



March 10, 2025

Sen. Anne Carney, Chair
Rep. Amy Kuhn, Chair
Joint Standing Committee on the Judiciary
Maine State Legislature
100 State House Station
Augusta, ME 04333

Re: *LD 738, An Act to Remove Barriers to Becoming a Lawyer by Establishing a Law Office Study Program*

Dear Sen. Carney, Rep. Kuhn, and Members of the Judiciary Committee:

On behalf of the Board of Governors of the Maine State Bar Association, we write to provide comments regarding *LD 738, An Act to Remove Barriers to Becoming a Lawyer by Establishing a Law Office Study Program*. We agree with the spirit of the bill, which seeks to expand the number of pathways available to become a lawyer in Maine; however, we are concerned about the specific approach outlined in the bill, including the important role for Maine's Judicial Branch in establishing admission standards for lawyers. For this reason, our testimony is presented in ***opposition*** to LD 738.

About MSBA. The Maine State Bar Association is a statewide trade association chartered in 1891 by the Maine Legislature. The Association currently represents approximately 2,500 attorneys in the State in both public service and private practice. The Association maintains 28 separate sections covering nearly every field of law practiced in Maine, from Administrative Law to Workers' Compensation Law.

What does LD 738 do? LD 738 would create a pathway for an individual to be admitted into the Maine Bar without attending an accredited law school for any amount of time. The bill would create a "Law Office Study Program" in which an individual could be eligible to take the Bar Examination after four years of pursuing "a systematic course of legal study" under a supervising attorney or judge.

Maine needs more attorneys. As MSBA presented to this committee many weeks ago, our association recognizes and understands that the Maine Bar is getting smaller, particularly in the rural parts of the State. We are acutely aware that Maine needs more lawyers to ensure sufficient access to justice, particularly for indigent Mainers and Mainers living in rural areas. Our Association has been active in promoting both, including before the Legislature.

Access to justice also requires that attorneys be well-trained. As Maine explores pathways to expand the number of lawyers throughout the State, it is important that those lawyers be well-trained and qualified. Law school is one mechanism to ensure proper training. Law school courses help teach lawyers a variety of areas of substantive law, from contracts, to civil procedure, to criminal procedure, to administrative law, to wills and trusts, to corporate and real estate law, and many others that make up the breadth of the practice of law. Law school courses also train lawyers how to think and to operate in group settings. Completely removing such learning opportunities as a requirement to becoming a lawyer is not yet something our Association is comfortable supporting, although we do very much recognize that "on-the-job" training is valuable.

Concern with lack of standards for Law Office Study Program. LD 738 proposes one possible solution to expand the number of lawyers in Maine. However, we are concerned that it does not provide enough guardrails or specific requirements to ensure the standards of the legal profession are upheld. The bill states that an applicant must “pursue a systematic course of legal study designed to prepare the applicant for the general practice of law,” but it does not define the parameters for what counts as a “systematic course of legal study” beyond the requirement that the course of legal study include some amount of study of “the subjects tested on each of the examinations prepared or adopted” by the Board of Bar Examiners for admission to the Maine Bar. We understand this to mean that a course of study must include some content on each of the subjects tested in the Bar Examination, including Constitutional Law, Real Property, Civil Procedure, Evidence, etc. Yet there are no minimum requirements for each subject or procedures to ensure an individual is internalizing information studied. In theory, under the proposed program, an applicant could spend a majority of the four-year program focusing on a single area of law and conduct only a cursory review of the remaining subjects.

The “systemic course of legal study” appears to rely on a form of “on-the-job-training” where lawyers in training go to work for at a law firm, law department of a company, or for a government agency with lawyers. But in conceiving how this might work in the real world, it is important to recognize that there are a wide variety of law firms and law departments. Some law firms offer diverse areas of practice where opportunities to learn a wide variety of subjects are possible. Other firms are more specialized, sometimes narrowly specialized, where the opportunities to obtain diverse experiences is more limited.

Under the current model, law students are required to take a diverse array of courses where they get extended exposure to each topic. Under an experiential model of training, it is less clear how extensive the training might be across these different areas.

It is also important to note that attorneys in Maine are very busy, and the skill set to serve as a mentor varies. Our Association has paid close attention to the importance of effective mentoring relationships to help new lawyers learn their profession, but these mentoring relationships occur after an attorney has received multiple years of learning in an academic session. And the mentoring generally focuses on how to practice law, and less about teaching the basics of the law itself.

Current law allows admission to the Bar after only two years of academic study. Our Association recognizes and supports a shift in recent years towards more experiential learning for law students. Such opportunities include law school clinics, practicums, externships, and internships. Experiential learning provides valuable, hands-on training for prospective attorneys to understand what it is really like to practice law. In this regard, current law already allows an individual to complete only 2/3rds of the required curriculum at a law school and then be eligible to sit for the Bar Examination after “pursuing the study of law in the office of an attorney” for at least one year. *See* 4 M.R.S. § 803(2)(D). Thus, a pathway already exists which affords a prospective attorney the benefit of experiential learning in a law-office, the benefit of classroom instruction and one fewer year of law school tuition.

Role of Maine’s Supreme Judicial Court. Article VI, Section 1 of the Constitution of Maine establishes a Supreme Judicial Court and vests the “judicial power” of the state in that Court. Traditionally, this has conferred on the Court the ability to determine who may practice law before it, including final authority for admission to the Bar and disciplinary authority over attorneys. Although the Legislature has passed numerous laws refining the broad authority conferred on the Judiciary, we believe

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Maine's Supreme Judicial Court and Board of Bar Examiners should play a key role in determining the criteria for practicing law in Maine.

Conclusion. Thank you for the opportunity to provide these comments in opposition to LD 738. While we support creative solutions to increasing the number of lawyers in the State, we want to be careful to protect the integrity of the profession at the same time, and we are not convinced this bill does that. If you have questions or need additional information, please do not hesitate to let us know.

Sincerely,



Susan Faunce
President, Board of Governors

cc: Angela Armstrong, Executive Director
Rachel Okun, Chair, MSBA Legislative Committee
James I. Cohen, Verrill Dana, LLP, Legislative counsel for MSBA