



March 1, 2021

Sen. Cathy Breen, Chair  
Rep. Teresa Pierce, Chair  
Joint Standing Committee on Appropriations &  
Financial Affairs  
Maine State Legislature  
100 State House Station  
Augusta, ME 04333

Sen. Anne Carney, Chair  
Rep. Thom Harnett, Chair  
Joint Standing Committee on Judiciary  
Maine State Legislature  
100 State House Station  
Augusta, ME 04333

Re: ***LD 221, 2022-2023 Biennial Budget Proposal, Funding for the Maine Commission on Indigent Legal Services (MCILS)***

Dear Sen. Breen, Rep. Pierce, and Members of the Appropriations Committee; Sen. Carney, Rep. Harnett, and Members of the Judiciary Committee:

On behalf of the Board of Governors of the Maine State Bar Association, we write to express our significant concerns regarding current funding levels contained in the Budget with regard to the Maine Commission on Indigent Legal Services, more specifically that funding levels proposed are flat without any year over year increase. The MSBA believes that, in order for the State of Maine to provide effective assistance of counsel to indigent Mainers, funding levels for MCILS need to be substantially increased. For this reason, we **oppose** the current funding levels in the Budget related to MCILS.

**About us.** The Maine State Bar Association is a statewide trade association chartered in 1891 by the Maine Legislature. The Association currently represents approximately 3000 attorneys in the State in both public service and private practice. The Association maintains 28 separate sections covering nearly every field of law practiced in Maine, from Administrative Law to Workers' Compensation Law.

**Discussion.** Access to justice is a key part of our Association's mission, and the work of the Maine Commission on Indigent Legal Services falls squarely within this mission. MCILS is the State's system for providing effective legal counsel to citizens who cannot afford to fund their own defense in criminal and child protective matters. MCILS is a key underpinning of Maine's justice system, including ensuring that the State is in compliance with the Sixth Amendment right to counsel.

MCILS was established by the Legislature in 2009 to provide high quality representation to Maine citizens who are entitled to counsel at State expense under the United States Constitution or under the Constitution or statutes of Maine. The Commission's mission is to protect the rights of Maine's indigent citizens in courts throughout the State by contracting with private counsel to provide legal representation. In addition, MCILS provides oversight, support, and training to assigned private counsel to ensure the quality of the representation they provide.

As highlighted in the 2019 Report of the Sixth Amendment Center, which was commissioned by the State of Maine to evaluate MCILS, MCILS has not been able to fully satisfy its mission in a variety of

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areas, in part due to a lack of resources. A subsequent report by OPEGA underscored the challenges facing MCILS. On January 15 of this year, the MCILS issued an Annual Report identifying a range of modifications to address the challenges raised by OPEGA and the Sixth Amendment Center, all of which will require more resources. Without getting into the specific issues highlighted in these reports, it is clear that making progress to ensure a fair and adequate system of indigent legal services will require more financial resources – resources to provide for additional staff capacity to properly oversee the system; resources to provide support and training for lawyers; and resources to set legal fees at a level necessary to attract and retain quality attorneys.

Earlier this session, the Judiciary Committee recommended the addition of two additional staff members to MCILS as part of the Supplemental Budget, which was an important step that we support. These staff members do not appear to be funded in the Biennial Budget. We strongly encourage the inclusion of this funding in addition to the funding necessary for addressing the issues we highlight above.

We acknowledge that progress is being made within MCILS regarding efforts to train and develop qualifications for participating attorneys, and the Board of MCILS is working diligently to move the system in a positive direction. However, for the Board to succeed so that Maine can make the most impactful changes necessary to move the system forward, the State needs to commit itself to providing the financial resources necessary to retain and attract, train, and oversee quality attorneys. We hope the Maine Legislature heeds this call, for the benefit of all Mainers.

**Conclusion.** For these reasons, we cannot support flat-funding MCILS in the State Budget, and we urge the Maine Legislature to substantially increase funding for MCILS to ensure that indigent Mainers truly have access to quality legal services. If you have questions or need additional information, please do not hesitate to let us know.

Sincerely,



Kelly McDonald  
President, Board of Governors

cc: Angela Armstrong, Executive Director  
Rachel Okun, Chair, MSBA Legislative Committee  
Frank H. Bishop, Jr., Chair, MSBA MCILS Working Group  
James I. Cohen, Verrill Dana, LLP