



# Administrative Office of the Courts

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## **Judicial Branch testimony neither for nor against LD 1101, An Act to Address the Limited Availability of Counsel in Courts to Represent Indigent Parties in Matters Affecting Their Fundamental Rights:**

Senator Carney, Representative Kuhn, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide the following testimony regarding this bill.

Sections 1-3 of LD 1101 were initiated by the Judicial Branch to address an existing crisis in the courts arising from the limited availability of counsel qualified by the Maine Commission on Public Defense Services (MCPDS) to represent indigent parties in matters affecting their fundamental rights. Our proposal had an emergency preamble and a sunset date. Because the language was finalized after the cloture date for "department bills," we asked the Chairs of the Judiciary Committee to sponsor the bill. Thank you for doing so.

Section 4 of the bill was not added at the request of the Judicial Branch and this testimony makes no comment about that section.

The Judicial Branch supports the changes outlined in sections 1-3 of the legislation. Under current law, judges have the inherent power to appoint an attorney who is not rostered by MCPD. However, MCPDS currently would not pay that attorney. This law aims to change that.

The Judicial Branch anticipates that there will be a small number of cases in which a non-rostered qualified attorney is available to represent an indigent defendant. These attorneys may not wish to become rostered, but are qualified and would be willing to take a case or two, at the request of a trial judge.

In addition, there may be qualified attorneys who would be willing to handle appeals for indigent clients. In the child protection arena, there are at least 40 <sup>32</sup> ~~[not sure if this number is correct. I can check with Matt Pollack.]~~ appeals pending without attorneys. As an example of potential qualified attorneys, some of the Law Court's former law clerks who analyzed and

summarized child protection appeals when they worked at the Judicial Branch now work at law firms and are willing and able to take a few cases.

The numbers of cases affected by this proposal may be small, but every case for which there is no attorney available is an individual who matters. The Judicial Branch sees the proposal outlined in sections 1-3 of LD 1101 as a stopgap measure, as opposed to a solution for the lack of constitutionally required attorneys. As a result, a sunset provision is included in the hopes that the public defender offices will be fully up and running by the time the law sunsets and this law will no longer be necessary.

Thank you for your time. I would be happy to answer any questions.