

# MAINE STATE LEGISLATURE

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MAY

L.D. 1685

Date: 6-16-21

(Filing No. H-692)

MAJORITY  
JUDICIARY

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1254, L.D. 1685, "An Act To Protect the Constitutional Rights of Indigent Defendants"

Amend the bill by striking out all of section 5 and inserting the following:

'Sec. 5. 15 MRSA §815 is enacted to read:

§815. Communication between prosecutor and unrepresented defendant

1. Requirements for communication. To ensure that all waivers of the right to counsel are made knowingly, voluntarily and intelligently, a prosecutor may not communicate with an unrepresented defendant unless:

A. The defendant has been informed of the defendant's right to court-appointed counsel;

B. The court has provided to the defendant a statement of:

(1) The substance of the charges against the defendant;

(2) The defendant's right to retain counsel, to request the assignment of counsel and to be allowed a reasonable time and opportunity to consult counsel before entering a plea;

(3) The defendant's right to remain silent and that the defendant is not required to make a statement and that any statement made by the defendant may be used against the defendant;

(4) The maximum possible sentence and any applicable mandatory minimum sentence; and

(5) The defendant's right to trial by jury; and

C. The defendant has executed a written waiver of the right to counsel in each prosecution.

2. Exception. Notwithstanding subsection 1, a prosecutor may communicate with an unrepresented defendant who has not executed a written waiver of the right to counsel to

COMMITTEE AMENDMENT

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offer the defendant an opportunity to participate in an established precharge diversion program the successful completion of which results in the prosecutor not prosecuting the charge or charges against the defendant.

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

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

**Maine Commission on Indigent Legal Services Z112**

Initiative: Eliminates 6 full-time and 3 half-time Financial Screener positions and reduces All Other costs associated with the positions.

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
POSITIONS - LEGISLATIVE COUNT	(7,500)	(7,500)
Personal Services	(\$531,003)	(\$547,995)
All Other	(\$31,660)	(\$31,660)
<b>GENERAL FUND TOTAL</b>	<b>(\$562,663)</b>	<b>(\$579,655)</b>

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON DEPARTMENT TOTALS**

	<b>2021-22</b>	<b>2022-23</b>
<b>GENERAL FUND</b>	<b>(\$562,663)</b>	<b>(\$579,655)</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>(\$562,663)</b>	<b>(\$579,655)</b>

**JUDICIAL DEPARTMENT**

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

Initiative: Establishes 10 full-time Financial Screener positions and one full-time Managing Staff Accountant position and provides funding for related All Other costs.

<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
POSITIONS - LEGISLATIVE COUNT	11,000	11,000
Personal Services	\$839,548	\$866,414
All Other	\$59,800	\$30,800
<b>GENERAL FUND TOTAL</b>	<b>\$899,348</b>	<b>\$897,214</b>

**JUDICIAL DEPARTMENT DEPARTMENT TOTALS**

	<b>2021-22</b>	<b>2022-23</b>
<b>GENERAL FUND</b>	<b>\$899,348</b>	<b>\$897,214</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$899,348</b>	<b>\$897,214</b>

**SECTION TOTALS**

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<b>GENERAL FUND</b>	<b>\$336,685</b>	<b>\$317,559</b>
<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$336,685</b>	<b>\$317,559</b>

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment is the majority report of the committee. It replaces the prohibition the bill establishes on communications between prosecutors and defendants not represented by attorneys to revise the format to provide for an exception.

This amendment provides that a prosecutor may communicate with a defendant who is not represented by an attorney and who has not executed a written waiver of the right to counsel if the communication is to offer the defendant an opportunity to participate in an established precharge diversion program the successful completion of which results in the prosecutor not prosecuting the charge or charges against the defendant.

The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

(See attached)



# 130th MAINE LEGISLATURE

LD 1685

LR 2056(02)

## An Act To Protect the Constitutional Rights of Indigent Defendants

Fiscal Note for Bill as Amended by Committee Amendment *ACH-692*

Committee: Judiciary

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$336,685	\$317,559	\$327,749	\$338,264
<b>Appropriations/Allocations</b>				
General Fund	\$336,685	\$317,559	\$327,749	\$338,264

#### Fiscal Detail and Notes

The bill transfers the financial screening function for eligibility for indigent legal services from the Maine Commission on Indigent Legal Services to the judicial branch and adds to the duties required. The bill includes a General Fund deappropriation to the Maine Commission on Indigent Legal Services of \$562,663 in fiscal year 2021-22 and \$579,655 in fiscal year 2022-23 to eliminate 7.5 financial screener positions and All Other costs. The bill includes General Fund appropriations to the judicial branch of \$899,348 in fiscal year 2021-22 and \$897,214 in fiscal year 2022-23 to establish 10 full-time Financial Screener positions and one full-time Managing Staff Accountant position and provides funding for related All Other costs.