

MAINE STATE LEGISLATURE

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L.D. 1766

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STATE OF MAINE

SENATE

132ND LEGISLATURE

SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 684, L.D. 1766, "An Act to Incorporate Probate Judges into the Maine Judicial Branch"

Amend the bill in Part A by inserting after section 1 the following:

'Sec. A-2. Transition. The Supreme Judicial Court and the Chief Justice of the Supreme Judicial Court shall oversee the process described in this Act for transitioning from a system of elected county Probate Court Judges to a system of appointed state Probate Court Judges, including by issuing any necessary administrative orders or adopting or amending any applicable procedural or ethical rules.

Sec. A-3. Report. By January 15, 2028, the Supreme Judicial Court shall submit a report to the joint standing committee of the Legislature having jurisdiction over judiciary matters containing:

1. Information on progress made in planning for the establishment of a Probate Court with full-time state judges on January 1, 2029, including but not limited to plans for integration of the new judicial positions in the judicial branch, proposed use of existing state or county facilities for probate proceedings and proposed amendments to applicable procedural or ethical rules governing Probate Court proceedings and Probate Court Judges; and

2. An evaluation of the advisability and feasibility of transferring the functions and staff of the county registries of probate into the judicial branch in a manner that preserves the efficient administration of justice and the ability of members of the public to pursue informal probate proceedings without an attorney, including by preserving public access to registry staff on a regular basis within each of the 16 counties of the State; preserving the ability of registry staff to assist members of the public in drafting applications, petitions or sworn statements in informal probate proceedings as described in the Maine Revised Statutes, Title 18-C, section 1-510, subsection 2; and preserving the quasi-judicial authority of registry staff in informal probate proceedings pursuant to the Maine Uniform Probate Code.'

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 684, L.D. 1766 (S-533)

1 Amend the bill in Part B by striking out all of sections 11 and 12 and inserting the
2 following:

3 'Sec. B-11. 4 MRSA §201-A is enacted to read:

4 **§201-A. Establishment; court of record; seal; process; contempt power**

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

7 **A.** Prior to January 1, 2031, each county Probate Court for which the term of the
8 county's Probate Court Judge elected or appointed under the Constitution of Maine,
9 former Article VI, Section 6 or elected under section 301-A, subsection 1 has not yet
10 expired. This paragraph does not include any county Probate Court in which a vacancy
11 occurs after January 1, 2029 due to the death, resignation, removal from the county or
12 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of a county
13 Probate Court Judge elected under section 301-A, subsection 1, paragraph C; and

14 **B.** Beginning January 1, 2029, the Probate Court established under subsection 2,
15 paragraph B that serves:

16 (1) York, Kennebec, Somerset and Aroostook counties; and

17 (2) Each county in which a vacancy occurs after January 1, 2029 due to the death,
18 resignation, removal from the county or permanent incapacity as defined in Title
19 30-A, section 1, subsection 2-A of the county Probate Court Judge elected under
20 section 301-A, subsection 1, paragraph C.

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

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

26 **B.** A Probate Court for the State is established on January 1, 2029 as a court of record
27 in the counties described in subsection 1, paragraph B. The Chief Judge of the Probate
28 Court shall establish the official seal of the court and provide the official seal to the
29 Register of Probate in each county described in subsection 1, paragraph B.

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

32 **Sec. B-12. 4 MRSA §202,** as amended by PL 2025, c. 168, §1, is further amended
33 to read:

34 **§202. Oaths and acknowledgments**

35 All oaths required to be taken by personal representatives, trustees, guardians, or
36 conservators, or of any other persons in relation to any proceeding in the ~~probate court~~
37 Probate Court, or to perpetuate the evidence of the publication of any order of notice, may
38 be administered by the ~~judge Probate Court Judge~~ or ~~register of probate~~ Register of Probate
39 or any notary public. A certificate thereof, when taken out of court, must be returned into
40 the registry of probate and there filed. When any person of whom such oath is required,
41 excluding any parent executing a surrender and release or a consent under Title 18-C,
42 section 9-202, resides temporarily or permanently outside the State, the oath or

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1 acknowledgment may be taken before and be certified by a notary public ~~outside the State~~
2 in another state, a commissioner for the State of Maine or a United States Consul.'

3 Amend the bill in Part B by striking out all of section 19 and inserting the following:

4 'Sec. B-19. 4 MRSA §301-A is enacted to read:

5 §301-A. Judges; election or appointment; term; qualifications; salary; expenses; full-
6 time duties

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

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

11 (1) A vacancy occurring during the term of a county Probate Court Judge elected
12 on November 8, 2022 due to the death, resignation, removal from the county or
13 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of the
14 judge may be filled by the Governor by appointment. In the case of a vacancy in
15 the term of a county Probate Court Judge who was nominated by primary election
16 before the general election, the individual appointed by the Governor to fill the
17 vacancy must be enrolled in the same political party as the judge whose term is
18 vacant. In making the appointment, the Governor shall choose from any
19 recommendations submitted to the Governor by the county committee of the
20 political party from which the appointment is to be made. The term of the
21 successor judge appointed by the Governor under this subparagraph ends on
22 December 31, 2026.

23 (2) A vacancy occurring during the term of a county Probate Court Judge elected
24 on November 5, 2024 due to the death, resignation, removal from the county or
25 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of the
26 judge must be filled by the Governor by appointment. In the case of a vacancy in
27 the term of a county Probate Court Judge who was nominated by primary election
28 before the general election, the individual appointed by the Governor to fill the
29 vacancy must be enrolled in the same political party as the judge whose term is
30 vacant. In making the appointment, the Governor shall choose from any
31 recommendations submitted to the Governor by the county committee of the
32 political party from which the appointment is to be made. The term of the
33 successor judge appointed by the Governor under this subparagraph ends on
34 December 31, 2028.

35 B. A county Probate Court Judge must be elected in Cumberland, Androscoggin,
36 Franklin, Penobscot, Knox, Hancock and Washington counties by a plurality of the
37 votes cast in the respective county at an election on the Tuesday following the first
38 Monday of November in 2026, for a term of office of 4 years, commencing January 1,
39 2027. Vacancies occurring in offices governed by this paragraph due to the death,
40 resignation, removal from the county or permanent incapacity as defined in Title 30-A,
41 section 1, subsection 2-A of the county Probate Court Judge may be filled by special
42 election as provided in Title 21-A, section 366; in the meantime, the Governor may fill
43 such a vacancy by appointment. In the case of a vacancy in the term of a county Probate
44 Court Judge who was nominated by primary election before the general election, the

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1 individual appointed by the Governor to fill the vacancy must be enrolled in the same
2 political party as the judge whose term is vacant. In making the appointment, the
3 Governor shall choose from any recommendations submitted to the Governor by the
4 county committee of the political party from which the appointment is to be made. The
5 term of the successor elected at a special election or appointed by the Governor under
6 this paragraph ends on December 31, 2030.

7 C. A county Probate Court Judge must be elected in Lincoln, Oxford, Piscataquis,
8 Sagadahoc and Waldo counties by a plurality of the votes cast in the respective county
9 at an election on the Tuesday following the first Monday of November in 2028 for a
10 term of office of 2 years, commencing January 1, 2029. Vacancies occurring in offices
11 governed by this paragraph due to the death, resignation, removal from the county or
12 permanent incapacity as defined in Title 30-A, section 1, subsection 2-A of the county
13 Probate Court Judge may not be filled.

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

16 A. The Governor, subject to review by the joint standing committee of the Legislature
17 having jurisdiction over judiciary matters and to confirmation by the Legislature, shall
18 appoint 4 judges for terms that commence no earlier than January 1, 2029. Each Probate
19 Court Judge appointed under this paragraph has a term of office of 7 years.

20 B. Beginning January 1, 2029, if the Chief Justice of the Supreme Judicial Court
21 determines that the number of Probate Court Judges appointed under paragraph A is
22 insufficient to provide for the efficient administration of justice in the Probate Court
23 established in section 201-A, subsection 2, paragraph B, the Chief Justice may request
24 that the Governor appoint an additional judge. Upon receipt of a request from the Chief
25 Justice under this paragraph, the Governor, subject to review by the joint standing
26 committee of the Legislature having jurisdiction over judiciary matters and to
27 confirmation by the Legislature, may appoint an additional judge to the Probate Court
28 established in section 201-A, subsection 2, paragraph B. In no event may more than 9
29 Probate Court Judges be appointed to the Probate Court established in section 201-A,
30 subsection 2, paragraph B. Each Probate Court Judge appointed under this paragraph
31 has a term of office of 7 years.

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

34 4. Salary; expenses. Each Probate Court Judge elected under subsection 1 or elected
35 or appointed under the Constitution of Maine, former Article VI, Section 6 is entitled to
36 receive an annual salary as established by the judge's county pursuant to Title 30-A, chapter
37 3 and the fees provided in section 304. Beginning January 1, 2029 and except as provided
38 in subsection 5 for the Chief Judge of the Probate Court, each Probate Court Judge
39 appointed under subsection 2 is entitled to receive a salary equivalent to the salary of an
40 Associate Judge of the District Court under section 157, subsections 4 and 4-A and to
41 reimbursement by the State for expenses to the same extent that a District Court Judge is
42 entitled to reimbursement by the State for expenses under section 157, subsection 5.

43 5. Designation of Chief Judge; salary; expenses. Beginning January 1, 2029, the
44 Chief Justice of the Supreme Judicial Court shall designate one Probate Court Judge
45 appointed under subsection 2 as the Chief Judge of the Probate Court. The Chief Judge is

ROS

1 entitled to receive a salary equivalent to the salary of the Chief Judge of the District Court
2 under section 157, subsection 2 and to reimbursement by the State for expenses to the same
3 extent that a District Court Judge is entitled to reimbursement by the State for expenses
4 under section 157, subsection 5.

5 6. Full-time duties. Beginning January 1, 2029, a Probate Court Judge appointed
6 under subsection 2 shall devote full time to that Probate Court Judge's judicial duties.
7 During that Probate Court Judge's term of office, that judge may not practice law or be the
8 partner or associate of any person in the practice of law.

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

12 Amend the bill in Part B in section 38 in §757 by striking out all of subsection 2 (page
13 14, line 10 in L.D.) and inserting the following:

14 '2. Repeal. This subchapter is repealed January 1, 2031.'

15 Amend the bill in Part B by striking out all of section 39 and inserting the following:

16 'Sec. B-39. 18-C MRSA §1-201, sub-§8, as enacted by PL 2017, c. 402, Pt. A, §2
17 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

18 8. Court. "Court" Prior to January 1, 2031, "court" means any one of the several
19 courts of probate of this State established as provided in Title 4, sections 201 and 202
20 section 201-A, subsection 2.

21 This subsection is repealed January 1, 2031.'

22 Amend the bill in Part B in section 41 in §1-309 by striking out all of the 2nd indented
23 paragraph (page 14, line 39 in L.D.) and inserting the following:

24 'This section is repealed January 1, 2031.'

25 Amend the bill in Part B by striking out all of section 44 and inserting the following:

26 'Sec. B-44. 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, 2031; or'

33 Amend the bill in Part C in section 16 in subsection 12 by striking out all of the first
34 blocked paragraph (page 21, line 27 in L.D.) and inserting the following:

35 'This subsection is repealed January 1, 2031.'

36 Amend the bill in Part C by striking out all of sections 20 to 25 and inserting the
37 following:

38 'Sec. C-20. 4 MRSA §1802, sub-§4, ¶B, as amended by PL 2025, c. 511, §1, is
39 further amended to read:

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COMMITTEE AMENDMENT "A" to S.P. 684, L.D. 1766 (S-533)

1 B. Legal representation provided to an indigent party in a civil case in which the United
2 States Constitution or the Constitution of Maine or federal or state law, ~~except any~~
3 ~~provision of Title 18-C~~, requires that the State provide representation;

4 **Sec. C-21. 4 MRSA §1802, sub-§4, ¶B-1** is enacted to read:

5 B-1. Legal representation provided under the Maine Uniform Probate Code in the
6 following circumstances:

7 (1) In a guardianship, conservatorship or other protective arrangement proceeding,
8 legal representation provided to an indigent adult or minor respondent for whom
9 counsel was appointed by the court;

10 (2) In a guardianship, conservatorship or other protective arrangement proceeding
11 involving a minor respondent, legal representation provided to an indigent parent,
12 guardian or petitioner for whom counsel was appointed by the court; and

13 (3) Legal representation provided to an indigent parent in an adoption proceeding
14 for whom counsel was appointed by the court or to an indigent party or minor
15 adoptee in a proceeding for annulment of an adoption decree for whom counsel
16 was appointed by the court;

17 **Sec. C-22. 4 MRSA §1802, sub-§4, ¶D**, as amended by PL 2025, c. 511, §1, is
18 further amended to read:

19 D. Legal representation provided to an indigent defendant or party or a juvenile for the
20 purpose of filing, on behalf of that indigent defendant or party or juvenile, a petition
21 for certiorari to the Supreme Court of the United States from an adverse decision of the
22 Law Court on a case for which services were previously provided to that defendant or
23 party or juvenile pursuant to paragraph A, B, B-1 or C; and

24 **Sec. C-23. 4 MRSA §1802, sub-§6** is enacted to read:

25 6. Register. "Register" has the same meaning as in Title 18-C, section 1-201,
26 subsection 48.'

27 Amend the bill in Part C in section 28 in c. 41 in §2001 by striking out all of subsection
28 1 (page 24, lines 5 to 7 in L.D.) and inserting the following:

29 '1. Court. Prior to January 1, 2031, "court" means the state Probate Court established
30 in section 201-A, subsection 2, paragraph B. Beginning January 1, 2031, "court" means
31 the Probate Court established in section 407, subsection 1.'

32 Amend the bill in Part C in section 30 in §1-112 in subsection 1 in paragraph A by
33 striking out all of the first blocked paragraph (page 26, line 31 in L.D.) and inserting the
34 following:

35 'This paragraph is repealed January 1, 2031.'

36 Amend the bill in Part C in section 30 in §1-112 in subsection 1 by striking out all of
37 paragraph B (page 26, lines 32 and 33 in L.D.) and inserting the following:

38 'B. Beginning January 1, 2031, the judicial branch shall pay the public expense portion
39 of the fees.'

40 Amend the bill in Part C by inserting after section 30 the following:

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1 **Sec. C-31. 18-C MRSA §1-305**, as enacted by PL 2017, c. 402, Pt. A, §2 and
2 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

3 **§1-305. Records and certified copies; judicial supervision**

4 The register shall maintain records and files and provide copies of documents as
5 provided in sections 1-501 to 1-511 and further records and copies as the Supreme Judicial
6 Court may by rule provide. The register is subject to the supervision and authority of the
7 ~~judge of the court~~ elected Probate Court Judge in the county or, if there is no elected Probate
8 Court Judge, a state Probate Court Judge appointed under Title 4, section 301-A, subsection
9 2 who has been assigned by the Chief Judge of the Probate Court to preside over probate
10 proceedings in the county in which the register serves.

11 This section is repealed January 1, 2031.

12 **Sec. C-32. 18-C MRSA §1-506**, as enacted by PL 2017, c. 402, Pt. A, §2 and
13 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

14 **§1-506. Deputy register of probate**

15 A register may appoint a deputy register for the county, subject to the requirements of
16 Title 30-A, section 501. The deputy register may perform any of the duties prescribed by
17 law to be performed by the register. The signature of the deputy register has the same force
18 and effect as the signature of the register. The deputy register shall give bond to the county
19 for the faithful discharge of the deputy register's duties in the same sum and in the same
20 manner as the register. The deputy register shall act as register in the event of a vacancy
21 or absence of the register, until the register resumes the register's duties or another person
22 is qualified as register. The deputy register is entitled to receive an annual salary
23 established by the register and approved by the county commissioners.

24 In the case of an absence of the register in a county where a deputy register has not
25 been appointed or in the case of a vacancy in the office of register due to death, resignation
26 or any other cause, the ~~judge~~ elected Probate Court Judge in the county or, if there is no
27 elected Probate Court Judge, a state Probate Court Judge appointed under Title 4, section
28 301-A, subsection 2 who has been assigned by the Chief Judge of the Probate Court to
29 preside over probate proceedings in the county shall appoint a suitable person to act as
30 register pro tempore until the register resumes the duties of office or another person is
31 qualified as register. A register pro tempore must be sworn and, if the judge requires it,
32 shall give bond as in the case of the register.

33 This section is repealed January 1, 2031.

34 **Sec. C-33. 18-C MRSA §1-507**, as enacted by PL 2017, c. 402, Pt. A, §2 and
35 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

36 **§1-507. Inspection of register's conduct of office**

37 ~~A judge~~ The elected Probate Court Judge in the county or, if there is no elected Probate
38 Court Judge, a state Probate Court Judge appointed under Title 4, section 301-A, subsection
39 2 who has been assigned by the Chief Judge of the Probate Court to preside over probate
40 proceedings in the county shall constantly inspect the conduct of the register with respect
41 to the register's records and duties and give information in writing of any breach of the
42 register's bond to the treasurer of the county, who shall bring a civil action. Any funds
43 recovered in the civil action must be applied toward the expenses of completing the records

ROS

COMMITTEE AMENDMENT "A" to S.P. 684, L.D. 1766 (S. 533)

1 of the register under the direction of the judge and the surplus, if any, must inure to the
2 county. If the funds are insufficient, the treasurer may recover the deficiency from the
3 register in a civil action.

4 This section is repealed January 1, 2031.

5 **Sec. C-34. 18-C MRSA §1-508**, as enacted by PL 2017, c. 402, Pt. A, §2 and
6 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

7 **§1-508. Register incapable or neglects duties**

8 When a register is unable to perform or neglects the duties of the office, the judge shall
9 certify the register's inability or neglect to the county treasurer, the time of the
10 commencement and termination of the inability or neglect and the name of the person who
11 has performed the duties for that time period. The treasurer shall pay the person named by
12 the judge a salary in proportion to the time that the person has performed the duties of the
13 register and the amount must be deducted from the register's salary. For purposes of this
14 section, "judge" means the elected Probate Court Judge in the county or, if there is no
15 elected Probate Court Judge, a state Probate Court Judge appointed under Title 4, section
16 301-A, subsection 2 who has been assigned by the Chief Judge of the Probate Court to
17 preside over probate proceedings in the county.

18 This section is repealed January 1, 2031.'

19 Amend the bill in Part C in section 31 in §1-605 in subsection 2 in paragraph A by
20 striking out all of the first blocked paragraph (page 27, line 9 in L.D.) and inserting the
21 following:

22 'This paragraph is repealed January 1, 2031.'

23 Amend the bill in Part C in section 31 in §1-605 in subsection 2 by striking out all of
24 paragraph B (page 27, line 10 in L.D.) and inserting the following:

25 'B. Beginning January 1, 2031, the State shall pay the cost of the transcript.'

26 Amend the bill in Part C in section 31 in §1-605 in subsection 3 in paragraph A by
27 striking out all of the first blocked paragraph (page 27, line 21 in L.D.) and inserting the
28 following:

29 'This paragraph is repealed January 1, 2031.'

30 Amend the bill in Part C in section 31 in §1-605 in subsection 3 by striking out all of
31 paragraph B (page 27, lines 22 and 23 in L.D.) and inserting the following:

32 'B. Beginning January 1, 2031, the court may order the State to pay all or part of the
33 reporter's fees.'

34 Amend the bill in Part C by striking out all of sections 32 to 42 and inserting the
35 following:

36 **'Sec. C-32. 18-C MRSA §5-119, sub-§1**, as amended by PL 2025, c. 511, §3, is
37 further amended to read:

38 **1. Attorney for respondent.** Unless the court has made a finding that the respondent
39 is indigent and has appointed an attorney for the respondent on that basis, an attorney for a
40 respondent in a proceeding under this Act is entitled to reasonable compensation and
41 reimbursement of reasonable expenses from the property of the respondent. If the court

ROS

1 has made a finding that the respondent is indigent and has appointed an attorney for the
2 respondent on that basis, ~~the court shall provide reasonable compensation to and reimburse~~
3 ~~the reasonable expenses of the attorney~~ the attorney's fees must be paid by the Maine
4 Commission on Public Defense Services pursuant to Title 4, chapter 37.

5 **Sec. C-33. 18-C MRSA §5-205, sub-§4**, as amended by PL 2025, c. 511, §4, is
6 further amended to read:

7 **4. Appointment of counsel.** A nonconsenting parent whose parental rights have not
8 been terminated is entitled to court-appointed legal counsel if indigent. In a contested
9 action, the court may also appoint counsel for any indigent guardian or petitioner when a
10 parent or legal custodian has counsel. ~~The court~~ Pursuant to Title 4, chapter 37, the Maine
11 Commission on Public Defense Services shall provide reasonable compensation to and
12 reimburse the reasonable expenses of an attorney appointed to represent an indigent party
13 under this subsection.

14 **Sec. C-34. 18-C MRSA §5-205, sub-§5**, as amended by PL 2025, c. 511, §5, is
15 further amended to read:

16 **5. Attorney for a minor; notice to minor.** If the court determines at any stage of the
17 proceeding, before or after appointment, that the interests of the minor are or may be
18 inadequately represented, the court may appoint an attorney to represent the minor, giving
19 consideration to the choice of the minor if the minor has attained 14 years of age. ~~The court~~
20 ~~shall provide reasonable compensation to and reimburse the reasonable expenses of an~~
21 ~~attorney appointed for the minor under this subsection.~~ If the court finds that the minor is
22 indigent, the fees of an attorney appointed under this subsection must be paid by the Maine
23 Commission on Public Defense Services pursuant to Title 4, chapter 37. A minor may
24 appear with or through counsel, but the court is not restricted from requiring the minor to
25 be present for some or all of a hearing or other proceeding. A minor 14 years of age or
26 older must receive notice of any proceeding subsequent to the appointment of a guardian
27 through the same means as required for any other party, and the minor may consent, object
28 or otherwise participate in the proceeding.

29 **Sec. C-35. 18-C MRSA §5-210, sub-§1**, as amended by PL 2025, c. 511, §6, is
30 further amended to read:

31 **1. Modification of guardianship order.** A guardian of a minor, a parent of a minor,
32 a person interested in the welfare of a minor or the minor, if 14 years of age or older, may
33 file a motion asking the court to modify the terms of an order appointing a guardian or to
34 take other action in the best interest of the minor as circumstances require. The motion
35 must be filed with the court and served on all parties entitled to notice. In a contested
36 action, the court may appoint counsel for the minor or for any indigent guardian or parent.
37 If the court appoints counsel for a minor or an indigent guardian or parent under this
38 subsection, ~~the court~~ Maine Commission on Public Defense Services shall provide
39 reasonable compensation to and reimburse the reasonable expenses of the attorney pursuant
40 to Title 4, chapter 37. Unless the motion specifies that it is filed with the consent of all
41 parties entitled to notice, the matter must be set for hearing to determine whether there has
42 been a substantial change in circumstances necessitating modification of the order and how
43 the court should modify the order in furtherance of the best interest of the minor and the
44 parent's rights. The court may identify certain requirements that must be met before
45 specific provisions of the order are modified. A court may modify a term of a guardianship

ROS

1 order as needed to grant relief to a party to address contempt or other failure to follow the
2 order.

3 **Sec. C-36. 18-C MRSA §5-210, sub-§7**, as amended by PL 2025, c. 511, §7, is
4 further amended to read:

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

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

25 **3. Payment.** Section 5-119, subsection 1 governs payment of an attorney appointed
26 by the court to represent a respondent under this section.

27 **Sec. C-38. 18-C MRSA §5-406, sub-§3**, as amended by PL 2025, c. 511, §9, is
28 further amended by amending the first blocked paragraph to read:

29 If the court appoints counsel for a parent under this subsection and makes a finding that the
30 parent is indigent, ~~the court shall provide reasonable compensation to and reimburse the~~
31 ~~reasonable expenses of the attorney~~ appointed attorney's fees must be paid by the Maine
32 Commission on Public Defense Services pursuant to Title 4, chapter 37.

33 **Sec. C-39. 18-C MRSA §5-507, sub-§3**, as amended by PL 2025, c. 511, §11, is
34 further amended by amending the first blocked paragraph to read:

35 If the court appoints counsel for a parent under this subsection and makes a finding that the
36 parent is indigent, ~~the court shall provide reasonable compensation to and reimburse the~~
37 ~~reasonable expenses of the attorney~~ appointed attorney's fees must be paid by the Maine
38 Commission on Public Defense Services pursuant to Title 4, chapter 37.

39 **Sec. C-40. 18-C MRSA §9-106**, as amended by PL 2025, c. 511, §§12 and 13, is
40 further amended to read:

41 **§9-106. Legal representation**

42 **1. Attorney for parents.** The parents are entitled to an attorney for any hearing held
43 pursuant to this Article. If a parent or putative parent wants an attorney but is unable to

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1 afford one, the parent or the putative parent may request the court to appoint an attorney.
2 If the court finds the requesting party indigent, the court shall appoint and provide
3 reasonable compensation to and reimburse the reasonable expenses of the attorney of the
4 indigent party an attorney and the attorney's fees must be paid by the Maine Commission
5 on Public Defense Services pursuant to Title 4, chapter 37. The attorney may not be the
6 attorney for the adoptive parents.

7 2. Attorney for minor indigent parent. When the adoptee is unrelated to the
8 petitioner, the court shall appoint an attorney who is not the attorney for the adoptive
9 parents to represent a minor indigent parent at every stage of the proceedings unless the
10 minor indigent parent refuses representation or the court determines that representation is
11 unnecessary. ~~If the court appoints counsel for a minor indigent parent under this~~
12 ~~subsection, the court shall provide reasonable compensation to and reimburse the~~
13 ~~reasonable expenses of the attorney. The fees of an attorney appointed for a minor indigent~~
14 ~~parent under this subsection must be paid by the Maine Commission on Public Defense~~
15 ~~Services pursuant to Title 4, chapter 37.~~

16 Sec. C-41. 18-C MRSA §9-315, sub-§1, ¶A, as amended by PL 2025, c. 511,
17 §14, is further amended to read:

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

26 ~~The court may allocate the costs of the guardian ad litem to one or more of the parties~~
27 ~~and may appoint counsel for a minor adoptee or a party to the annulment proceedings.~~
28 ~~If the court appoints counsel for a minor or an indigent party under this paragraph, the~~
29 ~~court shall provide reasonable compensation to and reimburse the reasonable expenses~~
30 ~~of the attorney finds that the minor adoptee or the party for whom counsel is appointed~~
31 ~~under this paragraph is indigent, the appointed attorney's fees must be paid by the~~
32 ~~Maine Commission on Public Defense Services pursuant to Title 4, chapter 37. A minor~~
33 ~~adoptee may appear and be represented by counsel.'~~

34 Amend the bill in Part C in section 43 in the first line (page 30, line 7 in L.D.) by
35 striking out the following: "2027" and inserting the following: '2029'

36 Amend the bill in Part D in section 2 in c. 7-A in §420 by striking out all of subsection
37 4 (page 37, lines 40 and 41 and page 38, lines 1 to 5 in L.D.) and inserting the following:

38 '4. Appointments; convening of commission. All appointments must be made no
39 later than January 1, 2033. The appointing authorities shall notify the Executive Director
40 of the Legislative Council once all appointments have been completed. After appointment
41 of all members, the chairs shall call and convene the first meeting of the commission. If
42 30 days or more after January 1, 2033 a majority of but not all appointments have been
43 made, the chairs may request authority and the Legislative Council may grant authority for
44 the commission to meet and conduct its business.'

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 684, L.D. 1766 (8-533)

1 Amend the bill in Part D in section 2 in c. 7-A in §420 by striking out all of subsection
2 9 (page 38, lines 42 to 44 and page 39, lines 1 and 2 in L.D.) and inserting the following:

3 '9. Report. No later than December 31, 2033, the commission shall submit a report
4 that includes its findings and recommendations, which may include suggested legislation,
5 for presentation to the joint standing committee of the Legislature having jurisdiction over
6 judiciary matters. The joint standing committee may report out legislation related to the
7 report to the Second Regular Session of the 136th Legislature.'

8 Amend the bill in Part D in section 2 in c. 7-A in §420 by striking out all of subsection
9 10 (page 39, line 3 in L.D.) and inserting the following:

10 '10. Repeal. This section is repealed June 1, 2034.'

11 Amend the bill in Part D by striking out all of section 5 and inserting the following:

12 'Sec. D-5. 18-C MRSA §1-305-A is enacted to read:

13 §1-305-A. Records and certified copies; judicial supervision

14 The register shall maintain records and files and provide copies of documents as
15 provided in sections 1-501 to 1-511 and further records and copies as the Supreme Judicial
16 Court may by rule provide. The register is subject to the supervision and authority of the
17 judge assigned by the Chief Judge of the Probate Court under Title 4, section 413,
18 subsection 2 as the primary Probate Court Judge in the region in which the register serves.'

19 Amend the bill in Part D by striking out all of sections 7 and 8 and inserting the
20 following:

21 'Sec. D-7. 18-C MRSA §1-506-A is enacted to read:

22 §1-506-A. Deputy register of probate

23 A register may appoint a deputy register for the county, subject to the requirements of
24 Title 30-A, section 501. The deputy register may perform any of the duties prescribed by
25 law to be performed by the register. The signature of the deputy register has the same effect
26 as the signature of the register. The deputy register shall give bond to the county for the
27 faithful discharge of the deputy register's duties in the same sum and in the same manner
28 as the register. The deputy register shall act as register in the event of a vacancy or absence
29 of the register, until the register resumes the register's duties or another person is qualified
30 as register. The deputy register is entitled to receive an annual salary established by the
31 register and approved by the county commissioners.

32 In the case of an absence of the register in a county where a deputy register has not
33 been appointed or in the case of a vacancy in the office of register due to death, resignation
34 or any other cause, the judge assigned by the Chief Judge of the Probate Court under Title
35 4, section 413, subsection 2 as the primary Probate Court Judge in the region shall appoint
36 a suitable person to act as register pro tempore until the register resumes the duties of office
37 or another person is qualified as register. A register pro tempore must be sworn and, if the
38 judge requires it, shall give bond as in the case of the register.

39 Sec. D-8. 18-C MRSA §1-507-A is enacted to read:

40 §1-507-A. Inspection of register's conduct of office

COMMITTEE AMENDMENT

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SUMMARY

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This amendment, which is the majority report of the committee, delays by 2 years the proposed transition from part-time, elected county Probate Judges to full-time, appointed state Probate Judges. Under the amendment, on January 1, 2029, the first cohort of 4 full-time state Probate Judges appointed by the Governor and confirmed by the Legislature will begin presiding over probate proceedings in York, Kennebec, Somerset and Aroostook counties. On January 1, 2031, the state Probate Court will operate statewide, presided over by 9 full-time state Probate Judges appointed by the Governor and confirmed by the Legislature, one of whom will be assigned by the Chief Judge of the Probate Court to serve as the primary judge in each court region of the State. The amendment also recognizes the authority of the Supreme Judicial Court and the Chief Justice of the Supreme Judicial Court to oversee the transition from part-time, elected county Probate Judges to full-time, appointed state Probate Judges, including by issuing any necessary administrative orders or adopting or amending any applicable procedural or ethical rules.

The amendment clarifies that during the transition period, in the counties no longer served by an elected county Probate Judge, the statutory supervisory duties of the county Probate Judge must be assumed by a state Probate Judge assigned by the Chief Judge of the Probate Court to preside over probate proceedings in that county. Beginning January 1, 2031, these statutory supervisory duties will be assumed in each county by the Probate Judge assigned by the Chief Judge of the Probate Court to serve as the primary judge in that region of the State.

The amendment also incorporates an appropriations and allocations section and makes technical changes to the provisions of the bill affected by the enactment of Public Law 2025, chapter 511.

FISCAL NOTE REQUIRED

(See attached)



132nd MAINE LEGISLATURE

LD 1766

LR 1103(02)

An Act to Incorporate Probate Judges into the Maine Judicial Branch

Fiscal Note for Bill as Amended by Committee Amendment "ALS-533)

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

	FY 2025-26	FY 2026-27	Projections FY 2027-28	Projections FY 2028-29
Net Cost (Savings)				
General Fund	\$0	\$421,894	\$433,696	\$3,908,244
Appropriations/Allocations				
General Fund	\$0	\$421,894	\$433,696	\$3,908,244

Fiscal Detail and Notes

The bill includes General Fund appropriations to the Judicial Branch of \$421,894 in fiscal year 2026-27 to establish one Process Specialist position and one Project Manager position to support implementation of the process to incorporate probate judges into the Maine Judicial Branch.

The responsibilities created by this bill will continue beyond the current biennium and will expand as additional phases of the transition to a state Probate Court are implemented. The Judicial Branch anticipates that additional resources will be required in future biennia beyond those provided in this bill. Any requests for funding to support ongoing implementation, including staffing and related costs, would be made through a future biennial budget process and are not reflected in this fiscal note.

In order to provide attorneys for the probate cases, the Maine Commission on Public Defense Services will require a General Fund appropriation of \$4,000,000 beginning in fiscal year 2031.