



Administrative Office of the Courts

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Judicial Branch testimony opposing LD 1796, An Act to Implement the Recommendations of the Maine Commission on Public Defense Services to Clarify the Types of Cases for Which the Commission is Responsible for Providing Counsel:

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

The bill proposes to make the Judicial Branch responsible for payment of *all* counsel who are appointed at public expense in District Court probate matters under Title 18-C, as well as emancipations of a minor under 15 M.R.S. § 3506-A(1). The Maine District Court has jurisdiction only over probate matters involving minor children, and therefore, can appoint counsel at public expense in adoptions and guardianships of a minor. Until last year, the practice of the Maine Commission on Public Defense Services (PDS) was to pay for all attorneys appointed at public expense in all probate matters in the District Court. Under new leadership, PDS still pays for court-appointed counsel in emancipation cases, but as to probate matters in the District Court, PDS now pays only for appointments of counsel for non-consenting parents in minor guardianship cases. Thus, the MJB has recently been forced to assume responsibility for all other counsel who are appointed by the District Court at public expense in probate matters. This includes, for example, attorneys appointed to represent the indigent petitioner and guardian in a minor guardianship case when the action is contested and the parent is represented, as well as the minor when the court determines the minor's interests are not adequately represented. This bill proposes to further shift the responsibility of payment to the MJB by entirely divesting PDS of the responsibility of payment for all court-appointed counsel in probate matters in the District Court and in emancipations of a minor.

Payment of appointed counsel in these matters is not part of the MJB's budget. As a result, the MJB will be submitting a fiscal note to cover these costs. It should also be noted that the transfer of responsibility to the MJB for the processing of the invoices of court-appointed counsel in these matters places an additional operational burden on the MJB at a time when it is already under-resourced. PDS, unlike the MJB, already possesses the infrastructure, policies, and expertise

for compensating and vetting attorneys prior to service. Accordingly, PDS is better positioned to provide and pay for these attorney appointments.

Finally, as to cases involving emancipation of minors under Title 15, the bill is confusing because, as written, PDS would still be responsible for payment of counsel appointed in other juvenile matters under Title 15. It is not clear why emancipations have been singled out from the other juvenile appointments of counsel. Again, because PDS currently pays for these appointments, the MJB will be submitting a fiscal note for these additional costs.

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