

OFFICE OF THE REVISOR OF STATUTES

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DRAFT DOCUMENT SUMMARY

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LR#: 3300

ITEM #: 1

TYPE: ACT

Final to RSR

DRAFT TYPE: O

SUB TYPE:

INST. TYPE: ACTPUB

3/17 JMC

3-17

TITLE:

*An Act Concerning Communication between Prosecutors and Unrepresented Defendants*

to  
ROSD

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SPONSOR:

COSPONSORS:

LEGEND: SUBMITTED BY THE JOINT STANDING COMMITTEE ON JUDICIARY PURSUANT  
TO JOINT ORDER 2019, H.P. 1541.

AUTHORITY FOR INTRODUCTION: PURSUANT TO JOINT ORDER/RESOLUTION (PJO)

DRAFTER: TECH: PROOF: REVIEWER:

DATE/TIME LAST PRINTED: 03/17/20 10:25

SHORT TITLE: CONCERNING COMMUNICATION BETWEEN PROSECUTORS AND

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

2 Sec. 1. 15 MRSA §815 is enacted to read:

3 **§815. Communication between prosecutor and unrepresented defendant**

4 To ensure that all waivers of the right to counsel are made knowingly and willingly, a  
5 prosecutor may not communicate with an unrepresented defendant unless:

6 **1. Informed of right.** The defendant has been informed of the defendant's right to  
7 court-appointed counsel;

8 **2. Statement by the court.** The court has provided, live in open court or in a video  
9 recording, to the defendant a statement of:

10 A. The substance of the charges against the defendant;

11 B. The defendant's right to retain counsel, to request the assignment of counsel and  
12 to be allowed a reasonable time and opportunity to consult counsel before entering a  
13 plea;

14 C. The defendant's right to remain silent and that the defendant is not required to  
15 make a statement and that any statement made by the defendant may be used against  
16 the defendant;

17 D. The maximum possible sentence and any applicable mandatory minimum  
18 sentence; and

19 E. The defendant's right to trial by jury; and

20 **3. Written waiver.** The defendant has executed a written waiver of the right to  
21 counsel in each case.

22 **SUMMARY**

23 This bill implements a recommendation of the Sixth Amendment Center. It prohibits  
24 prosecutors from communicating with an unrepresented defendant unless the defendant  
25 has been informed of the defendant's right to appointed counsel, the court has conducted  
26 the required statement of rights as specified in Maine Rules of Criminal Procedure, Rule  
27 5(b) and the defendant has executed a written waiver of the right to counsel in each case.

*No fiscal note required*