

SENATE

ANNE M. CARNEY, DISTRICT 29, CHAIR  
HEATHER B. SANBORN, DISTRICT 28  
LISA M. KEIM, DISTRICT 18

MARGARET REINSCH, SENIOR LEGISLATIVE ANALYST  
JANET STOCCO, LEGISLATIVE ANALYST  
SUSAN PINETTE, COMMITTEE CLERK



HOUSE

THOM HARNETT, GARDINER, CHAIR  
CHRISTOPHER W. BABBIDGE, KENNEBUNK  
LOIS GALGAY RECKITT, SOUTH PORTLAND  
STEPHEN W. MORIARTY, CUMBERLAND  
ERIN R. SHEEHAN, BIDEFORD  
DAVID G. HAGGAN, HAMPDEN  
LAUREL D. LIBBY, AUBURN  
JENNIFER L. POIRIER, SKOWHEGAN  
JAMES E. THORNE, CARMEL  
JEFFREY EVANGELOS, FRIENDSHIP  
RENA D. NEWELL, PASSAMAQUODDY TRIBE

STATE OF MAINE  
ONE HUNDRED AND THIRTIETH LEGISLATURE  
COMMITTEE ON JUDICIARY

April 5, 2022

TO: Senator Catherine E. Breen, Senate Chair  
Representative Teresa S. Pierce, House Chair  
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator Anne M. Carney, Senate Chair *AC*  
Representative Thom Harnett, House Chair *TH*  
Joint Standing Committee on Judiciary

Re: Judiciary Committee prioritization

The Judiciary Committee worked from a list of 36 bills and legal services initiatives we developed that we believe are on or will go to the Special Appropriations Table (we don't have final fiscal information for all bills yet). During our meeting Monday afternoon, we were able to develop a list of our top priorities for funding. We identified the following as highest in importance in this order:

1. MCILS group of unanimous initiatives<sup>1</sup>
2. MCILS Kennebec-Somerset Public Defender Office<sup>2</sup>
3. Civil Legal Services Fund baseline funding<sup>3</sup>
4. LD 906, An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water
5. LD 585, An Act To Enhance Tribal-State Collaboration, To Revise the Tax Laws Regarding the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe and the Penobscot Nation and To Authorize Commercial Tracks, the Oxford Casino, Off-track Betting Facilities and Federally Recognized Indian Tribes To Conduct Sports Wagering
6. LD 844, An Act To Examine and Amend the Conditions of Release and Probation
7. LD 1899, An Act To Ensure Safe Entry and Access for People Seeking Health Care and Other Constitutional Rights
8. LD 1310, An Act Regarding a Post-judgment Motion to Seal the Criminal History Record Information for Certain Criminal Convictions
9. LD 344, RESOLUTION, Proposing an Amendment to the Constitution of Maine To Explicitly Prohibit Discrimination Based on the Sex of an Individual
10. LD 54, An Act To Amend the Laws Governing Post-conviction Review in Order To Facilitate the Fair Hearing of All Newly Discovered Evidence

<sup>1</sup> The unanimous MCILS initiatives are the Rural Public Defender Unit, Legal Research Resources, Training, Contracts with Specialists, Increasing the Hourly Rate. See separate legal services memo.

<sup>2</sup> This initiative replaces LD 1686 that has been on the Special Appropriations Table since 2021. It is also described in the separate legal services memo.

<sup>3</sup> This Civil Legal Services Fund initiative is different than LD 1326, which has been on the Special Appropriations Table since 2021, and Part JJ of the Supplemental Budget. See separate legal services memo.

11. LD 1904, An Act To Make Technical Corrections to the Maine Juvenile Code
12. LD 1626, An Act Implementing the Recommendations of the Task Force on Changes to the Maine Indian Claims Settlement Implementing Act
13. LD 1856, An Act To Eliminate Conflicts of Interest with Respect to the Payment of Fees to Bail Commissioners
14. LD 1950, An Act To Implement the Recommendations of the Commission To Create a Plan To Incorporate the Probate Courts into the Judicial Branch
15. LD 1326, An Act To Provide Funding for the Maine Civil Legal Services Fund
16. LD 1273, An Act To Establish Conviction Integrity Units in Maine

Please let us know if you have any questions.

SENATE

ANNE M. CARNEY, DISTRICT 29, CHAIR  
HEATHER B. SANBORN, DISTRICT 28  
LISA M. KEIM, DISTRICT 18

MARGARET REINSCH, SENIOR LEGISLATIVE ANALYST  
JANET STOCCO, LEGISLATIVE ANALYST  
SUSAN PINETTE, COMMITTEE CLERK



HOUSE

THOM HARNETT, GARDINER, CHAIR  
CHRISTOPHER W. BABIDGE, KENNEBUNK  
LOIS GALGAY RECKITT, SOUTH PORTLAND  
STEPHEN W. MORIARTY, CUMBERLAND  
ERIN R. SHEEHAN, BIDDEFORD  
DAVID G. HAGGAN, HAMPDEN  
LAUREL D. LIBBY, AUBURN  
JENNIFER L. POIRIER, SKOWHEGAN  
JAMES E. THORNE, CARMEL  
JEFFREY EVANGELOS, FRIENDSHIP  
RENA D. NEWELL, PASSAMAQUODDY TRIBE

STATE OF MAINE  
ONE HUNDRED AND THIRTIETH LEGISLATURE  
COMMITTEE ON JUDICIARY

April 5, 2022

TO: Senator Catherine E. Breen, Senate Chair  
Representative Teresa S. Pierce, House Chair  
Joint Standing Committee on Appropriations and Financial Affairs

FROM: Senator Anne M. Carney, Senate Chair *AC*  
Representative Thom Harnett, House Chair *TH*  
Joint Standing Committee on Judiciary

Re: Judiciary Committee report on MCILS additional initiatives

As we mentioned in our March 4th report-back on the Supplemental Budget, the Judiciary Committee needed more time to develop initiatives for the Maine Commission on Indigent Legal Services, inconceivably left out of the Supplemental Budget proposals. We strongly support five unanimous funding initiatives that we believe will help advance indigent legal services in the right direction, but we recognize that these recommendations do not respond to all the concerns and we still strongly support additional steps moving forward. In addition to the five unanimous recommendations, the majority of the committee supports two other initiatives, discussed below.

We rely on MCILS to carry out many responsibilities, but have only statutorily focused on one: to roster and pay counsel to represent indigent litigants in situations in which the United States and Maine Constitutions and laws require the State to provide such counsel. We also recognize the role of MCILS as a unifying voice of advocacy for the indigent criminal defense in Maine, providing leadership commensurate with the State's highest prosecutor. We are grateful to Executive Director Andrus for embracing this role and championing not only increased funding, but also taking a stand on constitutional issues such as the illegal recording of defendants' calls with their attorneys.

Addressing the challenges in the provision of legal services has been a focus of the Judiciary Committee's work since we convened in January of 2021. Maine's Sixth Amendment obligation has been a unifying issue for committee members, and we unanimously support these five funding initiatives that we believe to be the bare minimum to allow MCILS to operate effectively. One goal of our work has been to reach parity for defenders as compared with prosecutors. We were unable to address the disparity in health insurance and loan forgiveness/repayment opportunities at this time.

The five unanimous recommendations are as follows:

1. Rural Public Defender Unit

Initiative. Establishes one District Defender position (Elected DA-equivalent Grade 90), 2 Assistant Defender I positions (ADA-equivalent Grade 38) and 2 Assistant Defender II positions (ADA-equivalent Grade 30), to be dispatched in the State where needed, and provides for their ancillary costs and meals and travel expenses.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
POSITIONS - LEGISLATIVE COUNT		5
Personal Services		\$704,482
All Other		\$261,415
<b>GENERAL FUND TOTAL</b>		<b>\$965,897</b>

**Judiciary Committee vote: 12-0 (2 absent)**

2. Legal research resources (electronic access, some paper publications)

Initiative: Provides ongoing funds for MCILS to enter into contract for online legal research access that is then provided to MCILS rostered attorneys (up to 300), and annual reimbursement for written legal materials purchased by attorneys.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
All Other		\$275,580
<b>GENERAL FUND TOTAL</b>		<b>\$275,580</b>

**Judiciary Committee vote: 12-0 (2 absent)**

3. Training

Initiative: Provides ongoing funds for MCILS to provide up to 4, 2-day in-person trainings per year, including the costs of facilities, necessary expenses and honoraria for expert trainings. Existing funds will cover the hourly expense for attendance by rostered attorneys.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
All Other		\$300,000
<b>GENERAL FUND TOTAL</b>	_____	_____ \$300,000

**Sec. 1. 4 MRSA §1804, sub-§2, ¶F** is amended to read:

F. Standards for the reimbursement of expenses incurred by assigned counsel and contract counsel, including attendance at training events provided by the commission; and

**Judiciary Committee vote: 12-0 (2 absent)**

4. Contracts to specialists

Initiative: Provides ongoing funds and authority for MCILS to contract with attorneys and other providers and subject matter experts to support indigent legal services by providing targeted support concerning diversion and mitigation, appellate assistance, mentoring of new attorneys and serving co-counsel or lead counsel with a new attorney. Contracts will cover diversion and mitigation, appellate assistance, mentoring of new lawyers and serving as co-counsel and lead counsel with new attorneys

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
All Other		\$240,000
<b>GENERAL FUND TOTAL</b>	_____	_____ \$240,000

**Judiciary Committee vote: 12-0 (2 absent)**

5. Increase hourly rate to \$100

Initiative: Provides ongoing funding to raise the hourly rate for attorneys from \$80 to \$100 to continue to move toward resource parity between the defense and prosecution functions.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
All Other		\$4,649,763
<b>GENERAL FUND TOTAL</b>		<b>\$4,649,763</b>

**Judiciary Committee vote: 12-0 (2 absent)**

6. Kennebec and Somerset Counties Public Defender Office

A majority of the Judiciary Committee supports LD 1686 that has remained on the Special Appropriations Table since 2021, and we recommend slight modifications. We recommend that the geographically-limited public defender office encompass not only Kennebec County as originally envisioned, but all of that prosecutorial District (District 4), to include Somerset County. We recommend that the 17 positions necessary to make that public defender office provide high-quality constitutionally legal defense be funded to start on October 1, 2022.

This is based on the appropriations section from the committee amendment to LD 1686, currently on the Special Appropriations Table. The numbers have been updated to reflect a start date of October 1, 2022, and the two 3% state employee increases. Also note that the public defender office coverage is the entire Prosecutorial District 4.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

**Maine Commission on Indigent Legal Services Z112**

Initiative: Establishes and provides funding for 4 Public Service Manager III positions, 5 Public Service Manager II positions, 2 Public Service Coordinator I positions, 2 Clinical Social Worker positions, 3 Paralegal positions and one Office Specialist II position to establish a Public Defender Office in Kennebec County. These positions begin October 1, 2022.

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
POSITIONS - LEGISLATIVE COUNT		17,000
Personal Services		\$1,559,211
All Other		\$115,719
<b>GENERAL FUND TOTAL</b>		<b>\$1,674,930</b>

**Judiciary Committee vote: 8-4 (2 absent)**

7. Civil Legal Services Fund ongoing appropriation

A majority of the Judiciary Committee also recognizes the increasing need for civil legal services for those who cannot afford them but are not in situations in which the state is constitutionally required to provide representation.

**JUDICIAL DEPARTMENT**  
**Courts - Supreme, Superior and District 0063**

Initiative: Provides ongoing funding for civil legal services for persons unable to afford a lawyer by providing additional funds available for distribution by the Civil Legal Services Fund Commission pursuant to the Maine Revised Statutes, Title 4, section 18-A, subsection 1.

<b>GENERAL FUND</b>	<b>2022-23</b>
All Other	\$4,000,000
<b>GENERAL FUND TOTAL</b>	<u>\$4,000,000</u>

**Judiciary Committee vote: 8-5 (1 absent)**