1, is amended
30 to read:

31 **3. Payment for services; fees and billing; enforcement.** ~~The~~ Except as otherwise
32 provided in Title 18-C, section 9-204, subsection 4, the order under subsection 2 must
33 specify that payment for the services of the guardian ad litem is the responsibility of the
34 parties, with the terms of payment specified in the order.

35 A. The fee arrangements in the order must specify hourly rates or a flat fee, the timing
36 of payments to be made and by whom and the maximum amount of fees that may be
37 charged for the case without further order of the court. If the payments ordered to be
38 made before the guardian ad litem commences the investigation, if any, are not paid as
39 ordered, the guardian ad litem shall notify the court, and the court may vacate the
40 appointment order or take such other action it determines appropriate under the
41 circumstances.

42 B. In determining the responsibility for payment, the court shall consider:

- 1 (1) The income of the parties;
- 2 (2) The marital and nonmarital assets of the parties;
- 3 (3) The division of property made or anticipated as part of the final divorce or
- 4 separation;
- 5 (4) Which party requested appointment of a guardian ad litem; and
- 6 (5) Other factors considered relevant by the court, which must be stated with
- 7 specificity in the appointment order.

8 C. The guardian ad litem shall use standardized billing, itemization requirements and
9 time reporting processes as established by the division. The guardian ad litem may
10 collect fees, if a collection action is necessary, pursuant to Title 14 and may not pursue
11 collection in the action in which the guardian ad litem is appointed.

12 **Sec. C-20. 4 MRSA §1801**, as enacted by PL 2009, c. 419, §2, is amended to read:

13 **§1801. Maine Commission on Indigent Legal Services; established**

14 The Maine Commission on Indigent Legal Services, established by Title 5, section
15 12004-G, subsection 25-A, is an independent commission whose purpose is to provide
16 efficient, high-quality representation to indigent criminal defendants; juvenile defendants;
17 indigent persons for whom counsel has been appointed under Title 18-C, Article 5; and
18 children and parents in child protective and adoption cases, consistent with federal and state
19 constitutional and statutory obligations. The commission shall work to ensure the delivery
20 of indigent legal services by qualified and competent counsel in a manner that is fair and
21 consistent throughout the State and to ensure adequate funding of a statewide system of
22 indigent legal services, which must be provided and managed in a fiscally responsible
23 manner, free from undue political interference and conflicts of interest.

24 **Sec. C-21. 4 MRSA §1802, sub-§4, ¶C**, as amended by PL 2019, c. 427, §1, is
25 further amended to read:

26 C. Juvenile defendants; and

27 **Sec. C-22. 4 MRSA §1802, sub-§4, ¶C-1** is enacted to read:

28 C-1. In a guardianship, conservatorship or other protective arrangement proceeding,
29 an indigent adult or minor respondent for whom counsel was appointed at public
30 expense pursuant to Title 18-C, section 5-205, subsection 5; Title 18-C, section 5-210,
31 subsection 7; Title 18-C, section 5-305, subsection 3; Title 18-C, section 5-406,
32 subsection 1; or Title 18-C, section 5-507, subsection 1;

33 **Sec. C-23. 4 MRSA §1802, sub-§4, ¶C-2** is enacted to read:

34 C-2. In a guardianship, conservatorship or other protective arrangement proceeding
35 involving a minor respondent, an indigent parent, guardian or petitioner for whom
36 counsel was appointed at public expense pursuant to Title 18-C, section 5-205,
37 subsection 4; Title 18-C, section 5-210, subsection 7; Title 18-C, section 5-406,
38 subsection 3; or Title 18-C, section 5-507, subsection 3;

39 **Sec. C-24. 4 MRSA §1802, sub-§4, ¶C-3** is enacted to read:

40 C-3. An indigent parent in an adoption proceeding for whom counsel was appointed
41 at public expense pursuant to Title 18-C, section 9-106 or an indigent parent or minor

1 adoptee in a proceeding for annulment of an adoption decree for whom counsel was
2 appointed at public expense pursuant to Title 18-C, section 9-315, subsection 1,
3 paragraph A; and

4 **Sec. C-25. 4 MRSA §1802, sub-§4, ¶D**, as enacted by PL 2019, c. 427, §2, is
5 amended to read:

6 D. An indigent defendant or party or a juvenile for the purpose of filing, on behalf of
7 that indigent defendant or party or juvenile, a petition for certiorari to the Supreme
8 Court of the United States from an adverse decision of the Law Court on a case for
9 which services were previously provided to that defendant or party or juvenile pursuant
10 to paragraph A, B or C, C-1, C-2 or C-3.

11 **Sec. C-26. 4 MRSA §1802, sub-§5** is enacted to read:

12 **5. Register.** "Register" has the same meaning as in Title 18-C, section 1-201,
13 subsection 48.

14 **Sec. C-27. 4 MRSA §1804, sub-§3, ¶D**, as enacted by PL 2009, c. 419, §2, is
15 amended to read:

16 D. Develop criminal defense; child protective and adoption; guardianship,
17 conservatorship and other protective arrangements; and involuntary commitment
18 representation training and evaluation programs for attorneys throughout the State to
19 ensure an adequate pool of qualified attorneys;

20 **Sec. C-28. 4 MRSA §1806, sub-§3**, as enacted by PL 2011, c. 547, §2, is amended
21 to read:

22 **3. Confidential information disclosed by the Judicial Department and registers.**
23 The Judicial Department and registers may disclose to the commission confidential
24 information necessary for the commission to carry out its functions, including the collection
25 of amounts owed to reimburse the State for the cost of assigned counsel, as follows:

26 A. Case information and individual client information with respect to court
27 proceedings that are confidential by statute or court rule in which one or more parties
28 are represented by assigned counsel; and

29 B. The name, address, date of birth and social security number of any person ordered
30 by the court to reimburse the State for some or all of the cost of assigned counsel.

31 This information remains confidential in the possession of the commission and is not open
32 to public inspection, except that the names of criminal defendants and the names of juvenile
33 defendants charged with offenses that if committed by an adult would constitute murder or
34 a Class A, Class B or Class C crime are not confidential.

35 **Sec. C-29. 4 MRSA c. 39** is enacted to read:

36 **CHAPTER 39**

37 **COURT VISITORS**

38 **§1901. Definitions**

1 As used in this chapter, unless the context indicates otherwise, the following terms
2 have the following meanings.

3 **1. Court.** Prior to January 1, 2025, "court" means the state Probate Court established
4 in section 201-A, subsection 2, paragraph B. Beginning January 1, 2025, "court" means
5 the Probate Court established in section 407, subsection 1.

6 **2. Visitor.** "Visitor" means a person appointed to act as the court's agent pursuant to
7 Title 18-C, section 5-304, 5-405 or 5-506.

8 **§1902. Roster of visitors**

9 Rules adopted by the Supreme Judicial Court govern the establishment and
10 maintenance of a roster of individuals eligible for appointment as a visitor. The rules must
11 address:

12 **1. Application process.** The process for applying to be included on the roster,
13 including application forms;

14 **2. Criteria.** Criteria for initial listing on the roster, including:

15 A. Credentials, including professional licenses required, if any, and minimum
16 education requirements;

17 B. Core training; and

18 C. Good character;

19 **3. Continuing education.** Continuing education requirements;

20 **4. Criminal background check.** Obtaining criminal history record information on an
21 individual who seeks to be listed on the roster, including, at a minimum, criminal history
22 record information from the Department of Public Safety, Bureau of State Police, State
23 Bureau of Identification;

24 **5. Other requirements.** Any other requirements necessary to remain in good standing
25 and included on the roster; and

26 **6. Removal.** The process for removing an individual from the roster.

27 **§1903. Visitor responsibilities**

28 **1. Standards of conduct.** Visitors shall abide by the standards of conduct as adopted
29 by rule by the Supreme Judicial Court.

30 **2. General responsibilities.** An individual appointed by the court to serve as a visitor
31 serves as the court's agent and is entitled to quasi-judicial immunity for acts performed
32 within the scope of the duties of the visitor. As a quasi-judicial officer, the visitor shall
33 perform the assigned duties independently and impartially in all relevant matters within the
34 scope of the order of appointment, respecting the court's obligation to dispose of all judicial
35 matters promptly, efficiently and fairly as provided in the Maine Code of Judicial Conduct.
36 A visitor shall:

37 A. Understand and uphold the law and court orders related to the visitor's appointment;

38 B. Maintain the highest standards of professionalism, cultural sensitivity and ethics;

39 C. Plan, carry out, document and complete the visitor's duties as set forth in statute or
40 court order in a timely fashion;

1 D. Communicate with the respondent in the manner the respondent is best able to
2 understand, in light of the respondent's abilities, limitations and needs;

3 E. Make well-reasoned and factually based written recommendations as required by
4 statute or directed by the order of appointment; and

5 F. Complete assignments and written reports in a timely manner and communicate
6 effectively with the court in reports, recommendations and testimony.

7 **§1904. Appointment order; payment**

8 **1. Appointment of visitor.** An order appointing a visitor must specify the terms and
9 conditions of the appointment as provided in the appointment statute, this chapter and rules
10 adopted by the Supreme Judicial Court.

11 A. A court may appoint, without any findings, any individual listed on the roster.

12 B. When there is no suitable visitor on the roster that is available for appointment, a
13 court may, for good cause shown, appoint an individual who, in the opinion of the
14 appointing court, has the necessary skills and experience. For the purposes of this
15 paragraph, good cause may include the appointment of a visitor on a pro bono basis.

16 **2. Order.** An appointment of a visitor must be by court order.

17 A. The appointment order must be written on a court-approved form and must specify
18 the visitor's length of appointment and specific duties, including the filing of a written
19 report.

20 B. The visitor has no authority to perform and may not be expected to perform any
21 duties beyond those specified in the appointment order, unless subsequently ordered to
22 do so by the court.

23 C. The visitor must be provided access to the respondent by any agency or person.

24 D. The visitor must provide to all parties of record copies of all reports filed by the
25 visitor with the court.

26 E. The appointment order must specify the hearing or hearings at which the visitor must
27 appear and be subject to cross-examination.

28 **3. Payment.** An order appointing a visitor must specify the fee arrangements,
29 including whether the visitor's reasonable fees and expenses must be paid from the
30 respondent's assets or, if the court finds the respondent indigent, by the State.

31 **§1905. Complaint process**

32 **1. Rules.** The Supreme Judicial Court shall provide by rule for a complaint process
33 concerning visitors that provides for at least the following:

34 A. The ability of a party to make a complaint before the final judgment as well as after
35 the final judgment is issued;

36 B. Written instructions on how to make a complaint;

37 C. Clear criteria for making a complaint;

38 D. Transparent policies and procedures concerning the investigation of complaints and
39 the provision of information to complainants;

40 E. A central database to log and track complaints; and

1 F. Policies and procedures for using complaints and investigations for recommending
2 the removal of a visitor from a particular case or other consequences or discipline.

3 **2. Complaint process.** The judicial branch shall provide written and electronic
4 information to communicate the complaint process to the public and to all parties.

5 **3. Minor complaint option.** The rules may provide for a minor complaint option that
6 authorizes corrective action without the necessity of completing the full complaint and
7 investigatory process.

8 **4. Motion to remove.** The complaint process adopted pursuant to this section is in
9 addition to the right of a party to file a motion to remove a visitor while the case is pending.
10 The court shall hold a hearing on the motion at the request of the party filing the motion.
11 The motion may be advanced on the docket and receive priority over other cases when the
12 court determines that the interests of justice so require.

13 **Sec. C-30. 18-C MRSA §1-111**, as enacted by PL 2017, c. 402, Pt. A, §2 and
14 affected by PL 2019, c. 417, Pt. B, §14, is amended by amending the section headnote to
15 read:

16 **§1-111. Guardian Children's guardians ad litem**

17 **Sec. C-31. 18-C MRSA §1-112** is enacted to read:

18 **§1-112. Payment of guardian ad litem or visitor appointed at public expense**

19 **1. Payment of guardian ad litem or visitor appointed at public expense.** If a
20 guardian ad litem or a visitor is appointed in a proceeding under this Title and the order of
21 appointment directs that all or part of the guardian ad litem's or visitor's fees must be paid
22 at public expense, the public expense portion of the fees must be paid by the following.

23 A. If the court is located in a county described in Title 4, section 201-A, subsection 1,
24 paragraph A, the county shall pay the public expense portion of the fees. If the court
25 is located in a county described in Title 4, section 201-A, subsection 1, paragraph B,
26 the State shall pay the public expense portion of the fees.

27 This paragraph is repealed January 1, 2025.

28 B. Beginning January 1, 2025, the State shall pay the public expense portion of the
29 fees.

30 **Sec. C-32. 18-C MRSA §1-605**, as enacted by PL 2017, c. 402, Pt. A, §2 and
31 affected by PL 2019, c. 417, Pt. B, §14, is repealed and the following enacted in its place:

32 **§1-605. Compensation of court reporters**

33 **1. Compensation generally.** Court reporters appointed under Title 4, sections 751 to
34 756 shall, if a transcript is requested by the court or a party, file the original transcript with
35 the court and receive the same compensation as provided by law for temporary court
36 reporters as well as mileage at the rate of 10¢ per mile.

37 **2. Transcripts for court files.** When furnishing a transcript for the files of the court,
38 the court reporter must be paid at the rate prescribed by the Supreme Judicial Court, after
39 the reporter's bill has been allowed by the judge of the court in which the services were
40 rendered, by the following.

1 A. If the court is located in a county described in Title 4, section 201-A, subsection 1,
2 paragraph A, the county shall pay the cost of the transcript. If the court is located in a
3 county described in Title 4, section 201-A, subsection 1, paragraph B, the State shall
4 pay the cost of the transcript.

5 This paragraph is repealed January 1, 2025.

6 B. Beginning January 1, 2025, the State shall pay the cost of the transcript.

7 **3. Exception; probate matters.** In probate matters, the personal representative,
8 conservator or guardian shall, in each case out of the estate handled by that personal
9 representative, conservator or guardian, pay to the register for the county the amount of the
10 reporter's fees, giving the fees the same priority as provided in section 3-815 for other costs
11 and expenses of administration, or as otherwise provided for in the case of insolvent estates.
12 If the estate assets are not sufficient, the court may order payment by the following.

13 A. If the court is located in a county described in Title 4, section 201-A, subsection 1,
14 paragraph A, the court may order the county to pay all or part of the reporter's fees. If
15 the court is located in a county described in Title 4, section 201-A, subsection 1,
16 paragraph B, the court may order the State to pay all or part of the reporter's fees.

17 This paragraph is repealed January 1, 2025.

18 B. Beginning January 1, 2025, the court may order the State to pay all or part of the
19 reporter's fees.

20 **Sec. C-33. 18-C MRSA §5-119, sub-§1,** as amended by PL 2019, c. 417, Pt. A,
21 §14, is further amended to read:

22 **1. Attorney for respondent.** Unless the court has made a finding that the respondent
23 is indigent and has appointed an attorney for the respondent on that basis, an attorney for a
24 respondent in a proceeding under this Act is entitled to reasonable compensation and
25 reimbursement of reasonable expenses from the property of the respondent. If the court
26 has made a finding that the respondent is indigent and has appointed an attorney for the
27 respondent on that basis, the attorney's fees must be paid by the Maine Commission on
28 Indigent Legal Services pursuant to Title 4, chapter 37.

29 **Sec. C-34. 18-C MRSA §5-205, sub-§4,** as enacted by PL 2017, c. 402, Pt. A, §2
30 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

31 **4. Appointment of counsel.** A nonconsenting parent whose parental rights have not
32 been terminated is entitled to court-appointed legal counsel if indigent. In a contested
33 action, the court may also appoint counsel for any indigent guardian or petitioner when a
34 parent or legal custodian has counsel. If the court makes a finding that the nonconsenting
35 parent, guardian or petitioner for whom an attorney is appointed under this subsection is
36 indigent, the attorney's fees must be paid by the Maine Commission on Indigent Legal
37 Services pursuant to Title 4, chapter 37.

38 **Sec. C-35. 18-C MRSA §5-205, sub-§5,** as enacted by PL 2017, c. 402, Pt. A, §2
39 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

40 **5. Attorney for a minor; notice to minor.** If the court determines at any stage of the
41 proceeding, before or after appointment, that the interests of the minor are or may be
42 inadequately represented, the court may appoint an attorney to represent the minor, giving
43 consideration to the choice of the minor if the minor has attained 14 years of age. If the

1 court finds that the minor is indigent, the fees of an attorney appointed under this subsection
2 must be paid by the Maine Commission on Indigent Legal Services pursuant to Title 4,
3 chapter 37. A minor may appear with or through counsel, but the court is not restricted
4 from requiring the minor to be present for some or all of a hearing or other proceeding. A
5 minor 14 years of age or older must receive notice of any proceeding subsequent to the
6 appointment of a guardian through the same means as required for any other party, and the
7 minor may consent, object or otherwise participate in the proceeding.

8 **Sec. C-36. 18-C MRSA §5-210, sub-§7**, as amended by PL 2019, c. 417, Pt. A,
9 §20, is further amended to read:

10 **7. Parent's petition to terminate guardianship; burden of proof.** A parent may
11 bring a petition to terminate the guardianship of a minor. A parent's notification to the
12 court of the revocation of prior consent for a guardianship must be considered a petition to
13 terminate the guardianship. Before the court may apply the termination requirements in
14 subsection 6, a party opposing a parent's petition to terminate a guardianship bears the
15 burden of proving by clear and convincing evidence that the parent seeking to terminate
16 the guardianship is currently unfit to regain custody of the minor, in accordance with the
17 standard set forth in section 5-204, subsection 2, paragraph C. If the party opposing
18 termination of the guardianship fails to meet its burden of proof on the question of the
19 parent's fitness to regain custody, the court shall terminate the guardianship and make any
20 further order that may be appropriate. In a contested action, the court may appoint counsel
21 for the minor or for any indigent guardian or parent. If the court finds that the minor,
22 guardian or parent for whom an attorney is appointed under this subsection is indigent, the
23 appointed attorney's fees must be paid by the Maine Commission on Indigent Legal
24 Services pursuant to Title 4, chapter 37. In ruling on a petition to terminate a guardianship,
25 the court may modify the terms of the guardianship or order transitional arrangements
26 pursuant to section 5-211.

27 **Sec. C-37. 18-C MRSA §5-305, sub-§3** is enacted to read:

28 **3. Payment.** If the court appointing an attorney under subsection 1 finds that the
29 respondent is indigent, the appointed attorney's fees must be paid by the Maine
30 Commission on Indigent Legal Services pursuant to Title 4, chapter 37.

31 **Sec. C-38. 18-C MRSA §5-406, sub-§1**, as enacted by PL 2017, c. 402, Pt. A, §2
32 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
33 paragraph to read:

34 The fees of an attorney appointed under this subsection must be paid by the Maine
35 Commission on Indigent Legal Services pursuant to Title 4, chapter 37 if the court finds
36 that the respondent is indigent.

37 **Sec. C-39. 18-C MRSA §5-406, sub-§3**, as enacted by PL 2017, c. 402, Pt. A, §2
38 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
39 paragraph to read:

40 The fees of an attorney appointed under this subsection must be paid by the Maine
41 Commission on Indigent Legal Services pursuant to Title 4, chapter 37 if the court finds
42 that the parent is indigent.

1 **Sec. C-40. 18-C MRSA §5-507, sub-§1**, as enacted by PL 2017, c. 402, Pt. A, §2
2 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
3 paragraph to read:

4 The fees of an attorney appointed under this subsection must be paid by the Maine
5 Commission on Indigent Legal Services pursuant to Title 4, chapter 37 if the court finds
6 that the respondent is indigent.

7 **Sec. C-41. 18-C MRSA §5-507, sub-§3**, as enacted by PL 2017, c. 402, Pt. A, §2
8 and affected by PL 2019, c. 417, Pt. B, §14, is amended by adding at the end a new blocked
9 paragraph to read:

10 The fees of an attorney appointed under this subsection must be paid by the Maine
11 Commission on Indigent Legal Services pursuant to Title 4, chapter 37 if the court finds
12 that the parent is indigent.

13 **Sec. C-42. 18-C MRSA §9-106**, as enacted by PL 2017, c. 402, Pt. A, §2 and
14 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

15 **§9-106. Legal representation**

16 **1. Attorney for parents.** The parents are entitled to an attorney for any hearing held
17 pursuant to this Article. If a parent or putative parent wants an attorney but is unable to
18 afford one, the parent or the putative parent may request the court to appoint an attorney.
19 If the court finds the requesting party indigent, the court shall appoint ~~and pay the~~
20 ~~reasonable costs and expenses of the attorney of the indigent party~~ an attorney and the
21 attorney's fees must be paid by the Maine Commission on Indigent Legal Services pursuant
22 to Title 4, chapter 37. The attorney may not be the attorney for the adoptive parents.

23 **2. Attorney for minor indigent parent.** When the adoptee is unrelated to the
24 petitioner, the court shall appoint an attorney who is not the attorney for the adoptive
25 parents to represent a minor indigent parent at every stage of the proceedings unless the
26 minor indigent parent refuses representation or the court determines that representation is
27 unnecessary. The fees of an attorney appointed for a minor indigent parent under this
28 subsection must be paid by the Maine Commission on Indigent Legal Services pursuant to
29 Title 4, chapter 37.

30 **Sec. C-43. 18-C MRSA §9-315, sub-§1, ¶A**, as enacted by PL 2017, c. 402, Pt.
31 A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

32 A. If the adoptee is a minor, the court shall appoint a guardian ad litem on behalf of
33 the minor adoptee and shall consider the best interest of the child, taking into account
34 the factors set forth in Title 19-A, section 1653, subsection 3. The court shall sustain
35 the decree unless there is clear and convincing evidence of one or more bases for
36 annulment and that the decree is not in the best interest of the child. The court may
37 allocate the costs of the guardian ad litem to one or more of the parties or, if the parties
38 are indigent, the court shall pay the reasonable costs and expenses of the guardian ad
39 litem.

40 The court may allocate the costs of the guardian ad litem to one or more of the parties
41 and may appoint counsel for a minor adoptee or a party to the annulment proceedings.
42 If the court finds that the minor adoptee or the party for whom counsel is appointed
43 under this paragraph is indigent, the appointed attorney's fees must be paid by the

1 Maine Commission on Indigent Legal Services pursuant to Title 4, chapter 37. A minor
2 adoptee may appear and be represented by counsel.

3 If the court finds that the minor, guardian or parent for whom counsel is appointed
4 under this paragraph is indigent, the appointed attorney's fees must be paid by the
5 Maine Commission on Indigent Legal Services pursuant to Title 4, chapter 37.

6 **Sec. C-44. Effective date.** This Part takes effect January 1, 2023.

7 **PART D**

8 **Sec. D-1. 4 MRSA c. 7,** as amended, is repealed.

9 **Sec. D-2. 4 MRSA c. 7-A** is enacted to read:

10 **CHAPTER 7-A**

11 **PROBATE COURT**

12 **§407. Establishment; court of record; seal; process; contempt power**

13 **1. Establishment; court of record; seal.** A Probate Court for the State is established
14 as a court of record. The Chief Judge of the Probate Court shall establish the official seal
15 of the court and provide the official seal to the Register of Probate in each county.

16 **2. Process; contempt power.** The Probate Court may issue any process necessary for
17 the discharge of official duties and may punish for contempt of the court's authority.

18 **§408. Oaths and acknowledgments**

19 All oaths required to be taken by personal representatives, trustees, guardians or
20 conservators, or of any other persons in relation to any proceeding in the Probate Court, or
21 to perpetuate the evidence of the publication of any order of notice, may be administered
22 by the Probate Court Judge or Register of Probate or any notary public. A certificate
23 thereof, when taken out of court, must be returned into the registry of probate and there
24 filed. When any person of whom such oath is required, including any parent acknowledging
25 consent to an adoption, resides temporarily or permanently outside of the State, the oath or
26 acknowledgment may be taken before and be certified by a notary public in another state,
27 a commissioner for the State or a United States Consul.

28 **§409. General jurisdiction; transfer of certain proceedings to District Court**

29 **1. Estates and trusts.** The Probate Court has jurisdiction in the following matters.

30 A. The Probate Court in each county may take the probate of wills and grant letters
31 testamentary or of administration on the estates of all deceased persons who, at the time
32 of their death, were inhabitants or residents of the county or who, not being residents
33 of the county, died leaving an estate to be administered in the county, or whose estate
34 is afterwards found in the county; and has jurisdiction of all matters relating to the
35 settlement of such estates.

36 B. The Probate Court has jurisdiction in equity, concurrent with the Superior Court, of
37 all cases and matters relating to the administration of the estates of deceased persons,
38 to wills and to trusts that are created by will or other written instrument. Such

1 jurisdiction may be exercised upon complaint according to the usual course of
2 proceedings in civil actions in which equitable relief is sought.

3 **2. Adoptions, name changes, guardianships, conservatorships and other**
4 **protective arrangements.** The Probate Court has, to the extent authorized in Title 18-C,
5 jurisdiction over adoptions, name change petitions, guardianships, conservatorships and
6 other protective arrangements and has jurisdiction as to persons under guardianship,
7 conservatorship or other protective arrangements, except in cases in which the District
8 Court has exclusive jurisdiction over a child pursuant to section 152, subsection 5-A.

9 **3. Disclosure of orders and proceedings involving parental rights.** The Probate
10 Court shall require all parties in any matter involving guardianship, adoption or change of
11 name or another matter involving custody or other parental rights with respect to a minor
12 child to disclose whether they have knowledge of:

13 A. Any interim or final order then in effect concerning custody or other parental rights
14 with respect to the minor child;

15 B. Any proceeding involving custody or other parental rights with respect to the minor
16 child currently filed or pending before any court of this State or another state, including
17 the District Court; or

18 C. Any other related action currently filed or pending before any court of this State or
19 another state, including the District Court.

20 **4. Transfer of certain proceedings to District Court.** If, in a matter before the
21 Probate Court concerning a minor child, the Probate Court becomes aware that a
22 proceeding involving custody or other parental rights with respect to the minor child is
23 pending in the District Court, the Probate Court shall notify the District Court and take
24 appropriate action to facilitate a transfer of the matter to the District Court.

25 **§410. Jurisdiction in court where proceedings originate**

26 Subject to Title 18-C, sections 1-303, 3-201, 5-106 and 9-104, and except as otherwise
27 provided in Title 18-C, section 5-105, when a case is originally within the jurisdiction of
28 the Probate Court in 2 or more counties, the one that first commences proceedings retains
29 jurisdiction exclusively throughout. The jurisdiction assumed in any case, except in cases
30 of fraud, so far as it depends on the residence of any person or the locality or amount of
31 property, may not be contested in any proceeding except on an appeal or removal from the
32 Probate Court in the original case or when the want of jurisdiction appears on the same
33 record.

34 **§411. Judges; appointment; qualifications; remuneration; full-time duties**

35 **1. Appointment; term.** The Governor, subject to review by the joint standing
36 committee of the Legislature having jurisdiction over judiciary matters and to confirmation
37 by the Legislature, shall appoint to the Probate Court 9 judges. Each Probate Court Judge
38 has a term of office of 7 years.

39 **2. Qualifications.** To be eligible for appointment as a Probate Court Judge, an
40 individual must be a member of the bar of the State.

41 **3. Salary; expenses.** Except as provided in subsection 4 for the Chief Judge of the
42 Probate Court, each Probate Court Judge is entitled to receive a salary equivalent to the
43 salary of an Associate Judge of the District Court under section 157, subsection 4 and to

1 reimbursement by the State for expenses to the same extent that a District Court Judge is
2 entitled to reimbursement by the State for expenses under section 157, subsection 5.

3 **4. Designation of Chief Judge; salary; expenses.** The Chief Justice of the Supreme
4 Judicial Court shall designate one Probate Court Judge appointed under subsection 1 as the
5 Chief Judge of the Probate Court. The Chief Judge of the Probate Court is entitled to
6 receive a salary equivalent to the salary of the Chief Judge of the District Court under
7 section 157, subsection 2 and to reimbursement by the State for expenses to the same extent
8 that a District Court Judge is entitled to reimbursement by the State for expenses under
9 section 157, subsection 5.

10 **5. Full-time duties.** A Probate Court Judge appointed under this section shall devote
11 full time to that judge's judicial duties and, during that judge's term of office, may not
12 practice law or be the partner or associate of any person in the practice of law.

13 **§412. Duties of Chief Judge**

14 The Chief Judge of the Probate Court is responsible to and under the supervision of the
15 Chief Justice of the Supreme Judicial Court for the operation of the Probate Court and shall
16 serve as Chief Judge at the pleasure of the Chief Justice. The Chief Judge shall:

17 **1. Hold court when necessary.** Hold court in any county when the Chief Judge
18 determines it necessary by reason of illness, absence or disability of the Probate Court
19 Judge regularly assigned or by reason of an excessive case load in any county;

20 **2. Assign judges.** Assign Probate Court Judges to hold court in any county where, in
21 the judgment of the Chief Judge, they are needed;

22 **3. Days and hours for holding court.** Subject to the requirements of section 413,
23 subsection 4, fix the days and hours for holding court in each county and provide public
24 notification of such days and hours as provided in section 415;

25 **4. Vacations.** Determine the time for the taking of vacations by each Probate Court
26 Judge;

27 **5. Records and reports.** Prescribe, subject to the approval of the Chief Justice of the
28 Supreme Judicial Court or the Chief Justice's designee, the records to be kept and destroyed
29 and the reports to be made by each Probate Court Judge;

30 **6. Statistics.** Collect such statistics and other information pertaining to the business of
31 the Probate Court as are requested by the Chief Justice of the Supreme Judicial Court or
32 the Chief Justice's designee;

33 **7. Budget.** Utilizing such assistance from the Administrative Office of the Courts as
34 the Chief Judge may request, prepare and submit a proposed annual budget for the Probate
35 Court to the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee.
36 The proposed annual budget for the Probate Court may not include expenses related to the
37 operation of county registries of probate or revenue from fees, fines or penalties collected
38 by the Probate Court and allocated to the county pursuant to Title 18-C, sections 1-501,
39 1-511, 1-603 and 1-607 or any other provision of law;

40 **8. Report.** Render to the Chief Justice of the Supreme Judicial Court an annual report
41 on the state of business in the Probate Court and on the conferences held pursuant to
42 subsection 10;

1 **9. Courtroom facilities.** Pursuant to section 413, make necessary arrangements for
2 safe and accessible courtroom facilities in each county; establish headquarters with
3 appropriate facilities for the Chief Judge; and establish quarters and facilities for each
4 Probate Court Judge;

5 **10. Conference of judges.** Convene at least once annually at such place as the Chief
6 Judge considers appropriate a conference of Probate Court Judges to consider and take
7 action upon or make recommendations with respect to current problems in the operation of
8 the Probate Court. The expenses of Probate Court Judges attending this conference are an
9 expense of the Probate Court;

10 **11. Development and implementation of administrative concepts.** Carry on a
11 continuous survey and study of the organization, operation, condition of business, practice
12 and procedure of the Probate Court and make recommendations to the Chief Justice of the
13 Supreme Judicial Court concerning the number of judges and other personnel, other than
14 personnel in the county registries of probate, required for the efficient administration of
15 justice and examine, with the advice of the Probate Court Judges and Registers of Probate,
16 the status of dockets of the various Probate Courts to determine whether the business of the
17 court is being carried out in an efficient manner and that emergency matters are prioritized
18 and addressed expediently. From such an examination, the Chief Judge shall annually
19 make recommendations to the Chief Justice of the Supreme Judicial Court for guidelines
20 and policies for the scheduling and trial of matters before the Probate Court. In providing
21 recommendations, the Chief Judge shall give due and appropriate regard to the
22 recommendations of the Probate Court Judges and the Registers of Probate and shall
23 provide a mechanism whereby their individual recommendations and comments may be
24 brought to the attention of the Chief Justice. The Chief Judge, in advising as to the
25 appropriateness of the methods or systems for scheduling trials and the management of
26 matters before the Probate Court, shall take into consideration systems and methods
27 operational in the Superior Court and the District Court. The final decision as to the
28 management of judicial branch personnel and the implementation of guidelines, policies
29 and procedures for the scheduling of trials and management of matters before the Probate
30 Court must be made by the Chief Justice only after consultation with the Chief Judge; and

31 **12. Other duties.** Perform such additional duties as may be assigned by the Chief
32 Justice of the Supreme Judicial Court.

33 **§413. Probate Court regions; place for holding court**

34 **1. Probate Court regions.** The State is divided into 8 Probate Court regions, named
35 and defined as follows:

36 A. Region 1 consists of York County;

37 B. Region 2 consists of Cumberland County;

38 C. Region 3 consists of Oxford, Franklin and Androscoggin counties;

39 D. Region 4 consists of Kennebec and Somerset counties;

40 E. Region 5 consists of Penobscot and Piscataquis counties;

41 F. Region 6 consists of Sagadahoc, Lincoln, Knox and Waldo counties;

42 G. Region 7 consists of Hancock and Washington counties; and

1 H. Region 8 consists of Aroostook County.

2 **2. Assignment.** The Chief Judge of the Probate Court shall assign at least one Probate
3 Court Judge as the primary judge to hold court in each region.

4 **3. Place for holding court.** In each county within each region, the Chief Judge of the
5 Probate Court shall designate a place for holding court that is located, to the extent possible
6 given the other requirements of this subsection, in the building holding the office of that
7 county's Register of Probate. The Chief Judge, with the advice and approval of the
8 Department of Administrative and Financial Services, Bureau of General Services, is
9 empowered to negotiate on behalf of the State the leases, contracts and other arrangements
10 the Chief Judge considers necessary, within the limits of the budget and funds available, to
11 provide suitable quarters, adequately furnished and equipped for the Probate Court in each
12 county.

13 If the Chief Judge is unable to negotiate the leases, contracts and other arrangements as
14 provided in this subsection, the Chief Judge may, with the advice and approval of the
15 Bureau of General Services, negotiate on behalf of the State the leases, contracts and other
16 arrangements the Chief Judge considers necessary, within the limits of the budget and funds
17 available, to provide suitable quarters, adequately furnished and equipped for the Probate
18 Court in other publicly owned or privately owned buildings.

19 **4. Exception; Aroostook County.** Notwithstanding subsection 3, the Chief Judge of
20 the Probate Court shall secure facilities for the Probate Court in Region 8 to hold court at
21 least 2 times each year at Fort Kent and at least 4 times each year at Caribou. The time for
22 holding the court must be appointed by the Chief Judge of the Probate Court and made
23 known by public notification as provided in section 415.

24 **5. Exception; alternative locations.** Notwithstanding subsection 3, the Probate Court
25 may hold hearings for matters in equity and contested cases at such time and place in the
26 county as the Probate Court may appoint and make all necessary orders and decrees relating
27 thereto.

28 **§414. Officers execute processes and attend courts**

29 Sheriffs, their deputies and constables shall execute all legal processes directed to them
30 by a Probate Court, which may, when necessary, require such officer, when not in
31 attendance upon any other court, to attend during the sitting of the Probate Court, for which
32 that officer must be paid as in other courts for similar services.

33 **§415. Continuous session; return day for matters requiring public notice**

34 The Probate Court is always open in each county for all matters over which it has
35 jurisdiction, except upon days on which by law no court is held, but it shall have certain
36 fixed days and places to be made known by public notification thereof in their respective
37 counties to which all matters requiring public notice must be made returnable, except as
38 otherwise ordered by the Chief Judge of the Probate Court. In case of the absence of the
39 assigned Probate Court Judge at the time of holding any court, the Register of Probate or
40 acting register may adjourn the same unless the Chief Judge of the Probate Court assigns
41 another Probate Court Judge to attend.

42 **§416. Conflict of interest; transfer of proceeding**

1 **1. Probate Court Judge conflict of interest.** When a Probate Court Judge is
2 interested in that judge's own right in a trust that is not fully executed, or in any other
3 manner in an estate, or is within the degree of kindred by which in law that judge may, by
4 possibility, be heir to any part of the estate of the person deceased, or is named as executor,
5 trustee of a trust that is not fully executed or guardian of minor children in the will of any
6 deceased resident of the county, the judge must be recused from any proceedings related to
7 the trust or settlement of the estate unless said disability is removed.

8 This subsection may not be construed to require recusal by a Probate Court Judge who is
9 named as executor, trustee or guardian of minor children in a will if the judge does not
10 receive a benefit from the will and the record of the court discloses the filing of the judge's
11 declination to act as such executor, trustee or guardian and if no objection is raised by any
12 interested party at the hearing on the petition for probate of the will.

13 **2. Probate Court Judge not to draft documents.** A Probate Court Judge may not
14 draft or aid in drafting any document or paper that the Probate Court Judge is by law
15 required to pass upon.

16 **3. Register of Probate conflict of interest; transfer of proceeding.** When a Register
17 of Probate is interested in that register's own right in a trust that is not fully executed, or in
18 any other manner in an estate, or is within the degree of kindred by which in law that
19 register may, by possibility, be heir to any part of the estate of the person deceased, or is
20 named as executor, trustee of a trust that is not fully executed or guardian of minor children
21 in the will of any deceased resident of the county, such estate must be settled in the Probate
22 Court of any adjoining county, which has full jurisdiction thereof as if the deceased had
23 died in that adjoining county. If the register's interest arises after jurisdiction over such
24 estate has been assumed or existed at the time of the register's election to office, and in all
25 cases where an executor, administrator, guardian or trustee, whose trust is not fully
26 executed, becomes the Register of Probate for the county in which that register's letters
27 were granted, further proceedings must be transferred to the Probate Court in any adjoining
28 county and there remain until completed, unless said disability is removed before that time.
29 Whenever in any case within this subsection the disability of the Register of Probate is
30 removed before the proceedings have been fully completed, the proceedings must then be
31 transferred to the Probate Court in the county of original jurisdiction or to the Probate Court
32 that otherwise would have had jurisdiction. In all such cases the register in such adjoining
33 county shall transmit copies of all records relating to such estate to the probate office of the
34 county where such estate belongs, to be there recorded.

35 This subsection may not be construed to require removal to another county by reason of
36 the Register of Probate having been named as executor, trustee or guardian of minor
37 children in a will, if the register does not receive a benefit from the will and the record of
38 the court discloses the filing of the register's declination to act as such executor, trustee or
39 guardian and if no objection is raised by any interested party at the hearing on the petition
40 for probate of the will.

41 **§417. Rights of claimants under heir**

42 Any person claiming under an heir at law has the same rights as the heir in all
43 proceedings in Probate Court, including rights of appeal.

44 **§418. Perpetual care of cemetery lots by order**

1 In any case in which an estate is under the Probate Court's jurisdiction for probate, the
2 Probate Court may order that an appropriate amount out of the estate be set aside for
3 perpetual care and suitable memorials for the cemetery lot in which the deceased is buried
4 and order special care of such lots when the conditions and size of the estate seem to warrant
5 such order.

6 **§419. Contracts for support**

7 **1. Approval required.** All contracts for support for life must be approved by the
8 Probate Court in the county in which the support for life is to be rendered. The Probate
9 Court shall grant approval after such reasonable notice as the court determines to be
10 appropriate, if the court finds, after hearing, that the contract is just and equitable under all
11 of the circumstances.

12 **2. Admissibility in evidence.** A contract or agreement for support for life that has not
13 been approved under subsection 1 may not be received in evidence unless the person
14 offering the contract or agreement establishes by a preponderance of the evidence that the
15 contract or agreement is just and equitable under all of the circumstances.

16 **3. Exception.** This section does not apply to contracts or agreements for support for
17 life between persons related within the 3rd degree.

18 **§420. Commission To Evaluate the Incorporation of the Probate Court into the**
19 **Judicial Branch**

20 **1. Commission established.** The Commission To Evaluate the Incorporation of the
21 Probate Court into the Judicial Branch, referred to in this section as "the commission," is
22 established.

23 **2. Membership.** The commission consists of 15 members appointed as follows:

24 **A.** Two members of the Senate appointed by the President of the Senate, including one
25 member from each of the 2 parties holding the largest number of seats in the
26 Legislature;

27 **B.** Three members of the House of Representatives appointed by the Speaker of the
28 House of Representatives, including members from each of the 2 parties holding the
29 largest number of seats in the Legislature;

30 **C.** Three members appointed by the Chief Justice of the Supreme Judicial Court;

31 **D.** One member who is a Probate Court Judge appointed by the Chief Justice of the
32 Supreme Judicial Court;

33 **E.** One member who is a Register of Probate appointed by the Speaker of the House
34 of Representatives;

35 **F.** One member who is a judicial branch clerk appointed by the Chief Justice of the
36 Supreme Judicial Court;

37 **G.** One member who is a member of the Probate and Trust Law Advisory Commission,
38 established pursuant to Title 5, section 12004-I, subsection 73-B, appointed by that
39 commission;

40 **H.** One member who is a member of the Family Law Advisory Commission,
41 established pursuant to Title 5, section 12004-I, subsection 52-A, appointed by that
42 commission; and

1 I. Two members who are members of the Maine State Bar Association, one of whom
2 is a member of a nonprofit organization providing statewide free legal services,
3 appointed by the Speaker of the House of Representatives.

4 **3. Chairs; quorum.** The first-named Senate member is the Senate chair and the first-
5 named House of Representatives member is the House chair of the commission. A quorum
6 of the commission consists of 8 members.

7 **4. Appointments; convening of commission.** All appointments must be made no later
8 than January 1, 2027. The appointing authorities shall notify the Executive Director of the
9 Legislative Council once all appointments have been completed. After appointment of all
10 members, the chairs shall call and convene the first meeting of the commission. If 30 days
11 or more after January 1, 2027 a majority of but not all appointments have been made, the
12 chairs may request authority and the Legislative Council may grant authority for the
13 commission to meet and conduct its business.

14 **5. Duties.** The commission shall conduct a thorough review of the Probate Court
15 system, including but not limited to the interaction between the state Probate Court and
16 county registries of probate; the establishment and allocation of Probate Court fees; the
17 Maine Commission on Indigent Legal Services' responsibility for oversight and payment
18 of attorneys appointed by the Probate Court to represent indigent parties in Probate Court
19 proceedings pursuant to Title 4, chapter 37; and the judicial branch's responsibility for
20 oversight of visitors appointed by the Probate Court and for payment of court-appointed
21 visitors when the Probate Court is allowed or directed by law to appoint a visitor at state
22 expense. The review must include, but is not limited to, an evaluation of:

23 A. Whether the number of Probate Court Judge positions is appropriate or should be
24 adjusted;

25 B. Whether the jurisdiction of the Probate Court, District Court and Superior Court
26 should be adjusted to increase judicial efficiency and access to justice;

27 C. Whether the Chief Justice of the Supreme Judicial Court should be authorized to
28 assign Probate Court Judges to sit in the Superior Court or the District Court and to
29 assign Superior Court Justices and District Court Judges to sit in the Probate Court;

30 D. Whether additional investments should be made to enhance the compatibility of the
31 Probate Court's case management system with the case management system used by
32 the other courts in the judicial branch; and

33 E. Whether additional steps should be taken to more fully incorporate the Probate Court
34 into the judicial branch, including whether to transfer the functions and staff of the
35 county registries of probate into the judicial branch.

36 **6. Compensation.** Legislative members of the commission are entitled to receive the
37 legislative per diem, as defined in Title 3, section 2, and reimbursement for travel and other
38 necessary expenses for their attendance at authorized meetings of the commission. Public
39 members not otherwise compensated by their employers or other entities that they represent
40 are entitled to receive reimbursement of necessary expenses and, upon a demonstration of
41 financial hardship, a per diem equal to the legislative per diem for their attendance at
42 authorized meetings of the commission.

1 **7. Staffing.** The Legislative Council shall provide staff support for the operation of
2 the commission, except that Legislative Council staff support is not authorized when the
3 Legislature is in regular or special session.

4 **8. Information and assistance.** The Administrative Office of the Courts, the Chief
5 Judge of the Probate Court and Registers of Probate shall provide to the commission the
6 information and assistance requested by the commission that is necessary for the
7 commission to perform its duties.

8 **9. Report.** No later than December 31, 2027, the commission shall submit a report
9 that includes its findings and recommendations, which may include suggested legislation,
10 for presentation to the joint standing committee of the Legislature having jurisdiction over
11 judiciary matters. The joint standing committee may report out legislation related to the
12 report to the 133rd Legislature.

13 **10. Repeal.** This section is repealed June 1, 2028.

14 **Sec. D-3. 4 MRSA §1201, sub-§12-C** is enacted to read:

15 **12-C. Judge.** "Judge" means a Justice of the Supreme Judicial Court or the Superior
16 Court, any Judge of the District Court, any Probate Court Judge, any Administrative Court
17 Judge or any Associate Administrative Court Judge who is actively serving as of December
18 1, 1984, or who is appointed subsequent to December 1, 1984, but does not include Active
19 Retired Judges.

20 **Sec. D-4. 18-C MRSA §1-201, sub-§8-A** is enacted to read:

21 **8-A. Court.** "Court" means the Probate Court established in Title 4, section 407,
22 subsection 1.

23 **Sec. D-5. 18-C MRSA §1-309-A** is enacted to read:

24 **§1-309-A. Judges**

25 A judge of the court must be chosen and shall serve as provided in Title 4, chapter 7-A.

26 **Sec. D-6. 18-C MRSA §1-510, sub-§1, ¶B-1** is enacted to read:

27 B-1. Be an administrator, guardian, commissioner of insolvency, appraiser or divider
28 of an estate, in a case within the jurisdiction of the court located in the county in which
29 the register is register, except as provided in Title 4, chapter 7-A, or be in any manner
30 interested in the fees and emoluments arising from such an estate in that capacity; or

31 **Sec. D-7. 21-A MRSA §1, sub-§11**, as enacted by PL 1985, c. 161, §6, is amended
32 to read:

33 **11. County office.** "County office" means the office of ~~judge of probate~~, register of
34 probate, county treasurer, register of deeds, sheriff, district attorney or county
35 commissioner.

36 **Sec. D-8. 21-A MRSA §601, sub-§3**, as amended by PL 2021, c. 273, §10, is
37 further amended to read:

38 **3. Order of offices.** The order of offices on the ballot is as follows: President, United
39 States Senator, Governor, Representative to Congress, State Senator and Representative to
40 the Legislature, and the county offices in the following order: ~~judge of probate~~, register of
41 probate, county treasurer, register of deeds, sheriff, district attorney and county

1 commissioner, except that the order may be modified to allow ranked-choice contests to be
2 printed on the opposite side of the ballot, separate from contests other than ranked-choice
3 contests.

4 **Sec. D-9. Transition provision.** A Probate Court Judge appointed to the state
5 Probate Court pursuant to the Maine Revised Statutes, Title 4, section 301-A, subsection 2
6 prior to January 1, 2025 continues to serve as a Probate Court Judge in the Probate Court
7 established in Title 4, chapter 7-A until the expiration of the term to which the judge was
8 appointed.

9 **Sec. D-10. Effective date.** This Part takes effect January 1, 2025.

10 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
11 takes effect when approved, except as otherwise indicated.

12 SUMMARY

13 This bill implements the recommendations of the Commission To Create a Plan To
14 Incorporate the Probate Courts into the Judicial Branch, referred to in this summary as "the
15 commission." The report is available online at <https://legislature.maine.gov/doc/7703>.

16 Maine's county Probate Courts occupy a unique position in Maine's justice system.
17 Unlike Maine's other trial courts, Probate Courts are not part of the state judicial branch
18 and Probate Court Judges are not appointed by the Governor and confirmed by the
19 Legislature. Instead, pursuant to the former Constitution of Maine, Article VI, Section 6,
20 Probate Court Judges and Registers of Probate are elected to 4-year terms in each county.
21 Although the caseload varies from county to county, it is generally understood that Maine's
22 county Probate Court Judges serve on a part-time basis and, accordingly, they are
23 authorized to engage in the practice of law.

24 In 1967, the Legislature passed Resolve 1967, chapter 77, which proposed an
25 amendment to the Constitution of Maine that would repeal Article VI, Section 6 and would
26 "become effective at such time as the Legislature by proper enactment shall establish a
27 different Probate Court system with full-time judges." This constitutional amendment was
28 approved by a majority of the voters of Maine on November 7, 1967. In its report, the
29 commission recommended that the Legislature implement this constitutional amendment
30 by establishing a new state Probate Court with full-time, appointed state Probate Court
31 Judges. Part A of the bill sets out that it is the intent of the Legislature that the enactment
32 of this legislation, which implements the commission's recommended new Probate Court
33 system with full-time judges, will trigger the repeal of the Constitution of Maine, Article
34 VI, Section 6 pursuant to Resolve 1967, chapter 77 on the date that this emergency
35 legislation is approved.

36 Although this bill is intended to trigger the repeal of the Constitution of Maine, Article
37 VI, Section 6, which provides for the election of probate judges, the commission did not
38 recommend and the bill does not provide for the removal from office of any county Probate
39 Court Judge prior to the expiration of the term to which the judge was previously elected
40 under the Constitution. To avoid that result, the commission recommended a multiyear,
41 multistep process for establishing a new state Probate Court with full-time judges. Part B
42 of the bill, which is effective immediately, Part C of the bill, which is effective January 1,

1 2023, and Part D of the bill, which is effective January 1, 2025, implement this multiyear,
2 multistep process as follows.

3 1. Parts B and D of the bill establish a state Probate Court within the judicial branch
4 that is distinct from the District Court and Superior Court. By January 1, 2025, the state
5 Probate Court will be staffed by 9 full-time judges appointed by the Governor and
6 confirmed by the Legislature, including one judge assigned to serve as the primary judge
7 in each of 8 new Probate Court regions that will be aligned with the State's 8 prosecutorial
8 districts.

9 A. When the terms of the incumbent probate judges in Androscoggin, Franklin, Knox
10 and Penobscot counties expire on December 31, 2022, they will be replaced by county
11 Probate Court Judges elected to 2-year terms that will expire on December 31, 2024.
12 Because the ballot-qualification process has already commenced, Part B of the bill
13 provides that signatures collected by a candidate on a petition to qualify to appear on
14 the primary or general election ballot for a county probate judge position established
15 by the Constitution of Maine, Article VI, Section 6 in one of these counties are deemed
16 to be signatures collected for that candidate to appear on the primary or general election
17 ballot for the 2-year statutory Probate Court Judge positions established in the bill for
18 that county.

19 B. When the terms of the incumbent probate judges in Cumberland, Hancock and
20 Washington counties expire on December 31, 2022, they will be replaced by 4 new
21 state Probate Court Judges appointed by the Governor and confirmed by the Legislature
22 in the same manner that District Court Judges and Superior Court Justices are appointed
23 and confirmed for terms that commence January 1, 2023. Although not reflected in the
24 text of the bill, the commission also recommended that these judges be supported by
25 one new law clerk, one new judicial administrative assistant and 4 new court marshals.

26 C. Beginning January 1, 2023, the 4 new state Probate Court Judges will preside over
27 probate proceedings in Cumberland, Hancock and Washington counties while the
28 remainder of the State's 16 counties will continue to be served by an elected county
29 Probate Court Judge. If a judicial vacancy occurs in a county Probate Court after
30 January 1, 2023 due to the death, resignation or retirement of the elected county Probate
31 Court Judge, the vacant position will not be filled and jurisdiction over that county's
32 probate matters will be transferred to the new state Probate Court. If the Chief Justice
33 of the Supreme Judicial Court determines that the number of state Probate Court Judges
34 is insufficient to provide for the efficient administration of justice in all of the counties
35 served by the new state Probate Court, the Chief Justice may request that the Governor
36 appoint an additional state Probate Court Judge. Although not reflected in the text of
37 the bill, to ensure that funding is available for all of the new potential state judgeships
38 as they arise, the commission also recommended that all 9 new state Probate Court
39 Judge positions be funded through General Fund appropriations commencing on
40 January 1, 2023.

41 D. When the terms of all remaining county Probate Court Judges expire on December
42 31, 2024, they will be replaced by the number of new state Probate Court Judges
43 necessary to achieve a full complement of 9 state Probate Court Judges. Although not
44 reflected in the text of the bill, the commission also recommended that these new judges
45 be supported by a 2nd law clerk and judicial administrative assistant and by 5 additional
46 court marshals.

1 E. Although not reflected in the text of the bill, the commission also recommended
2 that the judicial branch be authorized to hire an information technology specialist and
3 a facilities manager as soon as possible, and that General Fund appropriations be
4 provided for that purpose, to help the judicial branch prepare for the establishment of
5 the state Probate Court on January 1, 2023.

6 2. Parts B, C and D of the bill direct the Chief Justice of the Supreme Judicial Court
7 to designate one appointed state Probate Court Judge to serve as the Chief Judge of the
8 Probate Court, who is charged with fulfilling administrative duties similar to the
9 administrative duties of the Chief Justice of the Superior Court and Chief Judge of the
10 District Court. These duties include facilitating the transition from the county Probate
11 Court system to the state Probate Court system; creating the statewide Probate Court
12 schedule; ensuring uniformity of court processes and procedures and that emergency
13 matters are prioritized and addressed expediently; securing and ensuring the accessibility
14 and safety of Probate Court facilities; and preparing annual reports on the business of the
15 state Probate Court.

16 3. Parts C and D of the bill direct that state Probate Court proceedings be held in
17 existing county Probate Court facilities if possible and require the Chief Judge of the
18 Probate Court to negotiate leases, contracts or other arrangements between the counties and
19 the judicial branch regarding the use of those facilities. When necessary, state District Court
20 and Superior Court facilities may also be used for Probate Court proceedings.

21 4. Parts B, C and D of the bill preserve the county registries of probate.

22 A. Part B of the bill provides, by statute, for the election of county Registers of Probate
23 under the same terms and conditions applicable to county register of probate elections
24 under the Constitution of Maine, Article VI, Section 6, which will be repealed on the
25 date that this emergency legislation is approved. Because the ballot-qualification
26 process has already commenced, Part B of the bill provides that signatures collected
27 by a candidate on a petition to qualify to appear on the primary or general election
28 ballot this year for a register of probate position established by the Constitution of
29 Maine, Article VI, Section 6 are deemed to be signatures collected for that candidate
30 to appear on the primary or general election ballot this year for the same Register of
31 Probate position established in the bill by statute.

32 B. Parts B, C and D of the bill further provide that, as each county transitions to the
33 state Probate Court, that county should continue to retain all fees filed in state Probate
34 Court proceedings in that county to offset the costs of maintaining its county registry
35 of probate and of paying registry staff. These costs include, for example, the cost to
36 maintain the current electronic management system for probate court records that the
37 commission recommended retaining during the multiyear transition to the new state
38 Probate Court system.

39 5. Part C of the bill provides that, beginning January 1, 2023, the Maine Commission
40 on Indigent Legal Services is responsible for paying and for establishing the minimum
41 experience, training and additional qualifications for attorneys appointed to represent
42 indigent individuals at public expense in all state and county Probate Court proceedings.
43 Although not reflected in the text of the bill, the commission further recommended that the
44 Legislature provide new General Fund appropriations to the Maine Commission on
45 Indigent Legal Services to cover the cost of these appointments.

1 6. Parts C and D of the bill require the judicial branch to establish the minimum
2 experience, training and additional qualifications for court-appointed visitors in state
3 Probate Court proceedings and to pay the expenses of both court-appointed visitors and
4 court-appointed guardians ad litem in state Probate Court proceedings when the parties are
5 indigent or the court is allowed or directed by law to pay these expenses. Although not
6 reflected in the text of the bill, the commission recommended that the Legislature provide
7 new General Fund appropriations to the judicial branch to cover the expenses associated
8 with the new requirements. Part C of the bill clarifies that, if a guardian ad litem or visitor
9 is appointed at public expense in a county Probate Court proceeding, the county remains
10 responsible for paying the court-appointed professional's fees.

11 7. Finally, Part D of the bill establishes the Commission To Evaluate the Incorporation
12 of the Probate Court into the Judicial Branch, a 15-member study group composed of the
13 same categories of members appointed to the Commission To Create a Plan To Incorporate
14 the Probate Courts into the Judicial Branch. Part D of the bill directs the new commission
15 to conduct a thorough review of the new state Probate Court system in 2027, which must
16 include, but is not limited to, evaluating whether the number of supported state Probate
17 Court Judge positions proposed is appropriate or should be adjusted; whether the
18 jurisdiction of the state Probate Court, District Court and Superior Court should be adjusted
19 to increase judicial efficiency and access to justice; whether to authorize assignment of
20 state Probate Court Judges to preside over District Court or Superior Court dockets to the
21 same extent that the judges in the District Court and justices in the Superior Court are
22 available for cross assignments; whether additional investments should be made to enhance
23 the compatibility of the Probate Court and judicial branch electronic case management
24 systems; and whether additional opportunities exist to advance toward the ultimate goal of
25 fully incorporating the Probate Court system into the judicial branch. No later than
26 December 31, 2027, the commission is required to submit a report that includes its findings
27 and recommendations, which may include suggested legislation, for presentation to the
28 joint standing committee of the Legislature having jurisdiction over judiciary matters. The
29 joint standing committee may report out legislation related to the report to the 133rd
30 Legislature.