



Janet T. Mills
GOVERNOR

STATE OF MAINE
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AUGUSTA, MAINE
04333-0001

June 18, 2025

The 132nd Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 132nd Legislature:

By the Authority conferred by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing L.D. 1802, *An Act to Implement the Recommendations of the Maine Commission on Public Defense Services to Clarify When an Indigent Criminal Defendant Is Entitled to Counsel at State Expense*.

This bill would create a new statutory right to counsel at state expense for indigent defendants regardless of whether their case presents a risk of incarceration. Maine is making progress in ensuring that the Sixth Amendment rights of low-income defendants to criminal defense counsel are fully protected. If enacted, this legislation would undermine that progress by requiring assignment of counsel in cases and circumstances beyond what is constitutionally required. I cannot support creating a new statutory right to counsel when the State continues to struggle to meet even its minimum constitutional obligation.

The Sixth Amendment right to counsel in criminal proceedings only applies if the defendant faces the risk of incarceration if convicted. Every day, prosecutors in Maine use their discretion to inform the court they will not seek jail time for an offense, but request that bail terms be set to protect public safety until the matter is resolved. This often occurs, for example, when a person is charged with the Class E crime of Operating After Suspension. The District Attorney will routinely inform the court and defendant that no jail time will be sought, and the matter will be continued, with the only bail condition being that the defendant not drive until their license is restored. Currently, an indigent defendant in such a case would not be entitled to publicly-funded counsel because there is no risk of incarceration. But if L.D. 1802 were to become law, the State would be required to assign an attorney to represent the defendant in that case. Despite paying the highest hourly rate in New England, Maine still struggles with a shortage of defense attorneys willing to represent indigent defendants. This bill would exacerbate the problem by creating a new statutory entitlement to counsel in a category of cases that the Sixth Amendment does not cover,



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placing further strain on both the roster of available attorneys and the courts as they work to reduce the backlog in criminal dockets.

This bill will negatively impact the State's ability of the state to appoint attorneys in the cases where counsel is constitutionally required and impede efforts to eliminate the backlog in criminal cases. We should be focused on solving the problem at-hand when it comes to the lack of counsel for indigent people; not making it worse as this bill would. For these reasons I return L.D. 1802 unsigned and vetoed and urge the Legislature to sustain this veto.

Sincerely,



Janet T. Mills
Governor



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