

STATE OF MAINE

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

—
H.P. 530 - L.D. 719

Resolve, To Establish the Commission To Create a Plan To Incorporate the Probate Courts into the Judicial Branch

Preamble. Whereas, the existing probate court system established pursuant to the Constitution of Maine, Article VI, Section 6 was conditionally repealed by a vote of the people of Maine in 1967; and

Whereas, the effective date of repeal was dependent upon the creation of a different probate court system with full-time probate judges by the Legislature; and

Whereas, a different probate court system has not been created since the repeal and the Legislature has not considered a plan to establish a probate court system with full-time judges; and

Whereas, to honor the intent of a long-standing vote of Maine people and ensure that Maine people currently have the same access to justice in all Maine courts; now, therefore, be it

Sec. 1. Commission established. Resolved: That the Commission To Create a Plan To Incorporate the Probate Courts into the Judicial Branch, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 15 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including one member from each of the 2 parties holding the largest number of seats in the Legislature;
2. Three members of the House of Representatives appointed by the Speaker of the House of Representatives, including members from each of the 2 parties holding the largest number of seats in the Legislature;
3. Three members appointed by the Chief Justice of the Supreme Judicial Court;
4. One member who is a member of the Maine Probate Judges Assembly appointed by the Speaker of the House of Representatives;

5. One member who is a register of probate appointed by the Speaker of the House of Representatives;

6. One member who is a judicial branch clerk appointed by the Chief Justice of the Supreme Judicial Court;

7. One member who is a member of the Probate and Trust Law Advisory Commission appointed by that commission;

8. One member who is a member of the Family Law Advisory Commission appointed by that commission; and

9. Two members who are members of the Maine State Bar Association, one of whom is a member of a nonprofit organization providing statewide free legal services, appointed by the Speaker of the House of Representatives.

Sec. 3. Chairs; subcommittees. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission. The chairs of the commission are authorized to establish subcommittees to work on the duties listed in section 5 and to assist the commission. Any subcommittees established by the chairs must be composed of members of the commission and interested persons who are not members of the commission and who volunteer to serve on the subcommittees without reimbursement.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission shall create a plan for a probate court system with full-time judges. The commission may consider for inclusion in the plan any features that the commission determines relevant, including, but not limited to, features that will ensure timely, convenient and meaningful access to justice, promote judicial responsibility and adherence to the code of judicial responsibility, provide for qualified full-time judges, provide adequate professional staff, reflect efficient practices in scheduling and case management throughout the system, allow for convenient and consumer-friendly processing of matters that are not contested and reflect economies of scale in all appropriate operational aspects. The commission shall describe how the system would be funded.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Information and assistance. Resolved: That the Administrative Office of the Courts and registers of probate shall provide to the commission information and assistance requested by the commission and required for the commission to perform its duties.

Sec. 8. Report. Resolved: That, no later than December 1, 2021, the commission shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Joint Standing Committee on Judiciary. The Joint Standing Committee on Judiciary may report out a bill regarding the subject matter of the report to the Second Regular Session of the 130th Legislature.