

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

—
H.P. 1254 - L.D. 1685

An Act To Protect the Constitutional Rights of Indigent Defendants

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

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.

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.