

# MAINE STATE LEGISLATURE

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MIN

OFFS

L.D. 1685

Date: 6-16-21

(Filing No. H-693)

MINORITY JUDICIARY

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

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

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 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.

COMMITTEE AMENDMENT

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**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 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.

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

**SUMMARY**

This amendment is the minority report of the committee. It removes from the bill the relocation of the financial screeners from the Maine Commission on Indigent Legal Services to the judicial branch.

This amendment, like the majority report, 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.