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Judicial Branch testimony in favor of LD 2193, An Act to Extend the Requirement that PDS Compensate Certain Private Attorneys Appointed to Provide Indigent Legal Services:

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 testimony in strong support of LD 2193.

This bill results from LD 1101 which was passed as an emergency last session and became Public Law 2025, Chapter 40, effective April 23, 2025. This law allowed off-roster attorneys who were appointed by judicial officers in a limited number of cases to be paid by the Maine Commission on Public Defense Services ("MCPDS"). The law had a sunset date of February 1, 2026 and thus has been repealed.

The law also required both the Judicial Branch and MCPDS to submit reports with data on the number of attorneys appointed, the case types to which they were appointed, and whether or not the defendant was incarcerated at the time of appointment. The legislation included a requirement that the Judicial Branch and PDS report back to the Judiciary Committee with any recommendations. These reports were submitted in January 2026; LD 2193 and LD 2195 represent the recommended legislation of the Judicial Branch and PDS respectively.

There are a small number of cases in which a non-rostered qualified attorney is available and willing to represent an indigent defendant. In addition, there are qualified attorneys, including former law clerks, willing to handle appeals for indigent clients, particularly in the child protection arena. There are approximately 30 child protection appeals currently pending.

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. LD 2193 is a stopgap measure, as was LD 1101. It is not a solution for the lack of constitutionally required attorneys. As the Chief Justice stated in her remarks last week: "While the total number of cases lacking counsel is significantly reduced, it is still unacceptably high. There shouldn't be any. No one should be

waiting to have an attorney appointed to represent them in cases in which there are significant rights and liberty interests at stake. Every case matters.”

Because we all hope the shortage of defense attorneys is a short term issue, we have again recommended a sunset date. The repeal date of February 1, 2028 is included in the hopes that this law will no longer be necessary at that time.

As a postscript to this testimony, we have been working with MCPDS to incorporate their recommendations into this bill. We hope to offer an amendment prior to the work session.

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