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Date: (Filing No. S-)

JUDICIARY

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 270, L.D. 653, “An Act to Support Constitutionally Required Public Defense by Creating the Maine Office of Public Defense Services”

Amend the bill by striking out the title and substituting the following:

'An Act to Establish the Maine Commission on Public Defense Services and Establish Public Defender Offices for Aroostook, Penobscot and Piscataquis Counties'

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, the State's constitutional and statutory obligations include ensuring that each person facing a potential loss of liberty in a criminal or juvenile proceeding is provided with effective representation; and

Whereas, due to a lack of attorneys currently eligible for appointment, more than 500 adult criminal defendants eligible for a court-appointed attorney are currently without counsel, of whom at least 150 are currently in custody; and

Whereas, in at least 10 District Court locations across the State, there are no attorneys currently eligible for appointment to represent juveniles charged with certain types of offenses; and

Whereas, this legislation changes the name of the Maine Commission on Indigent Legal Services to the Maine Commission on Public Defense Services and establishes authority for the commission to establish 2 new public defender offices, one serving Aroostook County and one serving Penobscot and Piscataquis counties, the 2 areas of the State identified by the commission as experiencing the greatest need for additional indigent legal services; and

Whereas, it is important to authorize establishment of these offices as soon as possible; and

COMMITTEE AMENDMENT

1 **6. Maine Commission on ~~Indigent Legal~~ Public Defense Services.** Any All Other
2 balance remaining in the Maine Commission on Public Defense Services, Maine
3 Commission on ~~Indigent Legal~~ Public Defense Services program, General Fund account at
4 the end of any fiscal year must be carried forward for use by the commission in the next
5 fiscal year.

6 **Sec. 7. 5 MRSA §12004-G, sub-§25-A**, as enacted by PL 2009, c. 419, §4, is
7 amended to read:

8 **25-A.**
9 Legal Services Maine Commission on ~~Indigent Legal~~ Legislative Per 4 MRSA
10 Public Defense Services Diem Plus §1801
11 Expenses

12 **Sec. 8. 15 MRSA §2115-A, sub-§8**, as amended by PL 2013, c. 159, §14, is further
13 amended to read:

14 **8. Fees and costs.** The Law Court shall allow counsel fees and costs for the defense
15 of appeals under this section, to be paid by the Maine Commission on ~~Indigent Legal~~ Public
16 Defense Services under Title 4, section 1801. The compensation paid by the commission
17 may not exceed the rates established by the commission for the payment of counsel
18 providing indigent legal services.

19 **Sec. 9. 15 MRSA §2115-A, sub-§9**, as amended by PL 2013, c. 159, §15, is further
20 amended to read:

21 **9. Appeals to Federal Court; fees and costs.** The Law Court shall allow attorney's
22 fees for court appointed counsel when the State appeals a judgment to any Federal Court
23 or to the United States Supreme Court on certiorari. Any fees allowed pursuant to this
24 subsection must be paid out of the accounts of the Maine Commission on ~~Indigent Legal~~
25 Public Defense Services under Title 4, section 1801. The compensation paid by the
26 commission may not exceed the rates established by the commission for the payment of
27 counsel providing indigent legal services.

28 **Sec. 10. 34-A MRSA §3049, sub-§3, ¶D**, as enacted by PL 2013, c. 434, §4, is
29 amended to read:

30 D. If the person is indigent, costs of counsel and all other costs, including all costs on
31 appeal, must be provided by the Maine Commission on ~~Indigent Legal~~ Public Defense
32 Services as in other civil cases.

33 **Sec. 11. 36 MRSA §191, sub-§2, ¶EEE**, as enacted by PL 2017, c. 284, Pt.
34 UUUU, §16 and reallocated by c. 375, Pt. D, §1, is amended to read:

35 EEE. The disclosure by employees of the bureau to an authorized representative of the
36 Maine Commission on ~~Indigent Legal~~ Public Defense Services for determining the
37 eligibility for indigent legal services and the ability to reimburse expenses incurred for
38 assigned counsel and contract counsel under Title 4, chapter 37.

39 **Sec. 12. 36 MRSA §5219-ZZ, sub-§1, ¶B**, as enacted by PL 2021, c. 473, §2 and
40 reallocated by RR 2021, c. 1, Pt. A, §48, is amended by amending subparagraph (2) to read:

41 (2) Is rostered by the Maine Commission on ~~Indigent Legal~~ Public Defense
42 Services to accept court appointments to represent clients in an underserved area;

1 **Sec. 13. Maine Revised Statutes amended; revision clause.** Wherever in the
2 Maine Revised Statutes the words "Maine Commission on Indigent Legal Services" appear
3 or reference is made to that entity or those words, those words are amended to read or mean,
4 as appropriate, "Maine Commission on Public Defense Services" or "commission" and the
5 Revisor of Statutes shall implement this revision when updating, publishing or republishing
6 the statutes.

7 **Sec. 14. Transition provisions.** The following provisions govern the transition of
8 the Maine Commission on Indigent Legal Services to the Maine Commission on Public
9 Defense Services.

10 1. The Maine Commission on Public Defense Services is the successor in every way
11 to the powers, duties and functions of the former Maine Commission on Indigent Legal
12 Services.

13 2. Each member of the Maine Commission on Indigent Legal Services appointed by
14 the Governor and confirmed by the Legislature pursuant to the Maine Revised Statutes,
15 Title 4, section 1803 is declared to be a member of the Maine Commission on Public
16 Defense Services for the remainder of that member’s unexpired term.

17 3. All existing rules, regulations and procedures in effect, in operation or adopted in or
18 by the Maine Commission on Indigent Legal Services or any of its administrative units or
19 officers are declared in effect and continue in effect until rescinded, revised or amended by
20 the proper authority.

21 4. All existing contracts, agreements and compacts currently in effect for the Maine
22 Commission on Indigent Legal Services continue in effect.

23 5. Any positions authorized and allocated subject to the personnel laws to the former
24 Maine Commission on Indigent Legal Services are transferred to the Maine Commission
25 on Public Defense Services and continue to be authorized.

26 6. All records, property and equipment previously belonging to or allocated for the use
27 of the former Maine Commission on Indigent Legal Services become, on the effective date
28 of this Act, part of the property of the Maine Commission on Public Defense Services.

29 7. All existing forms, licenses, letterheads and similar items bearing the name of or
30 referring to the “Maine Commission on Indigent Legal Services” may be used by the Maine
31 Commission on Public Defense Services until existing supplies of those items are
32 exhausted.

33 **Sec. 15. Carrying balance in fiscal year 2023-24; Maine Commission on**
34 **Indigent Legal Services.** Notwithstanding any provision of law to the contrary, at the
35 end of fiscal year 2023-24, the State Controller shall carry forward for the Maine
36 Commission on Indigent Legal Services any remaining balance in the Personal Services
37 line category in the Maine Commission on Indigent Legal Services program, General Fund
38 account to the next fiscal year.

39 **Sec. 16. Appropriations and allocations.** The following appropriations and
40 allocations are made.

41 **INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**
42 **Maine Commission on Indigent Legal Services Z112**

1 Initiative: Establishes one District Defender position, one Assistant Defender II position, 2
 2 Assistant Defender I positions, one Paralegal position, one Public Service Coordinator I
 3 position and one Office Specialist II Supervisor position for a public defender office
 4 serving Aroostook County and reduces All Other funding to fund the positions.

GENERAL FUND	2023-24	2024-25
6 POSITIONS - LEGISLATIVE COUNT	7.000	7.000
7 Personal Services	\$224,226	\$896,905
8 All Other	(\$224,226)	(\$896,905)
9		
10 GENERAL FUND TOTAL	\$0	\$0

11 **Maine Commission on Indigent Legal Services Z112**

12 Initiative: Establishes one District Defender position, 3 Assistant Defender II positions, 2
 13 Assistant Defender I positions, 2 Paralegal positions, 2 Public Service Coordinator I
 14 positions and one Office Specialist II Supervisor position for a public defender office
 15 serving Penobscot and Piscataquis counties and reduces All Other funding to fund the
 16 positions.

GENERAL FUND	2023-24	2024-25
18 POSITIONS - LEGISLATIVE COUNT	11.000	11.000
19 Personal Services	\$331,387	\$1,325,548
20 All Other	(\$331,387)	(\$1,325,548)
21		
22 GENERAL FUND TOTAL	\$0	\$0

23 **Maine Commission on Indigent Legal Services Z112**

24 Initiative: Establishes one Public Service Coordinator I position in the public defender
 25 office serving Kennebec County and reduces All Other funding to fund the position.

GENERAL FUND	2023-24	2024-25
27 POSITIONS - LEGISLATIVE COUNT	1.000	1.000
28 Personal Services	\$23,792	\$95,167
29 All Other	(\$23,792)	(\$95,167)
30		
31 GENERAL FUND TOTAL	\$0	\$0

32 **Maine Commission on Indigent Legal Services Z112**

33 Initiative: Establishes one Public Service Manager II position and 2 Office Specialist II
 34 positions within the central office of the Maine Commission on Indigent Legal Services
 35 and reduces All Other funding to fund the positions.

GENERAL FUND	2023-24	2024-25
37 POSITIONS - LEGISLATIVE COUNT	3.000	3.000
38 Personal Services	\$77,048	\$308,195
39 All Other	(\$77,048)	(\$308,195)
40		
41 GENERAL FUND TOTAL	\$0	\$0

42

1	INDIGENT LEGAL SERVICES, MAINE		
2	COMMISSION ON		
3	DEPARTMENT TOTALS	2023-24	2024-25
4			
5	GENERAL FUND	\$0	\$0
6			
7	DEPARTMENT TOTAL - ALL FUNDS	\$0	\$0
8			

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

11 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
12 number to read consecutively.

13 **SUMMARY**

14 This amendment, which is the unanimous report of the committee, replaces the bill and
15 changes the title. The amendment changes the name of the Maine Commission on Indigent
16 Legal Services to the Maine Commission on Public Defense Services in order to more
17 clearly describe the commission's mission and functions to the public.

18 The amendment funds the establishment of a new public defender office to serve
19 Aroostook County; a new public defender office to serve Penobscot and Piscataquis
20 counties; a new Public Service Coordinator I position to perform investigative services for
21 the existing public defender office in Kennebec County; and new positions in the Maine
22 Commission on Indigent Legal Services' central office designed to assist with the formation
23 and implementation of new public defender offices and training of new public defenders
24 and reduces funding in the All Other line category to pay the costs associated with these
25 initiatives. The amendment also directs the State Controller to carry forward any remaining
26 balance in the Personal Services line category in the Maine Commission on Indigent Legal
27 Services program to fund costs associated with establishing public defender offices.

28 The amendment also adds an emergency preamble and emergency clause.

29 **FISCAL NOTE REQUIRED**

30 **(See attached)**