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MACDL Statement on Legislative Proposal Regarding Bar Advocate Compensation

Yesterday, the Massachusetts legislature voted to pass an increase in bar advocate hourly rates over two years — with a \$10 increase to go into effect August 1, 2025, and another \$10 increase to go into effect August 1, 2026. We know this is not enough, and MACDL will continue to support the tireless advocacy, commitment, and selflessness of the many bar advocates who stand in solidarity to make their voices heard. MACDL remains steadfast in our support of their efforts to improve our criminal legal system for the indigent and accused in our communities.

The work stoppage has been a catalyst for action, has provided an opportunity for MACDL to have productive conversations with legislators, and has raised public awareness about the indigent defense crisis in our state. MACDL is grateful to the legislators and people in Governor Healey's administration who have recognized the urgent need to address the crisis in indigent defense and have worked to increase the hourly rate for bar advocates at a time when the Commonwealth is facing a challenging fiscal outlook. The gravity of this issue would not have reached Beacon Hill without the collective advocacy of bar advocates and the elected officials who have chosen to stand with them. We recognize the political will it has taken to move this conversation forward.

However, the rates for bar advocates in Massachusetts remain insufficient and will not solve the current constitutional crisis. This legislation does not bring the rate of pay for bar advocates anywhere near the rate of pay for appointed attorneys in neighboring states. We urge the legislature to continue to hold conversations with all stakeholders, including bar advocates, in the coming months to talk about ways we can continue to build upon this foundation collectively to come to a sustainable solution.

In addition, MACDL opposes measures included in the final package which we believe will undermine the independence and strength of the bar advocate system. We believe that the inclusion of an antitrust provision—seeking to punish those who stood together for constitutional protections—is especially troubling. At a time when courts are desperate for qualified, experienced attorneys, this proposal does nothing to encourage participation. It does the opposite. It deters it. This provision, combined with the increase in the ability of CPCS to audit bar advocates, undermines the professionalism and integrity of those attorneys who have dedicated their careers to representing the most vulnerable in our system. Bar advocates are already subject to rigorous oversight and documentation requirements. They do not need additional scrutiny, particularly in the context of long-overdue rate adjustments. We worry that the net effect of these policies taken together will result in fewer attorneys willing to take on appointed cases when we need them most.

These provisions, as well as the \$40 million increase in funding to CPCS for the purposes of hiring more staff to shift the balance of cases between bar advocates and CPCS public defenders, are broad public policy reforms that deserve more thoughtful dialogue with key stakeholders at the table and should be reassessed in subsequent legislative vehicles. We look forward to continuing those conversations with the Administration and with our legislative partners.

MACDL will continue to advocate on behalf of the private bar and indigent clients. We have no intention of backing down from defending the autonomy, integrity, and value of the defense function in Massachusetts. At the same time, MACDL remains committed to working with our allies in the legislature, the Governor's office, and the broader legal community to advance long-term solutions that reflect the constitutional significance of appointed counsel, including continued and sustained increases to bar advocate rates to bring them in line with our partner states.