

TESTIMONY IN OPPOSITION TO

L.D. 1352, AN ACT TO REMOVE BARRIERS TO BECOMING A LAWYER

Joint Standing Committee on Judiciary
Room 438, State House, Augusta, Maine
Tuesday, April 11, 2023, 1:00 p.m.

Good afternoon, Senator Carney, Representative Moonen, and Members of the Joint Standing Committee on Judiciary. My name is Anna Boucher and I am a second-year law student at the University of Maine School of Law. I am a life-long Mainer and upon graduation I hope to practice law in Maine. I am here today to present testimony in opposition to L.D. 1352, An Act to Remove Barriers to Becoming a Lawyer.

Justice Antonin Scalia once said, “More important than your obligation to follow your conscience, or at least prior to it, is your obligation to form your conscience correctly.” This obligation is taken seriously by law school students as we endeavor to understand the legal system and our role in it. Throughout the three years of law school, a law student's perspective is continually challenged and changed as we are taught to think critically about a variety of issues. This is necessary in order for the individual to become a skilled, reasoned, and effective representative for their clients.

The core curriculum in the first year of law school is made up of civil procedure, contracts, torts, property, constitutional law, criminal law, and most importantly, legal research and writing. Intense study is required in these subject areas so that a law student can become a well-rounded lawyer. Legal research and writing is most important because our writing is what is reviewed by courts and lays the basic foundation for our arguments. To leave this critical component of a legal education to a supervising attorney who likely does not have the time or resources to delve deeply into how an effective legal argument can be crafted will set future clients up for failure and perpetuate bad lawyering in our state.

I believe that a law school education is vital to a practitioner's success as an attorney. That said, I also recognize the need for more lawyers in our state, especially with our overcrowded dockets. However, this legislation is not the way to fix this problem.

The four states that participate in a legal apprenticeship program have far more stringent requirements than this bill contemplates. For instance, Vermont's law office study program requires that apprentices study twenty-five hours per week for four years alongside an attorney,

as compared with this bill's mere eighteen hours per week for only two years.¹ California also requires the apprentice to study for four years, and in addition pass the First-Year Law Students' Examination after completing their first year of study which covers the core legal courses described above.² Additionally, Virginia requires an apprentice to complete twenty-five hours per week for three years under the supervision of a member of the bar who has been in good standing for at least ten years.³ Lastly, Washington requires the apprentice to work a minimum of thirty-two hours per week for four years and to perform the duties of a law clerk, including a combination of work and study.⁴

All of these states require the individual to complete the aforementioned training before being able to sit for the bar exam. I feel it is critical to note that simply passing the bar exam does not make one a good attorney. While it is important that a law student has the knowledge base that the bar exam requires, passing the bar exam does not magically transform the test-taker into a competent practitioner. Rather, the skills learned and developed throughout law school are what teach a student to read, research, write, and craft arguments that win the day in court and provide justice for Mainers.

Criticism is easy, but solutions are difficult. With that in mind, I do have some recommendations for how Maine can reduce barriers to entry into the legal profession. One way would be to follow the Wisconsin model and allow diploma privilege in Maine.⁵ Diploma privilege would allow graduates of the University of Maine School of Law to secure a license and practice law in Maine without taking the bar exam. Additionally, the Maine Legislature could work with the existing legal aid clinics at the University of Maine School of Law to fund clinics in parts of the state and in practice areas with backlogged dockets. This would allow our student attorneys to gain experience by practicing law and provide Mainers with access to critical legal services while alleviating the burden on the courts.

I cannot stress enough how important a legal education is to upholding the foundations of the law in our state. Quantity should never be elevated over quality when it comes to the practice of law. The stakes for individuals facing the legal system are simply too great.

¹ Law Office Study Program, Vermont Board of Bar Examiners, <https://www.vermontjudiciary.org/sites/default/files/documents/LOS%20Info.pdf>.

² Practical Training of Law Students, California Board of Bar Examiners, <https://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Rules/Rules-of-the-State-Bar/Title-3-Programs-and-Services>.

³ Law Reader Rules & Regulations, Virginia Board of Bar Examiners, <https://barexam.virginia.gov/reader/readerrules.html>.

⁴ Law Clerk Program, Washington Board of Bar Examiners, <https://admissions.wsba.org/appinfo.action?id=9>.

⁵ Diploma Privilege, Wisconsin Court System, <https://www.wicourts.gov/services/attorney/bar.htm>.

Thank you for considering my concerns about L.D. 1352. I urge an “ought not to pass” vote on this bill. I would be happy to respond to any questions you may have.

Sincerely,

Anna Z. Boucher