

STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-SIX

—  
S.P. 894 - L.D. 2193

**An Act to Extend the Requirement That the Maine Commission on Public  
Defense Services Compensate Certain Private Attorneys Appointed to  
Provide Indigent Legal Services**

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

**Whereas,** Public Law 2025, chapter 40 requires the Maine Commission on Public Defense Services to compensate an attorney appointed by a District Court, a Superior Court or the Supreme Judicial Court to represent a person who is eligible to receive indigent legal services if no public defender, assigned counsel, contract counsel or employed counsel is available to represent the person and if the appointed attorney is willing and qualified to undertake the representation; and

**Whereas,** the provision of Public Law 2025, chapter 40 requiring compensation of private attorneys appointed by state courts to provide indigent legal services was repealed on February 1, 2026; and

**Whereas,** due to the current lack of attorneys rostered by the Maine Commission on Public Defense Services to take these indigent legal services cases, it is important to extend this provision for a period of one year to ensure that the fundamental rights of indigent parties in these proceedings are protected; and

**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,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 4 MRSA §1802, sub-§4-A** is enacted to read:

**4-A. Private attorney.** "Private attorney" means an attorney who is not a public defender, contract counsel, assigned counsel or employed counsel.

**Sec. 2. 4 MRSA §1805-A, sub-§1,** as amended by PL 2025, c. 40, §1, is further amended to read:

**1. Duties.** The executive director shall administer and improve reimbursement of expenses incurred by assigned counsel, contract counsel and, until ~~February~~ April 1, 2026 ~~2027~~, a private attorney appointed under section ~~1807~~ 1807-A by:

- A. Establishing procedures to ensure that the eligibility of defendants and civil parties is verified and reviewed randomly and when circumstances have changed, information has changed, additional information is provided or as otherwise needed;
- B. Petitioning the court to reassess the indigency of a defendant or civil party if the executive director determines that indigency should be reassessed;
- C. Providing to the commission recommendations to improve reimbursement of expenses;
- D. Requiring that the amount of time spent on each case by assigned counsel or contract counsel is recorded separately for each case; and
- E. Receiving from the courts collections for the costs of representation from defendants or civil parties who are found to be partially indigent or who have otherwise been determined to be able to reimburse the commission for expenses incurred by assigned counsel, contract counsel or, until ~~February~~ April 1, 2026 ~~2027~~, a private attorney appointed under section ~~1807~~ 1807-A.

**Sec. 3. 4 MRSA §1805-A, sub-§3**, as amended by PL 2025, c. 40, §2, is further amended to read:

**3. Partial indigency and reimbursement.** This subsection applies to partial indigency and reimbursement of expenses incurred by assigned counsel, contract counsel or, until ~~February~~ April 1, 2026 ~~2027~~, a private attorney appointed under section ~~1807~~ 1807-A.

- A. If the court determines that a defendant or civil party is unable to pay to obtain private counsel but is able to contribute to payment of assigned counsel, contract counsel or, until ~~February~~ April 1, 2026 ~~2027~~, a private attorney appointed under section ~~1807~~ 1807-A, the court shall order the defendant or civil party to make installment payments up to the full cost of representation or to pay a fixed contribution. The court shall remit payments received to the commission.
- B. A defendant or civil party may not be required to pay for legal services in an amount greater than the expenses actually incurred.
- C. Upon petition of a defendant or civil party who is incarcerated, the court may suspend an order for reimbursement issued pursuant to this subsection until the time of the defendant's or civil party's release.
- D. The executive director may enter into contracts to secure the reimbursement of fees and expenses paid by the commission as provided for in this section.

**Sec. 4. 4 MRSA §1807-A** is enacted to read:

**§1807-A. Court appointment of private attorney**

**1. Appointment of private attorneys by District Court and Superior Court.** Notwithstanding any provision of this chapter to the contrary, a court may appoint a private attorney to represent a person who is eligible to receive indigent legal services in a matter pending before the District Court or Superior Court, including for purposes of providing

limited representation as defined by the court in its appointment order, if the court finds the following:

A. A public defender, assigned counsel, contract counsel or employed counsel is not available to represent the person;

B. The private attorney is qualified to represent the person in the matter pending before the court, has not been disqualified by the commission and has at least 3 years of legal experience relevant to the pending matter; and

C. The private attorney consents in advance to the appointment.

**2. Private attorney appointment; Supreme Judicial Court.** Notwithstanding any provision of this chapter to the contrary, a court may appoint a private attorney to represent a person who is eligible to receive indigent legal services in a matter before the Supreme Judicial Court, including for purposes of providing limited representation as defined by the court in its appointment order, if the court finds the following:

A. A public defender, assigned counsel, contract counsel or employed counsel is not available to represent the person;

B. The private attorney is qualified to represent the person in the matter pending before the court, has not been disqualified by the commission and either has at least 3 years of legal experience relevant to the pending matter or has previously served as a law clerk analyzing cases relevant to the pending matter; and

C. The private attorney consents in advance to the appointment.

**3. Compensation and reimbursement.** The commission shall provide compensation and reimbursement to a private attorney appointed by the court under subsection 1 or 2 in accordance with this subsection.

A. The compensation and reimbursement must be equivalent to the compensation and reimbursement provided to assigned counsel under the rulemaking directed by section 1804, subsection 3, paragraph F. The commission may decline to compensate or reimburse the private attorney for a particular expense or task to the same extent that the commission would decline to compensate or reimburse assigned counsel for a similar expense or task under the rules and procedures adopted by the commission pursuant to section 1804.

B. The process for compensation and reimbursement must be in accordance with the requirements established by the commission under section 1804, subsection 3, paragraph B for voucher review and payment authorization.

C. For each court proceeding identified by a single docket number, the commission is not required to compensate or reimburse more than one private attorney for services provided to represent a single indigent legal services client.

**4. Supervision.** The commission's supervision of a private attorney appointed pursuant to subsection 1 or 2 is limited to addressing complaints made by the client whom the private attorney was appointed to represent under subsection 1 or 2.

**5. Confidentiality.** The provisions of section 1806, subsections 2 and 3 apply, to the same extent that those provisions apply to commission-rostered attorneys who serve as

assigned counsel, to private attorneys appointed by the court to provide indigent legal services pursuant to subsections 1 and 2.

**6. Repeal.** This section is repealed April 1, 2027.

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