

MAINE STATE LEGISLATURE

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ROS

L.D. 653

Date: 3/18/24

(Filing No. S-579)

JUDICIARY

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STATE OF MAINE

SENATE

131ST LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 270, L.D. 653, "An Act to Support Constitutionally Required Public Defense by Creating the Maine Office of Public Defense Services"

Amend the bill by striking out the title and substituting the following:

'An Act to Establish the Maine Commission on Public Defense Services and Establish Public Defender Offices for Aroostook, Penobscot and Piscataquis Counties'

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, the State's constitutional and statutory obligations include ensuring that each person facing a potential loss of liberty in a criminal or juvenile proceeding is provided with effective representation; and

Whereas, due to a lack of attorneys currently eligible for appointment, more than 500 adult criminal defendants eligible for a court-appointed attorney are currently without counsel, of whom at least 150 are currently in custody; and

Whereas, in at least 10 District Court locations across the State, there are no attorneys currently eligible for appointment to represent juveniles charged with certain types of offenses; and

Whereas, this legislation changes the name of the Maine Commission on Indigent Legal Services to the Maine Commission on Public Defense Services and establishes authority for the commission to establish 2 new public defender offices, one serving Aroostook County and one serving Penobscot and Piscataquis counties, the 2 areas of the State identified by the commission as experiencing the greatest need for additional indigent legal services; and

Whereas, it is important to authorize establishment of these offices as soon as possible; and

COMMITTEE AMENDMENT

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

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

Sec. 1. 2 MRSA §6, sub-§13, as enacted by PL 2021, c. 398, Pt. GGG, §2, is amended to read:

13. Range 37. The salary of the executive director of the Maine Commission on ~~Indigent-Legal~~ Public Defense Services is within salary range 37.

Sec. 2. 4 MRSA c. 37, headnote is amended to read:

CHAPTER 37

MAINE COMMISSION ON ~~INDIGENT-LEGAL~~ PUBLIC DEFENSE SERVICES

Sec. 3. 4 MRSA §1801, as enacted by PL 2009, c. 419, §2, is amended to read:

§1801. Maine Commission on ~~Indigent-Legal~~ Public Defense Services; established

The Maine Commission on ~~Indigent-Legal~~ Public Defense Services, established by Title 5, section 12004-G, subsection 25-A, is an independent commission whose purpose is to provide efficient, high-quality representation to indigent criminal defendants, juvenile defendants and children and parents in child protective cases, consistent with federal and state constitutional and statutory obligations. The commission shall work to ensure the delivery of indigent legal services by qualified and competent counsel in a manner that is fair and consistent throughout the State and to ensure adequate funding of a statewide system of indigent legal services, which must be provided and managed in a fiscally responsible manner, free from undue political interference and conflicts of interest.

Sec. 4. 4 MRSA §1802, sub-§2, as enacted by PL 2009, c. 419, §2, is amended to read:

2. Commission. "Commission" means the Maine Commission on ~~Indigent-Legal~~ Public Defense Services under section 1801.

Sec. 5. 5 MRSA §959, as enacted by PL 2009, c. 419, §3, is amended to read:

§959. Maine Commission on ~~Indigent-Legal~~ Public Defense Services

1. Major policy-influencing positions. The following positions are major policy-influencing positions within the Maine Commission on ~~Indigent-Legal~~ Public Defense Services. Notwithstanding any other provision of law to the contrary, these positions and their successor positions are subject to this chapter:

A. Executive director.

Sec. 6. 5 MRSA §1591, sub-§6, as enacted by PL 2021, c. 398, Pt. EEE, §1, is amended to read:

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6. ~~Maine Commission on Indigent Legal~~ Public Defense Services. Any All Other balance remaining in the Maine Commission on Public Defense Services, Maine Commission on ~~Indigent Legal~~ Public Defense Services program, General Fund account at the end of any fiscal year must be carried forward for use by the commission in the next fiscal year.

Sec. 7. 5 MRSA §12004-G, sub-§25-A, as enacted by PL 2009, c. 419, §4, is amended to read:

25-A.

Legal Services	Maine Commission on Indigent Legal	Legislative Per	4 MRSA
	<u>Public Defense Services</u>	Diem Plus	§1801
		Expenses	

Sec. 8. 15 MRSA §2115-A, sub-§8, as amended by PL 2013, c. 159, §14, is further amended to read:

8. **Fees and costs.** The Law Court shall allow counsel fees and costs for the defense of appeals under this section, to be paid by the Maine Commission on ~~Indigent Legal~~ Public Defense Services under Title 4, section 1801. The compensation paid by the commission may not exceed the rates established by the commission for the payment of counsel providing indigent legal services.

Sec. 9. 15 MRSA §2115-A, sub-§9, as amended by PL 2013, c. 159, §15, is further amended to read:

9. **Appeals to Federal Court; fees and costs.** The Law Court shall allow attorney's fees for court appointed counsel when the State appeals a judgment to any Federal Court or to the United States Supreme Court on certiorari. Any fees allowed pursuant to this subsection must be paid out of the accounts of the Maine Commission on ~~Indigent Legal~~ Public Defense Services under Title 4, section 1801. The compensation paid by the commission may not exceed the rates established by the commission for the payment of counsel providing indigent legal services.

Sec. 10. 34-A MRSA §3049, sub-§3, ¶D, as enacted by PL 2013, c. 434, §4, is amended to read:

D. If the person is indigent, costs of counsel and all other costs, including all costs on appeal, must be provided by the Maine Commission on ~~Indigent Legal~~ Public Defense Services as in other civil cases.

Sec. 11. 36 MRSA §191, sub-§2, ¶EEE, as enacted by PL 2017, c. 284, Pt. UUUU, §16 and reallocated by c. 375, Pt. D, §1, is amended to read:

EEE. The disclosure by employees of the bureau to an authorized representative of the Maine Commission on ~~Indigent Legal~~ Public Defense Services for determining the eligibility for indigent legal services and the ability to reimburse expenses incurred for assigned counsel and contract counsel under Title 4, chapter 37.

Sec. 12. 36 MRSA §5219-ZZ, sub-§1, ¶B, as enacted by PL 2021, c. 473, §2 and reallocated by RR 2021, c. 1, Pt. A, §48, is amended by amending subparagraph (2) to read:

(2) Is rostered by the Maine Commission on ~~Indigent Legal~~ Public Defense Services to accept court appointments to represent clients in an underserved area;

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Sec. 13. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes the words "Maine Commission on Indigent Legal Services" appear or reference is made to that entity or those words, those words are amended to read or mean, as appropriate, "Maine Commission on Public Defense Services" or "commission" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. 14. Transition provisions. The following provisions govern the transition of the Maine Commission on Indigent Legal Services to the Maine Commission on Public Defense Services.

1. The Maine Commission on Public Defense Services is the successor in every way to the powers, duties and functions of the former Maine Commission on Indigent Legal Services.

2. Each member of the Maine Commission on Indigent Legal Services appointed by the Governor and confirmed by the Legislature pursuant to the Maine Revised Statutes, Title 4, section 1803 is declared to be a member of the Maine Commission on Public Defense Services for the remainder of that member's unexpired term.

3. All existing rules, regulations and procedures in effect, in operation or adopted in or by the Maine Commission on Indigent Legal Services or any of its administrative units or officers are declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

4. All existing contracts, agreements and compacts currently in effect for the Maine Commission on Indigent Legal Services continue in effect.

5. Any positions authorized and allocated subject to the personnel laws to the former Maine Commission on Indigent Legal Services are transferred to the Maine Commission on Public Defense Services and continue to be authorized.

6. All records, property and equipment previously belonging to or allocated for the use of the former Maine Commission on Indigent Legal Services become, on the effective date of this Act, part of the property of the Maine Commission on Public Defense Services.

7. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the "Maine Commission on Indigent Legal Services" may be used by the Maine Commission on Public Defense Services until existing supplies of those items are exhausted.

Sec. 15. Carrying balance in fiscal year 2023-24; Maine Commission on Indigent Legal Services. Notwithstanding any provision of law to the contrary, at the end of fiscal year 2023-24, the State Controller shall carry forward for the Maine Commission on Indigent Legal Services any remaining balance in the Personal Services line category in the Maine Commission on Indigent Legal Services program, General Fund account to the next fiscal year.

Sec. 16. Appropriations and allocations. The following appropriations and allocations are made.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON
Maine Commission on Indigent Legal Services Z112**

COMMITTEE AMENDMENT

ROS

COMMITTEE AMENDMENT "A" to S.P. 270, L.D. 653 (S-579)

1 Initiative: Establishes one District Defender position, one Assistant Defender II position, 2
2 Assistant Defender I positions, one Paralegal position, one Public Service Coordinator I
3 position and one Office Specialist II Supervisor position for a public defender office
4 serving Aroostook County and reduces All Other funding to fund the positions.

5	GENERAL FUND	2023-24	2024-25
6	POSITIONS - LEGISLATIVE COUNT	7.000	7.000
7	Personal Services	\$224,226	\$896,905
8	All Other	(\$224,226)	(\$896,905)
9			
10	GENERAL FUND TOTAL	\$0	\$0

11 **Maine Commission on Indigent Legal Services Z112**

12 Initiative: Establishes one District Defender position, 3 Assistant Defender II positions, 2
13 Assistant Defender I positions, 2 Paralegal positions, 2 Public Service Coordinator I
14 positions and one Office Specialist II Supervisor position for a public defender office
15 serving Penobscot and Piscataquis counties and reduces All Other funding to fund the
16 positions.

17	GENERAL FUND	2023-24	2024-25
18	POSITIONS - LEGISLATIVE COUNT	11.000	11.000
19	Personal Services	\$331,387	\$1,325,548
20	All Other	(\$331,387)	(\$1,325,548)
21			
22	GENERAL FUND TOTAL	\$0	\$0

23 **Maine Commission on Indigent Legal Services Z112**

24 Initiative: Establishes one Public Service Coordinator I position in the public defender
25 office serving Kennebec County and reduces All Other funding to fund the position.

26	GENERAL FUND	2023-24	2024-25
27	POSITIONS - LEGISLATIVE COUNT	1.000	1.000
28	Personal Services	\$23,792	\$95,167
29	All Other	(\$23,792)	(\$95,167)
30			
31	GENERAL FUND TOTAL	\$0	\$0

32 **Maine Commission on Indigent Legal Services Z112**

33 Initiative: Establishes one Public Service Manager II position and 2 Office Specialist II
34 positions within the central office of the Maine Commission on Indigent Legal Services
35 and reduces All Other funding to fund the positions.

36	GENERAL FUND	2023-24	2024-25
37	POSITIONS - LEGISLATIVE COUNT	3.000	3.000
38	Personal Services	\$77,048	\$308,195
39	All Other	(\$77,048)	(\$308,195)
40			
41	GENERAL FUND TOTAL	\$0	\$0

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INDIGENT LEGAL SERVICES, MAINE		
COMMISSION ON		
DEPARTMENT TOTALS	2023-24	2024-25
GENERAL FUND	\$0	\$0
DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0

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

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

SUMMARY

This amendment, which is the unanimous report of the committee, replaces the bill and changes the title. The amendment changes the name of the Maine Commission on Indigent Legal Services to the Maine Commission on Public Defense Services in order to more clearly describe the commission's mission and functions to the public.

The amendment funds the establishment of a new public defender office to serve Aroostook County; a new public defender office to serve Penobscot and Piscataquis counties; a new Public Service Coordinator I position to perform investigative services for the existing public defender office in Kennebec County; and new positions in the Maine Commission on Indigent Legal Services' central office designed to assist with the formation and implementation of new public defender offices and training of new public defenders and reduces funding in the All Other line category to pay the costs associated with these initiatives. The amendment also directs the State Controller to carry forward any remaining balance in the Personal Services line category in the Maine Commission on Indigent Legal Services program to fund costs associated with establishing public defender offices.

The amendment also adds an emergency preamble and emergency clause.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 653

LR 286(02)

An Act to Support Constitutionally Required Public Defense by Creating the Maine Office of Public Defense Services

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-579)
 Committee: Judiciary
 Fiscal Note Required: Yes

Fiscal Note

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$0	\$94,530	\$192,461
Appropriations/Allocations				
General Fund	\$0	\$0	\$94,530	\$192,461

Fiscal Detail and Notes

This bill establishes 22 positions beginning in fiscal year 2023-24 in the Maine Commission on Indigent Legal Services program and provides adjustments to General Fund appropriations in fiscal year 2023-24 and fiscal year 2024-25 within the program to fund the positions, resulting in no net total increase in General Fund appropriations for fiscal year 2023-24 and fiscal year 2024-25.