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STATE OF MAINE
HOUSE OF REPRESENTATIVES
132ND LEGISLATURE
FIRST SPECIAL SESSION

HOUSE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to S.P. 462, L.D. 1101, “An Act to Address the Limited Availability of Counsel in Courts to Represent Indigent Parties in Matters Affecting Their Fundamental Rights”

Amend the amendment by inserting after the first instructional paragraph the following:

'Amend the bill by inserting after the enacting clause the following:

'Sec. 1. 4 MRSA §1802-A, as enacted by PL 2023, c. 638, §4, is amended to read:

§1802-A. Employed counsel and public defender

An attorney may be employed by the commission both as "employed counsel" and as a "public defender." An employed counsel or a public defender serves at the pleasure of the executive director or until a successor is duly appointed and qualified. The compensation of an employed counsel or a public defender must be fixed by the executive director with the approval of the Governor, except that such compensation may not in the aggregate exceed the amount appropriated for those positions and may not result in an increased request by the executive director for additional appropriations to the Legislature.

Sec. 2. 4 MRSA §1804, sub-§2, as amended by PL 2023, c. 638, §6, is further amended to read:

2. Rulemaking. The commission shall adopt rules governing the delivery of efficient, high-quality indigent legal services by assigned counsel, contract counsel, employed counsel and public defenders. The rules adopted by the commission must include:

A. Standards governing eligibility for indigent legal services. The eligibility standards must take into account the possibility of a defendant's or civil party's ability to make periodic installment payments toward counsel fees and the cost of private legal services in the relevant geographic area;

B. Standards prescribing minimum experience, training and other eligibility requirements for attorneys to be eligible to serve as assigned counsel, contract counsel, employed counsel and public defenders. The qualification standards must recognize and be consistent with experience and practice in this State to ensure competent, ethical representation, while inviting recently admitted attorneys and experienced attorneys to

1 join or rejoin the commission's purpose to provide efficient, high-quality
2 representation;

3 C. Standards for assigned counsel, contract counsel, employed counsel and public
4 defender caseloads. The caseload standards must be based on data specific to this State
5 for average hours spent per case in identified case categories and practice experience
6 in this State for relative numbers of cases resolved by early dismissal, diversion or
7 disposition; resolved in the course of proceedings without a contested evidentiary
8 hearing; or resolved only after a contested evidentiary hearing or trial;

9 D. Standards for the evaluation of assigned counsel, contract counsel, employed
10 counsel and public defenders. The commission shall review the standards developed
11 pursuant to this paragraph at least every 5 years, or earlier upon the recommendation
12 of the executive director;

13 E. Standards for independent, high-quality, effective and efficient representation of
14 clients whose cases present conflicts of interest;

15 F. Standards for the reimbursement of expenses incurred by assigned counsel, contract
16 counsel, employed counsel and public defenders, including attendance at training
17 events provided by the commission; and

18 G. Other standards considered necessary and appropriate to ensure the delivery of
19 high-quality, effective and efficient indigent legal services.' '

20 Amend the amendment by inserting after section 3 the following:

21 'Sec. 4. 30-A MRSA §272, sub-§3, as amended by PL 1989, c. 6, c. 9, §2 and c.
22 104, Pt. C, §§8 and 10 and repealed and replaced by c. 501, Pt. O, §20, is further amended
23 to read:

24 **3. Compensation.** The compensation of deputy and assistant district attorneys ~~shall~~
25 must be fixed by the district attorney, subject to the approval of the Attorney General and
26 the Governor. For purposes of compensation and benefits, deputy and assistant district
27 attorneys ~~shall~~ must be treated comparably to assistant attorneys general, employed counsel
28 and public defenders. For purposes of this subsection, "public defender" has the same
29 meaning as in Title 4, section 1802, subsection 5. For purposes of this subsection,
30 "employed counsel" has the same meaning as in Title 4, section 1802, subsection 3-A.'

31 Amend the amendment in section 4 in subsection 1 in the last line (page 2, line 41 in
32 amendment) by inserting after the following: "granted;" the following: 'and'

33 Amend the amendment in section 4 by striking out all of subsection 2.

34 Amend the amendment in section 4 by renumbering the subsections to read
35 consecutively.

36 Amend the amendment by striking out all of section 6.

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

39 SUMMARY

40 This amendment makes the following changes to Committee Amendment "A".

1 1. It provides that employed counsel or public defenders in the Maine Commission on
2 Public Defense Services serve at the pleasure of the executive director of the commission
3 and that their compensation must be fixed by the executive director with the approval of
4 the Governor, except that such compensation may not in the aggregate exceed the amount
5 appropriated for those positions and may not result in an increased request by the executive
6 director for additional appropriations to the Legislature.

7 2. It adds requirements that the rules adopted by the commission governing
8 qualification standards for attorneys must meet.

9 3. It adds requirements that the rules adopted by the commission governing caseload
10 standards must meet.

11 4. It provides that, for purposes of compensation and benefits, deputy and assistant
12 district attorneys must be treated comparably to employed counsel of the commission and
13 public defenders.

14 5. It removes the appropriations and allocations section.

15 **SPONSORED BY:** _____

16 **(Representative FREDETTE, K.)**

17 **TOWN: Newport**