

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 1256 - L.D. 1687

An Act To Improve the Provision of Indigent Legal Services

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State's constitutional and statutory obligations include ensuring that each person facing a potential loss of liberty in a criminal or juvenile proceeding is provided with effective representation at every critical stage of the proceeding and also include providing counsel services to indigent parents in child protection proceedings and to individuals in hearings for involuntary commitment; and

Whereas, the Sixth Amendment Center identified significant challenges that the State faces in fulfilling its statutory and constitutional obligations; and

Whereas, it is important for the State to begin to address these significant challenges as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §1804, sub-§3, ¶A, as enacted by PL 2009, c. 419, §2, is amended to read:

A. Develop and maintain a system that ~~uses~~ may employ attorneys, use appointed private attorneys, ~~contracts and contract~~ with individual attorneys or groups of attorneys ~~and~~. The commission shall consider other programs necessary to provide quality and efficient indigent legal services;

Sec. 2. 4 MRSA §1804, sub-§3, ¶M, as amended by PL 2019, c. 427, §3, is further amended to read:

M. Establish procedures for handling complaints about the performance of counsel providing indigent legal services; ~~and~~

Sec. 3. 4 MRSA §1804, sub-§3, ¶N, as enacted by PL 2019, c. 427, §4, is amended to read:

N. Develop a procedure for approving requests by counsel for authorization to file a petition as described in section 1802, subsection 4, paragraph D; and

Sec. 4. 4 MRSA §1804, sub-§3, ¶O is enacted to read:

O. Establish a system to audit financial requests and payments that includes the authority to recoup payments when necessary. The commission may summon persons and subpoena witnesses and compel their attendance, require production of evidence, administer oaths and examine any person under oath as part of an audit. Any summons or subpoena may be served by registered mail with return receipt. Subpoenas issued under this paragraph may be enforced by the Superior Court.

Sec. 5. 4 MRSA §1804, sub-§4, ¶D, as amended by PL 2013, c. 368, Pt. RRR, §1 and affected by §4, is further amended to read:

D. Adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A, except that rules adopted to establish ~~standards under subsection 2, paragraph B~~ and rates of compensation for assigned counsel and contract counsel under subsection ~~2~~ 3, paragraph F are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A; and

Sec. 6. 4 MRSA §1805, sub-§9-A is enacted to read:

9-A. Audits; recoupment. Conduct audits of financial requests and payments and recoup payments when necessary. The executive director may exercise the subpoena power of the commission granted under section 1804, subsection 3, paragraph O;

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.