



February 27, 2023

Sen. Margaret Rotundo, Chair
Rep. Melanie Sachs, Chair
Joint Standing Committee on Appropriations
& Financial Affairs
Maine State Legislature
100 State House Station
Augusta, ME 04333

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

Re: *Comments of MSBA regarding LD 258, 2023 Biennial Budget, Part A regarding civil legal services, Judicial Branch funding, and MCILS funding*

Dear Sen. Rotundo, Rep. Sachs, and Members of the Appropriations and Financial Affairs Committee;
Sen. Carney, Rep. Moonen, and Members of the Judiciary Committee:

On behalf of the Board of Governors of the Maine State Bar Association, we are pleased to provide comments on the following provisions related to Part A of the Governor's Biennial Budget proposal (pp. 441-443; 477; 487):

- We express **qualified support** for increases in funding for the Maine Commission on Indigent Legal Services (MCILS) as noted in the Budget, but at higher amounts over the biennium necessary to sustain a \$150/hour rate for rostered attorneys;
- We **support** funding for civil legal services as proposed in the Budget, or higher levels of funding, as long as any increases are not offset by reductions in funding for MCILS; and
- We **support** increased funding for the Judicial Branch as proposed in the Budget.

About us. The Maine State Bar Association is a statewide trade association chartered in 1891 by the Maine Legislature. The Association currently represents approximately 3,000 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. Access to justice is a key element of our mission, hence our strong and longstanding interest in the MCILS system, civil legal aid, and issues pertaining to the Judicial Branch.

MCILS Funding. *Part A, pp. 441-443.* MSBA has long advocated for increases in attorney fees in order to retain and attract attorneys to become rostered and participate in indigent legal defense through MCILS. Given the recent precipitous drop in rostered attorneys, and the crisis it has created for indigent Mainers in need of defense counsel services, such rate increases have become more important than ever. For this reason, MSBA strongly supported the final Supplemental Budget recently adopted through LD 206 that enabled MCILS to increase attorney rates to \$150 an hour. However, it is important to note that the current biennial budget includes proposed funding for MCILS in the amount of \$12.2 million, which amount contemplated that attorney fees would be "tiered" depending on the nature of the case. Now that the Legislature in the recent Supplemental Budget has removed such direction to "tier" rates, it is likely that additional state funds will be needed in the next biennium to support the higher attorney fees established by MCILS. For this reason, we support not only the proposal to increase financial support for MCILS in the current Budget, but we also urge a further increase in such support in order to sustain the needed attorney fees to attract and retain lawyers to the system. With regard to the \$3.6 million proposed

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in the Budget to hire ten new public defenders at MCILS, our Association does not have a position regarding the hiring of public defenders as opposed to other strategies, but we do support the allocation of additional resources to ensure Maine meets its constitutional obligations.

Civil Legal Services Funding. *Part A, p. 487.* Access to civil legal aid is critical for Mainers with little to no financial resources who must find a way to navigate our State's legal system. Civil legal aid is provided to indigent Mainers through numerous non-profit agencies in critical areas ranging from evictions to protection from abuse to family law matters, to child support. Providing pro bono legal services to indigent Mainers is one of the obligations of lawyers under the Maine Bar rules, and lawyers and law firms throughout the State contribute generously in this regard – both financially, and through their time. But, the need of Mainers for civil legal support remains great, and continued support for civil legal services is needed for those Mainers who cannot otherwise afford help. MSBA testified in support of legislation during the Legislature's last session that added funding for civil legal services to the State budget for the first time. Now, MSBA is supporting continued funding for such services as proposed in the Budget, or higher levels of financial support, provided that such funds are *in addition* to funding allocated to MCILS to meet the State's constitutional obligation to provide counsel to indigent Mainers who are entitled to such representation under the United States Constitution and the Constitution of Maine.

Judicial Branch Funding. *Part A, p. 477.* Our Judicial Branch continues to struggle with issues of adequate staffing and resources that were brought to the forefront during the COVID-19 pandemic. Only with adequate resources and funding can the courts work through the current backlog of dockets and ensure that the doors to Maine courts remain open to all Mainers on a timely basis. In her State of the Budget Address, the Governor stated that the increased funding for the Judicial Branch in her Budget proposal would fund four new district court judges to assist in reducing this backlog of dockets, along with additional clerks and marshals. This needed additional funding is reflected in the Biennial Budget proposal, and for this reason, we support this component of the proposed Biennial Budget.

Conclusion. Thank you for the opportunity to provide these comments on LD 258. If you have questions or need additional information, please do not hesitate to let us know.

Sincerely,



Stacy O. Stitham
President, Board of Governors

cc: Angela Armstrong, Executive Director
Rachel Okun, Chair, MSBA Legislative Committee
James I. Cohen, Verrill Dana, LLP
Clara McConnell, Maine Street Solutions