

MAINE STATE LEGISLATURE

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MAJORITY

(Filing No S-382e)

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STATE OF MAINE

SENATE

131ST LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S P 236, L D 565, "An Act to Improve
Maine's System for Protecting Sixth Amendment Rights"

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

'Sec. 1. 4 MRSA §1804, sub-§2, as amended by PL 2021, c 720, §1, is further
amended to read

2. ~~Standards~~ **Rulemaking.** The commission shall ~~develop standards~~ adopt rules
governing the delivery of indigent legal services, ~~including by assigned counsel, contract~~
counsel and public defenders The rules adopted by the commission must include

A Standards governing eligibility for indigent legal services The eligibility standards
must take into account the possibility of a defendant's or civil party's ability to make
periodic installment payments toward counsel fees and the cost of private legal services
in the relevant geographic area,

B Standards prescribing minimum experience, training and other qualifications for
contract counsel ~~and,~~ assigned counsel and public defenders,

C Standards for assigned counsel ~~and,~~ contract counsel and public defender case
loads,

D Standards for the evaluation of assigned counsel ~~and,~~ contract counsel and public
defenders The commission shall review the standards developed pursuant to this
paragraph at least every 5 years, or earlier upon the ~~earlier~~ recommendation of the
executive director,

E Standards for independent, ~~quality~~ high-quality and efficient representation of
clients whose cases present conflicts of interest,

F Standards for the reimbursement of expenses incurred by assigned counsel ~~and,~~
contract counsel and public defenders, including attendance at training events provided
by the commission, and

COMMITTEE AMENDMENT

1 G Other standards considered necessary and appropriate to ensure the delivery of
 2 adequate indigent legal services

3 **Sec. 2. 4 MRSA §1804, sub-§3, ¶A**, as amended by PL 2021, c 481, §1, is further
 4 amended to read

5 A Develop and maintain a system that ~~may employ attorneys, use~~ employs public
 6 defenders, uses appointed private attorneys and ~~contract~~ contracts with individual
 7 attorneys or groups of attorneys The commission shall consider other programs
 8 necessary to provide quality and efficient indigent legal services,

9 **Sec. 3. 4 MRSA §1804, sub-§3, ¶F**, as enacted by PL 2009, c 419, §2, is amended
 10 to read

11 F Establish rates of compensation for assigned counsel and contract counsel,

12 **Sec. 4. 4 MRSA §1804, sub-§3, ¶G**, as enacted by PL 2009, c 419, §2, is amended
 13 to read

14 G Establish a method for accurately tracking ~~and~~, monitoring and enforcing case loads
 15 of load standards for assigned counsel ~~and~~, contract counsel and public defenders,

16 **Sec. 5. 4 MRSA §1804, sub-§3, ¶H**, as amended by PL 2017, c 284, Pt UUUU,
 17 §4, is further amended by amending subparagraph (1) to read

18 (1) An evaluation of contracts, services provided by contract counsel ~~and~~,
 19 assigned counsel and public defenders, any contracted professional services, and
 20 cost containment measures, and

21 **Sec. 6. 4 MRSA §1806, sub-§4** is enacted to read

22 **4 Rules of professional conduct.** Nothing in this section prohibits the executive
 23 director or the executive director's designee from reporting potential professional
 24 misconduct under the Maine Rules of Professional Conduct to the Board of Overseers of
 25 the Bar or from disclosing information and records related to potential professional
 26 misconduct to the board

27 **Sec. 7. 30-A MRSA §1662, sub-§3**, as enacted by PL 2017, c 214, §2, is amended
 28 to read

29 **3 Pretrial detention.** ~~Beginning November 1, 2017, a~~ A county jail or regional jail
 30 shall report twice per month to the Unified Criminal Docket in the judicial region in which
 31 the jail is located and to the Maine Commission on Indigent Legal Services on the pretrial
 32 detention population in the jail The jail shall report on the form provided by the Unified
 33 Criminal Docket '

34 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
 35 number to read consecutively

36 **SUMMARY**

37 This amendment, which is the majority report of the committee, replaces the bill, which
 38 is a concept draft It amends the laws governing the Maine Commission on Indigent Legal
 39 Services in the following ways

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1 It provides that, other than the rates of compensation for assigned counsel and
2 contract counsel, which are major substantive rules, the standards for the delivery of
3 indigent legal services developed by the commission are routine technical rules

4 2 It provides that the commission has the authority to employ public defenders, that
5 public defenders are subject to the commission's routine technical rules establishing
6 standards for the delivery of indigent legal services and requires the commission to include
7 in its annual report to the Legislature an evaluation of the services provided by these public
8 defenders

9 3 It requires the commission to review its routine technical rules establishing
10 standards for the evaluation of assigned counsel, contract counsel and public defenders at
11 least every 5 years or earlier upon the recommendation of the executive director of the
12 commission

13 4 It provides that the laws governing the confidentiality of commission records do not
14 prevent the executive director from reporting potential professional misconduct under the
15 Maine Rules of Professional Conduct to the Board of Overseers of the Bar or from
16 disclosing information and records related to potential professional misconduct to the
17 board

18 5 It requires county jails and regional jails to submit to the commission a copy of the
19 twice-monthly reports on the pretrial detention population those jails must send under
20 current law to the Unified Criminal Docket in the judicial region in which the jail is located

FISCAL NOTE REQUIRED
(See attached)



131st MAINE LEGISLATURE

LD 565

LR 1651(02)

An Act to Improve Maine's System for Protecting Sixth Amendment Rights

Fiscal Note for Bill as Amended by Committee Amendment *"A" (S 386)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Additional costs to the Maine Commission on Indigent Legal Services to implement the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources