1	L.D. 576
2	Date: (Filing No. S-)
3	JUDICIARY
4	Reproduced and distributed under the direction of the Secretary of the Senate.
5	STATE OF MAINE
6	SENATE
7	131ST LEGISLATURE
8	FIRST SPECIAL SESSION
9 10	COMMITTEE AMENDMENT " " to S.P. 244, L.D. 576, "An Act to Facilitate Communication Between Pro Se Defendants and Assistant District Attorneys"
11	Amend the bill by striking out the title and substituting the following:
12 13	'An Act to Facilitate Communication Between Pro Se Defendants and Prosecutors While Protecting the Rights of Those Defendants '
14	Amend the bill by inserting after the title and before the enacting clause the following:
15 16	'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
17 18 19	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
20 21 22 23 24 25	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
26 27 28	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
29 30 31 32	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,'
33 34	Amend the bill by striking out everything after the enacting clause and inserting the following:

Page 1 - 131LR1381(02)

9

10

11

12

13 14

15

16

17

18 19

20 21

22

23

24

25

26

27

28

29

31

32

33

34

35

36

37

38

39

- 1 'Sec. 1. 15 MRSA §815, sub-§1, ¶C, as amended by PL 2021, c. 668, §1, is 2 repealed. 3 Sec. 2. 15 MRSA §815, sub-§1, ¶D is enacted to read: 4 D. Either the defendant initiates the communication or the communication takes place 5 at a dispositional conference and is required by Rule 18(b) of the Maine Rules of Unified Criminal Procedure. 6 7 Sec. 3. 15 MRSA §815, sub-§2, as amended by PL 2021, c. 668, §1, is further 8
 - 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.'
 - Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY 30

> This amendment, which is the majority report of the committee, replaces the bill and changes the title. Under the amendment, a prosecutor may communicate with an unrepresented defendant at any time to:

- 1. Offer the defendant the opportunity to participate in a diversion program or explain steps the defendant can take that would result in the prosecutor not prosecuting the charge or charges against the defendant or that would result in the prosecutor recommending a dismissal or filing of the charge or charges;
 - 2. Notify the defendant that a pending criminal matter is being dismissed;
 - 3. Notify the defendant in writing of a plea offer; and

1

2

4 5

6

7 8 4. 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.

The amendment also provides that a prosecutor may communicate with an unrepresented defendant either if the communication is initiated by the defendant or during a dispositional conference as long as the defendant has first been advised by the court of the defendant's right to counsel, right to remain silent and right to a trial by jury and the defendant has been informed by the court of the substance of the charges and the maximum possible sentence and any mandatory minimum sentence associated with those charges.

Page 3 - 131LR1381(02)