

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 244 - L.D. 576

An Act to Facilitate Communication Between Pro Se Defendants and Prosecutors While Protecting the Rights of Those Defendants

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the enactment of the Maine Revised Statutes, Title 15, section 815, which prohibits most communication between prosecutors and unrepresented defendants, has contributed to a backlog of criminal cases in the judicial system; and

Whereas, this legislation authorizes prosecutors to send written plea offers to unrepresented defendants, to inform unrepresented defendants of diversion programs or steps they can take to avoid pursuit of pending criminal charges and, after unrepresented defendants have been informed of their rights by the court, to negotiate with unrepresented defendants when they appear for dispositional conferences and to communicate with unrepresented defendants who initiate such communications; and

Whereas, the intent of authorizing these forms of communication is to decrease delays in the judicial system while continuing to recognize the fundamental nature of criminal defendants' right to counsel; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 15 MRSA §815, sub-§1, ¶C, as amended by PL 2021, c. 668, §1, is repealed.

Sec. 2. 15 MRSA §815, sub-§1, ¶D is enacted to read:

D. Either the defendant initiates the communication or the communication takes place at a dispositional conference and is required by Rule 18(b) of the Maine Rules of Unified Criminal Procedure.

Sec. 3. 15 MRSA §815, sub-§2, as amended by PL 2021, c. 668, §1, is further amended to read:

2. Exception. Notwithstanding subsection 1, a prosecutor may communicate with an unrepresented defendant ~~to~~ at any time to:

A. Offer the defendant an opportunity to participate in ~~an established precharge~~ a diversion program or explain steps that the defendant can take, including obtaining reinstatement of the defendant's driver's license or registration or engaging in a certain amount and type of community service, the successful completion of which would result in the prosecutor not prosecuting the charge or charges against the defendant or recommending a dismissal of or filing of the charge or charges. A defendant's failure to successfully complete a diversion program or to successfully undertake any other steps that the prosecutor informed the defendant of under this subsection may not form the basis for imposing any term of imprisonment, suspended or unsuspended, on that defendant if that defendant is later convicted of the charge or charges that were the subject of the discussion; ~~or~~

B. Notify the defendant that a pending criminal matter is being dismissed;

C. Notify the defendant in writing of a plea offer; or

D. Request the defendant's position on a motion to continue or a motion to correct a typographical error in a document filed with the court.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.