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Date: (Filing No. H-)

JUDICIARY

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

COMMITTEE AMENDMENT “ ” 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

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

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

6 **INDIGENT LEGAL SERVICES, MAINE COMMISSION ON**

7 **Maine Commission on Indigent Legal Services Z112**

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

10	GENERAL FUND	2021-22	2022-23
11	POSITIONS - LEGISLATIVE COUNT	(7.500)	(7.500)
12	Personal Services	(\$531,003)	(\$547,995)
13	All Other	(\$31,660)	(\$31,660)
14			
15	GENERAL FUND TOTAL	<u>(\$562,663)</u>	<u>(\$579,655)</u>

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17 **INDIGENT LEGAL SERVICES, MAINE**
 18 **COMMISSION ON**
 19 **DEPARTMENT TOTALS**

20		2021-22	2022-23
21	GENERAL FUND	(\$562,663)	(\$579,655)
22			
23	DEPARTMENT TOTAL - ALL FUNDS	<u>(\$562,663)</u>	<u>(\$579,655)</u>

24 **JUDICIAL DEPARTMENT**

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

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

28	GENERAL FUND	2021-22	2022-23
29	POSITIONS - LEGISLATIVE COUNT	11.000	11.000
30	Personal Services	\$839,548	\$866,414
31	All Other	\$59,800	\$30,800
32			
33	GENERAL FUND TOTAL	<u>\$899,348</u>	<u>\$897,214</u>

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35 **JUDICIAL DEPARTMENT**
 36 **DEPARTMENT TOTALS**

37		2021-22	2022-23
38	GENERAL FUND	\$899,348	\$897,214
39			
40	DEPARTMENT TOTAL - ALL FUNDS	<u>\$899,348</u>	<u>\$897,214</u>

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42 **SECTION TOTALS** **2021-22** **2022-23**

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GENERAL FUND	\$336,685	\$317,559
SECTION TOTAL - ALL FUNDS	\$336,685	\$317,559

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)