

OFFICE OF THE REVISOR OF STATUTES

DRAFT DOCUMENT SUMMARY

LR#: 3299

ITEM #: 1

TYPE: ACT

3/16/20

DRAFT TYPE: O

SUB TYPE:

INST. TYPE: ACTPUB

Final to MJR
from SR

(EMERGENCY)

TITLE:

*An Act Authorizing Rulemaking Concerning Attorney Training, Standards and Qualifications
by the Maine Commission on Indigent Legal Services*

SPONSOR:

COSPONSORS:

LEGEND: SUBMITTED BY THE JOINT STANDING COMMITTEE ON JUDICIARY PURSUANT
TO JOINT ORDER 2019, H.P. 1541.

AUTHORITY FOR INTRODUCTION: PURSUANT TO JOINT ORDER/RESOLUTION (PJO)

DRAFTER: TECH: PROOF: REVIEWER:

DATE/TIME LAST PRINTED: 03/16/20 09:08

SHORT TITLE: AUTHORIZING RULEMAKING CONCERNING ATTORNEY TRAINING

see changes proposed
by MCILS

Changes suggested by
MCILS
on
7.7.20

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

3 **Whereas,** rules governing attorney training, standards and qualifications adopted by
4 the Maine Commission on Indigent Legal Services are designated as major substantive
5 rules; and

6 **Whereas,** the rules governing attorney training, standards and qualifications need
7 immediate strengthening, as recommended by the Sixth Amendment Center; and

8 **Whereas,** waiting for submission of stronger rules to the 130th Legislature prolongs
9 the existing disservice to those in need of high-quality attorneys appointed to represent
10 indigent defendants, juveniles, parents and others; and

11 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
12 the meaning of the Constitution of Maine and require the following legislation as
13 immediately necessary for the preservation of the public peace, health and safety; now,
14 therefore,

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

16 **Sec. 1. 4 MRSA §1804, sub-§4, ¶D,** as amended by PL 2013, c. 368, Pt. RRR,
17 §1 and affected by §4, is further amended to read:

18 D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to
19 this paragraph are routine technical rules as defined in Title 5, chapter 375,
20 subchapter 2-A, except that rules adopted to establish standards under subsection 2,
21 paragraph B and rates of compensation for assigned counsel and contract counsel
22 under subsection 2, paragraph F are major substantive rules as defined in Title 5,
23 chapter 375, subchapter 2-A. Notwithstanding this paragraph, until July 1, 2021,
24 rules adopted to establish standards under subsection 2, paragraph B are routine
25 technical rules as defined in Title 5, chapter 375, subchapter 2-A; and

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

SUMMARY

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29 This bill amends the provisions governing the rule-making authority of the Maine
30 Commission on Indigent Legal Services to create a time period during which the rules
31 governing attorney training, standards and qualifications are routine technical rules. This
32 allows the commission to adopt strengthened rules through regular rulemaking and have
33 the rules in place more quickly than the major substantive rules process would allow.
34 Any rules adopted after July 1, 2021 are major substantive rules.

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