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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
SECOND SPECIAL SESSION

COMMITTEE AMENDMENT " " to H.P. 145, L.D. 182, Bill, "An Act To Amend the Maine Bail Code Regarding the Financial Capacity of a Defendant To Post Bond"

Amend the bill by striking out the title and substituting the following:

'An Act To Amend Maine Law Regarding the Assessment of Financial Capacity of Defendants and Other Parties'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 4 MRSA §8-D is enacted to read:

§8-D. Rules; assessment of indigency and ability to pay

1. Rules. The Supreme Judicial Court may prescribe, repeal, add to, amend or modify rules or orders providing for a procedure in all courts through which an individual's financial capacity is assessed for the following purposes:

A. To determine eligibility for a court-appointed attorney. The eligibility standards must take into account the possibility of a defendant's or civil party's ability to make periodic installment payments toward counsel fees;

B. To determine whether a party qualifies to proceed in forma pauperis and is thereby entitled to a waiver of filing fees and other fees; and

C. To determine, after a fine has been ordered in a criminal case, a party's ability to pay and the schedule for payments.

2. Partial indigency and reimbursement. This subsection applies to partial indigency and reimbursement of expenses incurred by assigned counsel or contract counsel.

A. If the court determines that a defendant or civil party is unable to pay to obtain private counsel but is able to contribute to payment of assigned counsel or contract counsel, the court shall order the defendant or civil party to make installment

COMMITTEE AMENDMENT

1 payments up to the full cost of representation or to pay a fixed contribution. The
 2 court shall remit payments received to the Maine Commission on Indigent Legal
 3 Services under section 1801.

4 B. A defendant or civil party may not be required to pay for legal services in an
 5 amount greater than the expenses actually incurred.

6 C. Upon petition of a defendant or civil party who is incarcerated, the court may
 7 suspend an order for reimbursement issued pursuant to this subsection until the time
 8 of the defendant's or civil party's release.

9 **Sec. 2. 4 MRSA §1804, sub-§2, ¶A,** as amended by PL 2017, c. 284, Pt. UUUU,
 10 §1, is repealed.

11 **Sec. 3. 4 MRSA §1805-A, sub-§1, ¶A,** as enacted by PL 2017, c. 284, Pt.
 12 UUUU, §14, is repealed.

13 **Sec. 4. 4 MRSA §1805-A, sub-§2,** as enacted by PL 2017, c. 284, Pt. UUUU,
 14 §14, is repealed.

15 **Sec. 5. 4 MRSA §1805-A, sub-§3,** as enacted by PL 2017, c. 284, Pt. UUUU,
 16 §14, is repealed.

17 **Sec. 6. Appropriations and allocations.** The following appropriations and
 18 allocations are made.

19 **INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

20 **Maine Commission on Indigent Legal Services Z112**

21 Initiative: Transfers 6 full-time and 3 half-time Financial Screener positions from the
 22 Maine Commission on Indigent Legal Services to the Judicial Department.

| | | | |
|----|-------------------------------|----------------|--------------------|
| 23 | GENERAL FUND | 2019-20 | 2020-21 |
| 24 | POSITIONS - LEGISLATIVE COUNT | 0.000 | (7.500) |
| 25 | Personal Services | \$0 | (\$525,319) |
| 26 | | | |
| 27 | GENERAL FUND TOTAL | \$0 | (\$525,319) |

| | | | |
|----|---------------------------------------|----------------|--------------------|
| 28 | INDIGENT LEGAL SERVICES, MAINE | | |
| 29 | COMMISSION ON | | |
| 30 | DEPARTMENT TOTALS | 2019-20 | 2020-21 |
| 31 | | | |
| 32 | GENERAL FUND | \$0 | (\$525,319) |
| 33 | | | |
| 34 | DEPARTMENT TOTAL - ALL FUNDS | \$0 | (\$525,319) |

35 **JUDICIAL DEPARTMENT**

36 **Courts - Supreme, Superior and District 0063**

1 Initiative: Transfers 6 full-time and 3 half-time Financial Screener positions from the
 2 Maine Commission on Indigent Legal Services to the Judicial Department.

| | | | |
|---|-------------------------------|----------------|------------------|
| 3 | GENERAL FUND | 2019-20 | 2020-21 |
| 4 | POSITIONS - LEGISLATIVE COUNT | 0.000 | 7.500 |
| 5 | Personal Services | \$0 | \$525,319 |
| 6 | | | |
| 7 | GENERAL FUND TOTAL | <u>\$0</u> | <u>\$525,319</u> |

8 **Courts - Supreme, Superior and District 0063**

9 Initiative: Provides funding to increase 3 half-time positions to full time. Also provides
 10 funding to establish one full-time Financial Screener position and one full-time Managing
 11 Staff Accountant position and provides funding for related All Other costs.

| | | | |
|----|-------------------------------|----------------|------------------|
| 12 | GENERAL FUND | 2019-20 | 2020-21 |
| 13 | POSITIONS - LEGISLATIVE COUNT | 0.000 | 3.500 |
| 14 | Personal Services | \$0 | \$306,410 |
| 15 | All Other | \$0 | \$55,300 |
| 16 | | | |
| 17 | GENERAL FUND TOTAL | <u>\$0</u> | <u>\$361,710</u> |

| | | | |
|----|------------------------------|----------------|------------------|
| 18 | JUDICIAL DEPARTMENT | | |
| 19 | DEPARTMENT TOTALS | 2019-20 | 2020-21 |
| 20 | | | |
| 21 | GENERAL FUND | \$0 | \$887,029 |
| 22 | | | |
| 23 | DEPARTMENT TOTAL - ALL FUNDS | <u>\$0</u> | <u>\$887,029</u> |

| | | | |
|----|---------------------------|----------------|------------------|
| 24 | SECTION TOTALS | 2019-20 | 2020-21 |
| 25 | | | |
| 26 | GENERAL FUND | \$0 | \$361,710 |
| 27 | | | |
| 28 | SECTION TOTAL - ALL FUNDS | <u>\$0</u> | <u>\$361,710</u> |
| 29 | | | |

30 **SUMMARY**

31 This amendment replaces the bill. It transfers the financial screening function for
 32 eligibility for indigent legal services from the Maine Commission on Indigent Legal
 33 Services to the Judicial Branch and expands the screening to also provide information to
 34 determine whether a party qualifies to proceed in forma pauperis and is thereby entitled to
 35 a waiver of filing fees and other fees and to determine, after a fine has been ordered in a
 36 criminal case, a party's ability to pay and the schedule for payments. The amendment

1 includes language concerning determinations of partial indigency and reimbursement of
2 counsel expenses that currently is within the Maine Commission on Indigent Legal
3 Services provisions and repeals current provisions requiring Maine Commission on
4 Indigent Legal Services' involvement in indigency determinations and collection efforts
5 including the authority to enter into contracts for collection.

6 The amendment also adds an appropriations and allocations section.

7 **FISCAL NOTE REQUIRED**

8 **(See attached)**