

MAINE STATE LEGISLATURE

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SAC
ROS

L D 1468

Date 6/11/23

(Filing No S-157)

REPORT B

JUDICIARY

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STATE OF MAINE

SENATE

131ST LEGISLATURE

FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S P 587, L D 1468, "An Act to Ensure Equal Treatment by the Law Court by Requiring 7 Justices to Decide All Cases"

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

'An Act to Ensure Equal Treatment by the Law Court'

Amend the bill by striking out all of sections 2 to 4 and inserting the following

'Sec. 2. 4 MRSA §51, as amended by PL 2007, c 518, §1, is further amended to read

§51. Constitution of court, concurrence required

~~When~~ Except as provided in this section, when sitting as a Law Court to determine questions of law arising in any civil or criminal action or proceeding, the Supreme Judicial Court Law Court must be composed as provided by rules adopted by that court and of the Chief Justice and 6 associate justices of the Supreme Judicial Court. The Law Court shall hear and determine such questions by the concurrence of a majority of the justices sitting and qualified to act

If, at any point in time prior to the issuance of a final judgment in any civil or criminal action or proceeding before the Law Court, the Chief Justice or any of the 6 associate justices of the Supreme Judicial Court are unavailable to sit or unqualified to act on the questions of law arising in the action or proceeding, the clerk of the Law Court shall notify the parties in writing of the reason that the justice will not participate on the Law Court panel

If, at any point in time prior to the issuance of a final judgment in any civil or criminal action or proceeding before the Law Court, fewer than 5 justices of the Supreme Judicial Court are available to sit and qualified to act on the questions of law arising in the action or proceeding, the clerk of the Law Court shall randomly assign, from the pool of all Active Retired Justices of the Supreme Judicial Court appointed under section 6, a sufficient number of Active Retired Justices to sit on the panel so that the Law Court panel is composed of a total of 5 justices. If an insufficient number of justices and Active Retired

COMMITTEE AMENDMENT

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1 Justices of the Supreme Judicial Court is available to sit and qualified to act on the questions
2 of law arising in any civil or criminal action or proceeding, the decision of the lower court
3 must be deemed to have been affirmed

4 The designation of an Active Retired Justice of the Supreme Judicial Court to sit on a
5 panel of the Law Court must be docketed in the record of the civil or criminal action or
6 proceeding to which the justice has been assigned

7 The Supreme Judicial Court shall adopt rules necessary to carry out the requirements
8 of this section '

9 **Sec. 3. Appropriations and allocations.** The following appropriations and
10 allocations are made

11 **JUDICIAL DEPARTMENT**

12 **Courts - Supreme, Superior and District 0063**

13 Initiative Provides ongoing funding for per diem payments to Active Retired Justices
14 assigned to sit on Law Court panels

15 GENERAL FUND	2023-24	2024-25
16 Personal Services	\$11,750	\$15,667
17		
18 GENERAL FUND TOTAL	\$11,750	\$15,667

19 '
20 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
21 number to read consecutively

22 **SUMMARY**

23 Like the bill, this amendment, which is a minority report of the committee, requires
24 that, when the Supreme Judicial Court is sitting as a Law Court to determine questions of
25 law arising in any civil or criminal action or proceeding, the case must be decided by the
26 Chief Justice and all 6 associate justices of the Supreme Judicial Court if they are available
27 to sit and qualified to act on the action or proceeding

28 Unlike the bill, the amendment

29 1 Directs that, if the Chief Justice or any of the associate justices of the Supreme
30 Judicial Court is unavailable or unqualified to act on the action or proceeding, the clerk of
31 the Law Court is required to notify the parties in writing of the reason that the justice will
32 not participate on the Law Court panel,

33 2 Directs that, if fewer than 5 justices are available to sit and qualified to act, the clerk
34 of the Law Court is required to randomly assign a sufficient number of Active Retired
35 Justices of the Supreme Judicial Court to serve on the Law Court panel to ensure that the
36 panel is composed of 5 justices, and

37 3 Provides that, if an insufficient number of justices and Active Retired Justices of
38 the Supreme Judicial Court is available to sit and qualified to act on the questions of law
39 arising in any civil or criminal action or proceeding before the Law Court, the decision of
40 the lower court must be deemed to have been affirmed

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COMMITTEE AMENDMENT "A" to S P 587, L D 1468 (5-157)

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The amendment also changes the bill title and adds an appropriations and allocations section

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 1468

LR 884(02)

An Act to Ensure Equal Treatment by the Law Court by Requiring 7 Justices to Decide All Cases

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-157)
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	\$11,750	\$15,667	\$15,667	\$15,667
Appropriations/Allocations				
General Fund	\$11,750	\$15,667	\$15,667	\$15,667

Fiscal Detail and Notes

This bill provides ongoing General Fund appropriations to the Judicial Department of \$11,750 in fiscal year 2023-24 and \$15,667 in fiscal year 2024-25 for per diem payments to active retired justices of the Supreme Judicial Court assigned to sit on a Law Court panel so that the panel is composed of 5 justices in instances when fewer than 5 Supreme Court Justices are available to sit and qualified to act in an action or proceeding before the Court. These estimates are based on the current per diem rates for active retired justices of \$350 per day and \$200 per half day. If per diem rates are increased to \$500 per day and \$350 per half day as recommended in the proposed budget for the 2024-2025 biennium, additional General Fund appropriations may be required to cover the cost associated with active retired judges assigned to sit on Law Court panels.