

Annual List of Rulemaking Activity
Rules Adopted January 1, 2021 to December 31, 2021
Prepared by the Secretary of State pursuant to 5 MRS §8053-S sub-§5

Agency name: **Maine Commission on Indigent Legal Services**
Umbrella-Unit: **94-649**
Statutory authority: 4 MRS §§ 1804(2)(F), (3)(B), (3)(F), (4)(D); PL 2021 ch. 398 §A-2
Chapter number/title: **Ch. 301**, Fee Schedule and Administrative Procedures for Payment of Commission Assigned Counsel
Filing number: **2021-149**
Effective date: 7/21/2021
Type of rule: Major Substantive
Emergency rule: Yes

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Since July 1, 2015, MCILS Rules Chapter 301, Section 2, has authorized a rate of Sixty Dollars (\$60.00) per hour for time spent on an assigned case. Court appointed counsel operating under the MCILS system have been withdrawing from that system in part because the rate of payment for work on assigned cases did not permit counsel to operate cost efficiently. MCILS relies on appointed counsel to discharge its constitutional and statutory obligations. In Sec. A-22 of the supplemental appropriations bill passed by the Legislature for fiscal years 2021-2022 and 2022-2023, the Legislature appropriated sufficient funds to pay lawyers \$80.00/hr. for the 2021-2022 fiscal year and the 2022-2023 fiscal year. Section 2 must be amended to permit MCILS to pay appointed counsel the \$80 per hour provided by the Legislature. Without immediate action to implement the legislatively authorized rate increase, the Commission is in jeopardy of losing additional lawyers off the roster and imperiling the continued operation of the assigned counsel system.

Fiscal impact of rule:

As compared to the existing rule, the rate increase contained in this emergency rulemaking will increase the cost of providing indigent legal services by \$5,732,980 in fiscal year 2021-2022 and by \$5,732,980 in fiscal year 2022-2023.

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Umbrella-Unit: **94-649**
Statutory authority: 4 MRS §§ 1804(3)(L), (4)(D)
Chapter number/title: **Ch. 302**, Procedures Regarding Funds for Experts and Investigators
Filing number: **2021-150**
Effective date: 8/1/2021
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:
(See Basis Statement)

Basis statement:

Pursuant to 5 MRS §1804(3)(L) the Commission is obligated to “[e]stablish processes and procedures to acquire investigative and expert services that may be necessary for a case, including contracting for such services[.]” This amended rule provides that the request for funds must be filed according to the procedure directed by the Executive Director. This change would create flexibility on how the information is received by the Commission staff.

Fiscal impact of rule:
No fiscal impact.