

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2013

STATE OF THE JUDICIARY ADDRESS
OF
CHIEF JUSTICE LEIGH INGALLS SAUFLEY
FEBRUARY 21, 2013

Making a Difference

Thank you President Alford. Good Morning, Governor LePage, Speaker Eves, Members of the 126th Maine Legislature, and citizens of Maine. I am pleased to be joined here today by my colleagues from the Supreme Judicial Court and the Trial Court Chiefs. In the gallery are judges from Maine's Tribal and Probate Courts. It is a pleasure to have so many of my judicial colleagues with us. Today, I am not joined by my parents, Jan and Dick Ingalls, without whose support and occasional nudging in my earlier years I would not be here today, but I know they are watching from home. And as always, my husband, Bill Saufley, the funniest and most patient human being on the face of the earth is here.

It is a privilege to have the opportunity to report to the Maine Legislature on the State of Maine's Judiciary.

Today, as we address the continued challenges facing Maine people, it is more important than ever that we work together toward a better future. My message today is this: Collaboration works. Our collective efforts are, in fact, making a difference, and I will lay out a plan for continuing that forward progress.

About the Judicial Branch

First, let me give you some context. The Maine Judicial Branch consumes less than two cents of every dollar of the General Fund. In fiscal year 2012, the statewide Judicial Branch, which includes 38 court-houses and a total of 491 people, provided a solid system of justice for less than \$54 million—that's just 1.7% of the State budget. In fiscal year 2012, more than 140,000 new cases were filed, along with over 101,000 new traffic infractions. Excluding uncontested traffic infractions, that means that more than 3,000 new cases were filed in our courts each week.

Efficiencies from Challenges

These large caseloads, the aging physical plants, antiquated technological infrastructure, and the expanding needs of the public present real challenges. But as all of us who work in the public and private sectors know, significant challenges present real opportunities.

Without the consistent hard work, dedication, and creativity of all of the employees in the Judicial Branch, we could not have acted on these opportunities. Similar to all State employees, the employees of the Judicial Branch have been without any increase in compensation for over four years. Every successful

organization recognizes that its success depends on productive people. People need to know that their hard work is valued. So I begin my presentation by sending my personal gratitude to the clerks, judges, marshals, and administrators who continue to give their very best in these difficult times. Our ability to make a difference depends on your hard work, and you have not let us down, even in the toughest of times.

With that support, the courts have met the challenges of our times with a number of innovations that have successfully improved public service and created greater efficiencies. Here are just a few:

Unified Criminal Dockets

The unification of criminal dockets, which began in 2009 as a pilot project in Cumberland County, was expanded in 2010 to Penobscot County. This streamlined approach to criminal proceedings eliminates the duplication of clerical work, ends the unnecessary and frustrating repeated appearances on the part of witnesses and victims, and substantially shortens the time to resolution of criminal charges. In the process, both public confidence in the system and public safety are improved. The time from initial charges to final resolution of some of the most serious cases has been cut in half, and I am very pleased to report that, with the hard work and persistent efforts of the Judges, the District Attorneys, the Clerks and the Bar, Unified Criminal Dockets will be implemented in Somerset, Franklin, Piscataquis, and Sagadahoc Counties this year.

Business and Consumer Docket

In a similar effort, the Business and Consumer Docket, which was established in June of 2007, continues to provide greatly improved and prompt dispute resolution to businesses and consumers throughout the State, and brings a much needed judicial resource to rural counties.

In 2012, 117 new cases were accepted into the BCD. These are cases that have an average of five represented businesses and can have as many as twenty businesses involved in complex disputes. Previously, these cases could often take three or four years to resolve. Most are now resolved in less than a year, with many resolved within six to nine months. Chief Justice Humphrey has led the BCD to great success, and we are proud of this judicial resource for Maine businesses and consumers.

Service Center

In 2012, we launched another innovation, which we call the Service Center. A little background is helpful here. If you think about the work in a clerk's office, you will understand that the clerks, who really are the backbone of the court system, are called upon to do far too many tasks that compete for their attention at the same time.

Among other tasks, they must answer the phones, attend to people at the public counters, open and docket mail, get orders out to parties who are waiting for them, assure that bail is appropriately credited and returned, issue warrants accurately and promptly, make sure that protective orders are correctly entered and then pushed out into the electronic stream, and staff courtrooms.

People calling those clerks' offices too often find themselves transferred from one line to another, or confused by automated call attendants, or waiting far too long for a clerk to be able to talk with them.

To improve public service and address the competing demands on the clerks, we experimented in this last year by creating a Service Center in Lewiston, which responds to all incoming phone calls that would otherwise have gone to clerks' offices in Androscoggin, Franklin, and Oxford Counties. We did so by realigning existing positions, so that no new funding was required. The result was a resounding success. The members of the public calling into that region received an immediate human response to their calls, and in 70% of those phone calls the people calling received a complete and immediate answer to their questions in minutes.

As a result, the public is better served, and the clerks in the courthouses are freed up to work directly with the public in the courthouses. We hope to expand the Service Center to other court regions this year.

The success of the Service Center has caused us to look at centralizing a number of other public service components when we have the technology to do so.

I am grateful for the innovative efforts of John Smith, who directs the Service Center and the Violations Bureau, along with Rick Record and Deb Carson of the Administrative Office of the Courts who worked so hard to make the Service Center a success.

Mortgage Foreclosures

Another area where together we have made a difference in the lives of Maine people has been the Mortgage Foreclosure Diversion Program.

The 124th Maine Legislature established the Program in 2009. It affords an opportunity through mediation for parties in residential foreclosure to consider alternatives that might allow the homeowner to retain their home and the lender to maintain a performing loan.

Over the last three years, mediation sessions were held in more than 3,700 cases, representing 26% of the 14,437 foreclosure cases filed from 2010 through 2012. The rate of participation in the Program has increased since its inception. By 2012, parties in 43% of foreclosure cases requested mediation.

Mediation has achieved positive results in many cases. An increasing number of foreclosure cases in the Program have been resolved through a dismissal, which usually means that both the home ownership and the loan were maintained. Including 2012 data, 40% of all mediated foreclosure cases have been resolved by dismissal so far. For the homeowners and financial businesses that were able to renegotiate loans and establish stability, the Program provides meaningful assistance. As we move forward, the Program may need fine-tuning, but it has certainly provided real assistance in the midst of a foreclosure crisis that affected the entire nation. Again, your efforts in enacting legislation have made a real difference.

Modern, Safe, Efficient Facilities

Another area where you have made a lasting difference is in safer and more accessible courthouses. In recent years, with the support of the Legislature and the Governors, courthouse renovations have been completed in Houlton and Dover-Foxcroft and a new, consolidated courthouse was built in Bangor. These projects brought hundreds of construction jobs to local Maine communities, and resulted in safer, more accessible justice for Maine people. Where once those courtrooms were scattered in six separate buildings, there are now three consolidated courthouses, resulting in more efficient clerks' offices and reduced funding needs for entry screening.

Right now, with the support of the Governor and the Legislature, we are building a new courthouse in Augusta that will replace the cramped and dangerous courtrooms in the District Court and the office park across the river; it will connect with the beautiful old Kennebec County Courthouse, and provide a modern, safe, accessible center for justice, consolidating three court locations into a single courthouse. Again, this project is providing construction related jobs for several years, and the result will be a safe, modern court-

house that will stand for justice in Maine's capital for the next hundred years.

Safety

Most important, in the making-a-difference column, is courthouse safety. Those of you who have so patiently listened to my previous presentations know that one of my primary focuses has been to assure that the public is safe in our courthouses. In 2001, when I first had the honor of undertaking this job, no routine entry screening existed in any of Maine's courthouses. Maine was among the last states in the nation to recognize the serious threat to safety in court buildings where guns and other weapons were not screened out.

Thanks to the support of the Legislature and the Governor over the last two fiscal years, we have now reached the point where entry screening is done approximately 50% of the time, up from 20% two years ago.

As you know, from your efforts to assure safety in this building, entry screening is not inexpensive. However, if a single tragedy, a single horrible event is avoided, it will have been worth it.

The National Center for State Courts recently noted that we live in a time when "acts of violence in courthouses and in courtrooms are occurring throughout the country with greater frequency than ever before."

Just about a week ago, in a bitter child custody dispute, the father of a litigant shot and killed two people in a Delaware courthouse and wounded two police officers; one of the victims was his daughter-in-law. As we understand it, he began shooting before reaching the entry screening equipment, but court security prevented further catastrophe. Had he made it all the way into a busy courtroom, the tragedy could have been even greater.

Although we have seen significant improvement in the last two years, we must get to the point of providing entry screening in every courthouse, on every open day. Governor LePage has once again placed additional dollars in the proposed Judicial Branch budget sufficient to provide almost 70% entry screening in the next biennium. Governor, on behalf of all of the people who deserve safety in Maine's courts, you have my gratitude. Thank you.

Others Who Are Making a Difference

I also want to talk to you about other ways of making a difference in the delivery of justice.

Specialty Dockets

Of particular interest are the Specialty Dockets, that is, the Alcohol and Drug Treatment Courts. As you know, they exist in only a few of our courts, and expansion is made almost impossible because of the limits of judicial resources and the number of other cases demanding attention. The Specialty Dockets are only able to work with small groups of defendants, while the problems generated by drug and alcohol use permeate the criminal justice system.

One aspect of these problems shows up in this heart-breaking statistic. The Attorney General reports that in 2012, 779 drug-affected babies were born in Maine.

When Drug Courts are available, with adequate resources, and are run effectively, they can make a difference in individual defendants' lives. One such group that is making a real difference is the Kennebec County Co-occurring Disorders Court, presided over by Justice Nancy Mills. In 2011, with her direction, the project was expanded to include a Veterans' Court.

After its first full year of operation in 2012, the Veterans' Court now has nine active participants. Justice Mills reports that all branches of the service are represented in some way in the Veterans' Court. Each participant has been connected to a mentor, a retired military person. The Veterans' Court will have its first graduate soon. Justice Mills says this: "I am very proud that we can give back to those who have given so much."

Maine Lawyers

I also want to talk with you about Maine Lawyers who make a difference. Lawyers sometimes get a bad rap.

But in a system based on the Rule of Law—the very reason you work so hard—lawyers provide a critically important service.

- Lawyers help with Drug Courts; they provide representation in criminal cases in a system that is constantly struggling to pay for those services; and they provide free legal services in civil cases at a level far beyond that of lawyers in most other states. Last year, Maine lawyers provided thousands of hours of free civil legal services. In the Katahdin Counsel program created by the Supreme Judicial Court, 127 lawyers gave over 13,750 hours of free legal services, an average of 108 hours per attorney of free service to help low income and elderly Maine people. The value of those services at a conservative \$100 per hour is over \$1.3 million dollars.

- Lawyers also dig deep into their own pockets to support the Campaign for Justice, which provides support for people who cannot afford lawyers in cases involving families, children, housing, domestic violence, and the elderly. Last year, Maine lawyers and judges donated over \$410,000 to the fund that helps provide lawyers for those most in need.
- This spring, lawyers will team up with local libraries to provide seminars and sessions of legal assistance in communities across Maine. I am also grateful to Maine's librarians, who themselves have stepped up to help in so many ways. Watch for the information about Lawyers in Libraries coming to your communities soon.

Jurors

Another group that is making a difference in Maine gets little fanfare and yet deserves our recognition. I am talking about Maine's jurors. On average each year, nearly *ten thousand* Maine citizens, your constituents, are called into courthouses throughout the State for jury duty. They provide one of the most important constitutionally established protections for a citizenry: a trial by a jury of one's peers.

Thomas Jefferson said, "I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its constitution."

Jurors sit on civil cases, felonies, misdemeanors, and murders. Some cases take a morning, some three or four weeks. We ask citizens to disrupt their own lives, to leave their jobs and their families to come to court with an open mind ready to assure that justice is done. And they do so week after week, and year after year . . . I would be remiss if I did not tell you that jurors are reimbursed at fifteen cents a mile for their travel, while you and I are reimbursed at forty-four cents a mile. We must find a way to be more respectful of their critical importance to the delivery of justice in the State of Maine.

We all owe them a debt of gratitude.

I would like to ask everyone in this room, including legislators, to stand if you have served on jury duty. I invite you to join me in a moment of applause for them and for all of our citizens who have responded to the call and served as jurors in these last many years.

Moving from Paper to Digital

Next, I turn to a topic where we must all work together to make a difference—and that is the Maine court's

antiquated paper-based records system. In a world where records and communications are now routinely in digital format, our paper based records are frankly out of step, and this affects public safety, public access, the costs of litigation, and the availability of important data.

In short, this challenge affects every aspect of justice. I have presented technological proposals to you in the past, but today I am here to tell you that the need to move paper court records into the digital era is no longer a luxury.

You have recently seen the concerns raised by the FBI regarding information related to mental illness that informs the safe ownership of guns. Maine lags behind many other states in providing that information.

This absence of a solid database and electronic filing system ripples into every aspect of the courts.

The Judicial Branch cannot:

- Centralize fine payments and collection efforts;
- Centralize bail services;
- Quickly transmit data to the Maine Commission on Indigent Legal Services;
- Respond to press inquiries for data or records on criminal charges or complex civil data; or
- Respond comprehensively to your requests for data on particular case types.

More important, we cannot provide the kind of public service that people have come to expect from their government.

Litigants cannot go online to:

- Find their trial dates;
- Learn the amount of the fine still owed; or
- Look at documents in their case.

And one of the biggest complaints we receive each year relates to record checks for job applicants. We have been told by some of the large employers' organizations that Maine courts are one of the slowest courts in the nation to respond to those inquiries. This puts Maine employees at a serious disadvantage and slows down the pursuit of jobs and return to financial stability.

In short, the persistence of paper files in Maine courts is no longer quaint; it is a serious impediment to the delivery of justice.

The time has come to change all of that. Last year, the Appropriations Committee asked the Judicial Branch

to provide a road map for creating electronic filing in the Maine court system. With the review and assistance of the National Center for State Courts, we have provided a full plan of action. We are on the first step of that path, and with your assistance, we will launch the planning phase in fiscal year 2014 without the need for a new General Fund allocation.

To be clear, there is no doubt that achieving e-filing in Maine's courts will cost millions of dollars. But we want to spend it right, and spend it once. Next year, after the initial careful design phase, I will be working with you and the Governor to find a way to fund this critical investment. Your support will get us on the road to the new world.

Making a Difference in Domestic Violence

And finally, as did the Governor, I present a continuing call to action regarding domestic violence. Just in the last year, with your efforts and with the support of the Governor, we have made a real difference.

- Felony domestic violence bail is now set by judges;
- When bail commissioners do set bail, they have much better information about the criminal history of the alleged perpetrator available to make careful bail decisions;
- The electronic arrest warrant repository is now online, providing law enforcement with instant access to arrest warrants;
- And, in the latest innovation, the Judicial Branch is working closely with the Department of Public Safety, to create yet another technological work around by which protection from abuse orders will soon be available electronically in law enforcement officers' cars and can be served immediately, in the community, on the offender. I want to thank Commissioner Morris for his dedication to making these improvements and his success in encouraging collaboration across branches of government to accomplish this important improvement.

There is still much to be done, but there is some positive news out there.

We now know that a comprehensive community approach to combatting domestic violence works best. Governor LePage has taken a leading role in raising awareness and helping *everyone* understand the gravity of the problem and the importance of attention to solutions. You, the Maine Legislature, acting in a bipartisan manner, have taken very specific actions over

the last several years to improve the statutes and provide meaningful ways to assure that convicted batterers are held responsible for their own behavior. The new High Risk Response Teams that are being formed in each region will add to the toolbox, as do the programs that provide prompt follow-up after initial police intervention. Risk assessments, education programs, proven intervention programs, and broad-based community efforts all make a difference.

Although, particularly after tragedies, we can all be overwhelmed by a sense of helplessness, it is very important to understand that what you have done is, in fact, making a difference. It is possible, if we all work together, to substantially reduce the times people in Maine are hurt by someone close to them. Recent statistics demonstrate that these strategies work. The United States Department of Justice reports that all of these efforts are now making a difference. Intimate Partner Violence in the United States declined 64% between 1994 and 2010.

That does not mean, however, that we can cease to be vigilant. The Attorney General reports that in 2012 there were 25 unlawful homicides in Maine. Of those, the AG classifies eleven as domestic violence related.

It will be a good year when I can stand here and report that the Attorney General says no lives were taken as a result of domestic violence in the State of Maine. I encourage you all to continue to work together to fine tune the laws that address this terrible problem, and to work across branches to make the very best use of resources to prevent violence and to intervene before violence escalates.

Juvenile Justice

Before I leave, I want to present you with one more piece of good news.

We have worked together for several years to address a concern about the increasing incarceration of our youth in Maine. The Juvenile Justice Task Force, and now its Implementation Council have focused on intervention and prevention strategies that keep our kids in school and out of institutions. Several of you took leading roles in presenting legislation designed to help our youth.

All of those efforts are making a difference. The percentage of students graduating from high school is up; the overall arrest rate of youth in Maine is down; violent crime among youth is down; and drug arrest of youth decreased by 33% between 2001 and 2010.

And perhaps most important, the average daily population of Maine youth in detention fell by 37.3% between 2006 and 2011. Again, your work is making a difference.

Challenges Ahead

So, if, like me, you occasionally feel overwhelmed by the challenges of the day, remember, this is Maine. Working together, we have made a difference—in combatting domestic violence, in improving public safety, in expediting business and criminal cases, in addressing the foreclosure challenges, and in achieving workplace efficiencies.

We still have miles to go, and we in the courts will be focusing our attention in the next year on family court process. Many improvements are under way, but family process needs greater attention.

But in the end, we must never lose sight of the fact that our efforts, your efforts, truly do make a difference in the lives of Maine people.

What Can You Do

Here is what you can do to continue to work collaboratively across branches of government to make a difference:

- Come to courts and see what it's really like for your constituents to be litigants in a court proceeding. I am grateful to those of you who have already responded to our invitation to shadow a judge.
- In the Biennial Budget, please support the Governor's proposed increase in courthouse security. You will be improving the safety of thousands of your constituents: litigants, jurors, and witnesses, as well as those who work and have business in our courthouses.
- Support our proposals to bring the Maine courts into the digital age.
- Talk to us. Share your concerns.
- Work with your local high schools to invite us to hold real appellate arguments at the school. Last year, at the invitation of Representatives Rochelo and Casavant, Representative Priest and Senator Gerzofsky, and Senator Rosen and Representative Rosen, the Supreme Judicial Court sat at Brunswick, Biddeford, and Bucksport High Schools. In October this year, we will sit, at the invitation of Senator Cain in Orono, Representative Fredette at Nokomis in Newport, and

Representative Monaghan-Derrig in Cape Elizabeth.

Finally, remember that all of the hard work that you put into crafting thoughtful and fair laws requires a robust judiciary to enforce those laws. We are grateful for your attention and assistance.

I leave you with the words of Martin Luther King Jr.,

“Human progress is neither automatic nor inevitable . . . Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concerns of dedicated individuals.”

Thank you for your sacrifice, exertions, and passionate concerns, as Legislators in the 126th Legislature. I look forward to working with you to improve the delivery of justice for Maine people.