

## 129th MAINE LEGISLATURE

## **SECOND SPECIAL SESSION-2020**

**Legislative Document** 

No. 2170

H.P. 1553

House of Representatives, July 28, 2020

An Act Authorizing Rulemaking Concerning Attorney Training, Standards and Qualifications by the Maine Commission on Indigent Legal Services

(EMERGENCY)

Reported by Representative BAILEY of Saco for the Joint Standing Committee on Judiciary pursuant to Joint Order 2019, H.P. 1541.

ROBERT B. HUNT

R(+ B. Hunt

Clerk

Emergency preamble. Whereas, acts and resolves of the Legislature do not 1 2 become effective until 90 days after adjournment unless enacted as emergencies; and Whereas, rules governing attorney training, standards and qualifications adopted by 3 the Maine Commission on Indigent Legal Services are designated as major substantive 4 5 rules; and Whereas, the rules governing attorney training, standards and qualifications need 6 immediate strengthening, as recommended by the Sixth Amendment Center; and 7 Whereas, waiting for submission of stronger rules to the 130th Legislature prolongs 8 9 the existing challenges to those in need of high-quality attorneys appointed to represent indigent defendants, juveniles, parents and others; and 10 Whereas, in the judgment of the Legislature, these facts create an emergency within 11 the meaning of the Constitution of Maine and require the following legislation as 12 immediately necessary for the preservation of the public peace, health and safety; now, 13 therefore, 14 Be it enacted by the People of the State of Maine as follows: 15 16 Sec. 1. 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: 17 18 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, 19 subchapter 2-A, except that rules adopted to establish standards under subsection 2, 20 21 paragraph B and rates of compensation for assigned counsel and contract counsel under subsection 2, paragraph F are major substantive rules as defined in Title 5, 22 chapter 375, subchapter 2-A. Notwithstanding this paragraph, until October 1, 2021, 23 rules adopted to establish standards under subsection 2, paragraph B are routine 24 technical rules as defined in Title 5, chapter 375, subchapter 2-A; and 25 26 In view of the emergency cited in the preamble, this Emergency clause. legislation takes effect when approved. 27 28 SUMMARY 29

This bill amends the provisions governing the rule-making authority of the Maine Commission on Indigent Legal Services to create a time period during which the rules governing attorney training, standards and qualifications are routine technical rules. This allows the commission to adopt strengthened rules through regular rulemaking and have the rules in place more quickly than the major substantive rules process would allow. Any rules adopted after October 1, 2021 are major substantive rules.

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