



February 28, 2024

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 in support of LD 2214, 2024 Supplemental Budget regarding additional MCILS funding (Part A-89)***

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 in **support** of additional funding for the Maine Commission of Indigent Legal Services (MCILS) as proposed in Part A-89 of the Governor's Supplemental Budget proposal.

**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 29 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 issues pertaining to MCILS.

**Background.** In 2023, MCILS deployed its first public defenders through its Rural Defender Unit (RDU) in accordance with legislation requested by MCILS and adopted by the Maine Legislature. According to MCILS' most recent Annual Report to the Legislature's Judiciary Committee, the RDU has successfully represented consumers of indigent legal services across rural areas of the State where assigned counsel was not available to meet demand. The RDU is directed by a criminal defense attorney with long-term experience practicing in rural Aroostook County. Additionally, in late 2023, MCILS began staffing its first "brick and mortar" public defender office in Kennebec County: The Capital Region Public Defender Office. That office has hired attorney staff and began taking cases approximately 30 days after the Part B Biennial Budget – which authorized the formation of this office – became effective on October 25, 2023.

**Additional MCILS funding proposed in Supplemental Budget.** LD 2214 proposes to include in the Supplemental Budget approximately \$2.63 million in additional funding for FY 24-25 for 22 new MCILS positions, including several district defender and assistant district defender positions, paralegal positions, public service coordinator positions, and office specialist positions. In its recent Annual Report, MCILS indicated that it would utilize this proposed funding for additional positions to create additional regional public defender offices. According to the Annual Report, these additional offices would include an office in Aroostook County (early FY 25); a combined office for Penobscot and

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Piscataquis counties, likely located in Bangor (early FY 25); a combined office for Androscoggin, Franklin, and Oxford counties, likely located in Lewiston (mid FY 25); a combined office for Washington and Hancock counties, located in Machias and/or Ellsworth (mid FY 25); and a combined office for the mid-coast counties of Lincoln, Knox, Sagadahoc, and Waldo, likely located in Rockland with a satellite office in Bath (late FY 25).

**MSBA supports the proposed appropriation for MCILS.** MSBA has long advocated for increased funding for the MCILS system and MCILS-rostered attorneys, and our Association accordingly supports the creation of additional regional MCILS public defender offices as proposed by MCILS and funded in the proposed Supplemental Budget. In 2023, 295 MCILS-rostered attorneys opened 32,528 new cases, and as of January 12, 2024, the Judicial Branch reported to MCILS that there were 312 cases where a defendant was constitutionally entitled to counsel, but there was no attorney available. These numbers mean that attorneys working in the MCILS system are stretched incredibly thin, and despite best efforts, there are still hundreds of defendants being deprived of their constitutional right to counsel. Ensuring that MCILS has adequate funding and staff has become increasingly important in order to address this ongoing crisis related to indigent Mainers in need of defense counsel services and ensure that Maine meets its constitutional obligations. An underfunded or understaffed MCILS system significantly adds to the stress that attorneys and judges already face, which in turn impacts clients and the system generally.

In addition, MSBA is committed to ensuring the well-being of attorneys practicing in Maine. In order to serve indigent Mainers, attorneys working on behalf of MCILS must be well and healthy and equipped with the necessary tools to serve their clients. According to a recent MCILS survey of its assigned counsel bar, MCILS counsel continue to experience stress and burnout related to indigent defense work. In fact, 74% of attorneys who responded feel overwhelmed with work, and 76% of attorneys have experienced burnout in the last 12 months. Further, 62% of attorneys have contemplated a career change in the last 12 months, 40% of attorneys indicated that burnout has negatively impacted their professional work, and 69% of attorneys said that burnout has negatively impacted their personal lives.

Very simply, if the attorneys called upon to provide indigent legal defense services continue to be overburdened, we can expect fewer attorneys to take on these important cases, and those lawyers who remain will become even more overburdened – a vicious cycle that hurts lawyers and indigent Mainers.

The most obvious way to address this concerning issue is to hire additional attorneys and staff to support the work of the public defender's offices and the MCILS system. That is precisely what this Supplemental Budget proposal proposes to do. For these reasons, we write in strong support of the additional MCILS funding in LD 2214, 2024 Supplemental Budget proposal.

**Conclusion.** Thank you for the opportunity to provide these comments on LD 2214. If you have questions or need additional information, please do not hesitate to let us know.

Sincerely,



Jonathan M. Dunitz  
President, Board of Governors

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cc: Angela Armstrong, Executive Director  
Rachel Okun, Chair, MSBA Legislative Committee  
James I. Cohen, Verrill Dana, LLP  
Brody J. Haverly-Johndro, Verrill Dana, LLP