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H.P. 603

House of Representatives, March 5, 2013

An Act To Amend Certain Provisions of Law Affecting the Judicial Branch

Submitted by the Judicial Department pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PRIEST of Brunswick.
Cosponsored by Senator VALENTINO of York and
Representatives: BEAULIEU of Auburn, CROCKETT of Bethel, FREDETTE of Newport,
MONAGHAN-DERRIG of Cape Elizabeth, MORIARTY of Cumberland, Senators: BURNS
of Washington, KATZ of Kennebec.

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

2 **Sec. 1. 4 MRSA §17-A**, as enacted by PL 1993, c. 172, §1, is amended to read:

3 **§17-A. Publications and technology**

4 **1. Informational publications.** The State Court Administrator may establish a fee
5 schedule to cover the cost of printing and distribution of publications and forms and the
6 procedures for the sale of these publications and forms.

7 **2. Fund; fees deposited.** All fees collected under this section from the sale of
8 publications or forms must be deposited in a fund for use by the State Court
9 Administrator to ~~replace and update publications and forms and to fund new publications,~~
10 forms and information technology.

11 **Sec. 2. 4 MRSA §153, first ¶**, as amended by PL 2005, c. 397, Pt. C, §4 and
12 affected by §8, is further amended to read:

13 The State is divided into 28 judicial divisions, named and defined as follows, and
14 with places for holding court in those divisions as follows:

15 **Sec. 3. 4 MRSA §153, sub-§19** is repealed.

16 **Sec. 4. 4 MRSA §153, sub-§19-A** is enacted to read:

17 **19-A. Northern and Central Penobscot.** Northern and Central Penobscot consists
18 of the municipalities and unorganized territory of Hopkins Academy Grant Township,
19 Long A Township, Medway, TA R7 WELS, Burlington, Edinburg, Lakeville, Lagrange,
20 Lowell, Passadumkeag, Twombly, Pukakon Township and all municipalities and
21 unorganized territory in Penobscot County lying to the north of these. The District Court
22 for Northern and Central Penobscot must be held at Millinocket and Lincoln. The Chief
23 Judge shall determine the level of service at each location.

24 **Sec. 5. 4 MRSA §153, sub-§20** is repealed.

25 **Sec. 6. 4 MRSA §183, sub-§1, ¶H** is enacted to read:

26 H. The Chief Judge of the District Court may employ a retired family law magistrate
27 to serve on a per diem basis as an active retired family law magistrate. An active
28 retired family law magistrate employed pursuant to this paragraph has the same
29 jurisdiction and is subject to the same restrictions as before retirement. An active
30 retired family law magistrate serves at the direction of the Chief Judge of the District
31 Court and is compensated at the per diem rate of \$250 per day or \$150 per half-day,
32 as long as the total of the per diem compensation and the active retired family law
33 magistrate's state retirement pension received in any calendar year does not exceed
34 the annual salary of a family law magistrate. Active retired family law magistrates
35 are entitled to receive reimbursement for any expenses actually and reasonably
36 incurred in the performance of their duties.

1 **Sec. 7. 4 MRSA §183, sub-§3**, as amended by PL 2005, c. 384, §1, is further
2 amended to read:

3 **3. Reports.** The State Court Administrator shall keep statistical records relating to
4 the cases handled by the Family Division and report this information to the Supreme
5 Judicial Court annually and to the joint standing committee of the Legislature having
6 jurisdiction over judiciary matters by ~~January~~ February 15th of each odd-numbered
7 calendar year.

8 A. The State Court Administrator shall evaluate the functioning of the family law
9 magistrates in providing a system of justice that is responsive to the needs of families
10 and the support of their children in light of the jurisdiction given to the family law
11 magistrates under this section. The State Court Administrator shall report to the joint
12 standing committee of the Legislature having jurisdiction over judiciary matters no
13 later than January 15, 1999 with recommendations, if any, for changing the duties
14 provided in subsection 1, paragraph D.

15 B. The State Court Administrator shall report to the joint standing committee of the
16 Legislature having jurisdiction over judiciary matters by January 15, 1999 explaining
17 the justification for the particular geographic assignments of the family law
18 magistrates.

19 **Sec. 8. 4 MRSA §423, first ¶**, as enacted by PL 1999, c. 780, §1, is amended to
20 read:

21 The Judicial Department shall report to the joint standing committee of the
22 Legislature having jurisdiction over judiciary matters by ~~January 15, 2002 and February~~
23 15th annually ~~thereafter~~ on the establishment and operation of alcohol and drug treatment
24 programs in the courts. The report must cover at least the following:

25 **Sec. 9. 4 MRSA §454, 2nd ¶**, as amended by PL 1997, c. 134, §6, is further
26 amended to read:

27 ~~The~~ When sufficient funding is allocated by the Legislature, the institute shall meet ~~at~~
28 ~~least once every 3 years~~, at the call of the Chief Justice of the Supreme Judicial Court, for
29 a 2-day period to discuss recommendations for changes in the sentencing authority and
30 policies of the State's criminal and juvenile courts, in response to current law enforcement
31 problems and the available alternatives for criminal and juvenile rehabilitation within the
32 State's correctional system. Inasmuch as possible the deliberations of the institute must be
33 open to the general public.

34 **Sec. 10. 4 MRSA §1802, sub-§1-A** is enacted to read:

35 **1-A. Appellate counsel.** "Appellate counsel" means an attorney who is entitled to
36 payment under Title 15, section 2115-A, subsection 8 or 9.

37 **Sec. 11. 4 MRSA §1804, sub-§3, ¶I**, as enacted by PL 2009, c. 419, §2, is
38 amended to read:

1 I. Approve and submit a biennial budget request to the Department of Administrative
2 and Financial Services, Bureau of the Budget, including supplemental budget
3 requests as necessary; ~~and~~

4 **Sec. 12. 4 MRSA §1804, sub-§3, ¶J**, as repealed and replaced by PL 2011, c.
5 141, §1, is amended to read:

6 J. Develop an administrative review and appeal process for attorneys who are
7 aggrieved by a decision of the executive director, or the executive director's designee,
8 determining:

9 (1) Whether an attorney meets the minimum eligibility requirements to receive
10 assignments or to receive assignments in specialized case types pursuant to any
11 commission rule setting forth eligibility requirements;

12 (2) Whether an attorney previously found eligible is no longer eligible to receive
13 assignments or to receive assignments in specialized case types pursuant to any
14 commission rule setting forth eligibility requirements; and

15 (3) Whether to grant or withhold a waiver of the eligibility requirements set forth
16 in any commission rule.

17 All decisions of the commission, including decisions on appeals under subparagraphs
18 (1), (2) and (3), constitute final agency action. All decisions of the executive
19 director, or the executive director's designee, other than decisions appealable under
20 subparagraphs (1), (2) and (3), constitute final agency action; ~~and~~

21 **Sec. 13. 4 MRSA §1804, sub-§3, ¶K** is enacted to read:

22 K. Pay appellate counsel.

23 **Sec. 14. 15 MRSA §2115-A, sub-§8**, as amended by PL 1979, c. 663, §110, is
24 further amended to read:

25 **8. Fees and costs.** The Law Court shall allow reasonable counsel fees and costs for
26 the defense of appeals under this section, to be paid by the Maine Commission on
27 Indigent Legal Services under Title 4, section 1801.

28 **Sec. 15. 15 MRSA §2115-A, sub-§9**, as enacted by PL 1987, c. 461, is amended
29 to read:

30 **9. Appeals to Federal Court; fees and costs.** The Law Court shall allow
31 reasonable ~~attorneys~~ attorney's fees for court appointed counsel when the State appeals a
32 judgment to any Federal Court or to the United States Supreme Court on certiorari. Any
33 fees allowed pursuant to this subsection ~~shall~~ must be paid out of the accounts of the
34 ~~Judicial Department~~ Maine Commission on Indigent Legal Services under Title 4, section
35 1801.

36 **SUMMARY**

37 This bill does the following.

1 1. It authorizes the State Court Administrator to use the fees generated from the sale
2 of publications or forms to fund forms and information technology.

3 2. It combines the judicial divisions of Northern Penobscot and Central Penobscot
4 into Northern and Central Penobscot and authorizes the Chief Judge to determine the
5 level of service at the sites of the district courts for that judicial division.

6 3. It permits the Chief Judge of the District Court to employ retired family law
7 magistrates.

8 4. It changes the reporting dates for the Judicial Department and the State Court
9 Administrator from January 15th to February 15th.

10 5. It requires the Maine Criminal Justice Sentencing Institute to meet only when
11 sufficient funding has been allocated for that purpose, instead of every 3 years as in
12 current law.

13 6. It requires attorney's fees for the defense of appeals by the State to be paid by the
14 Maine Commission on Indigent Legal Services.