

Testimony of Lani Graham, MD, MPH

An Act to Make Supplemental Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and to Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2024, and June 30, 2025, Presented by Representative Sachs

**Re: Take Action on the Constitutionally Required Legal Defense for the Indigent now**

February 28, 2024

My name is Lani Graham. I live in Freeport. I am writing you as a private citizen of Maine as a taxpayer, a humanitarian, a public health expert and, along with all of you, one who believes in living up to the principles articulated in our Constitution. **I ask you to consider using some of the surplus money we now have available to adequately address the disgraceful issue of Maine's failure to provide support for legal defense of the indigent.** This issue has been a problem for years. The Band-Aids recently applied just haven't worked.

I have always been proud of Maine's approach to complex social problems. Through the many years that I have followed legislative work, Maine has generally been either in leadership, as with environmental issue and tobacco, or at least in the middle of the pack. This has not been so when it comes to criminal defense for the indigent. In a ranking of pay for criminal defense lawyers across the country, prior to the increased pay that Maine provided last year, Maine got the rank of 47 out of 51.<sup>1</sup> Texas, New Hampshire and North Dakota all did better. I doubt the raise in pay put us in the "middle of the pack".

Now everyone recognizes that the band-aid did not resolve the problem. Unmanageable caseloads, low pay and small hiring pools have been serious problems for a long time and will not be solved quickly with a pay raise. Covid made the problem worse, so the limited increased pay did not solve the problem. Other more creative options to use money need to be considered. And now is the time.

**As a humanitarian, we all know we are failing many potentially innocent people. Such people are sitting in Maine jails waiting for help.** In addition to the clear the constitutional failures of this issue, it is unlikely that that any persons held are flourishing in such an environment.

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<sup>1</sup> <https://www.zippia.com/criminal-justice-lawyer-jobs/best-states/>

And like all complex problems, this one has many consequences perhaps not immediately appreciated. As a taxpayer, as well as a humanitarian, I am concerned about my money being spent to jail people for months who may not be any threat to me or my community. Keeping people in jail is costly. Jails in Maine are county run, so knowing the exact cost per person per month is difficult. But anyone can see it is not going to be cheap to provide security, and all personal needs even for someone. States spent an average of \$45,771 per prisoner for the year.<sup>2</sup> That would be an average of state prisons with costs varying widely from state to state. I suspect it would be a conservative figure for Maine county jails. But we may as well use this figure as any.

This week the Portland Press Herald reported that over 100 individuals were awaiting court appointed attorneys.<sup>3</sup> **If we do use that annual prison figure and assume that there are 100 persons in jails for 3 months each, we come up with a figure of \$1,144,275 dollars for maintaining those 100 people waiting for their “speedy trial”. That’s a heavy load on Maine taxpayers. And it seems unlikely that there are only 100 people in Maine jails, awaiting an attorney.**

There are many potential solutions and recommendations available to consider. Most of them focus on structural changes. These need to be considered now, for the short run.

**But for the long run, the biggest thing we need to do to deal with the criminal defense deficit, is to slow the arrest and jailing of people who are no threat to the community. This is the public health, upstream solution.**

You are faced with a challenging task that I don’t envy. But I know most of you and have watched you work and am proud to be represented by you. **This problem needs to be faced now. The longer it is “swept under the rug”, the worse the consequences will be.** That is axiomatic in health care, and certainly true of this situation. I wish you the best, and hope this has helped.

Thank you for your attention.

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<sup>2</sup> <https://usafacts.org/articles/how-much-do-states-spend-on-prisons/#:~:text=Spending%20per%20prisoner%20varies%20widely,per%20prisoner%20for%20the%20year.>

<sup>3</sup> <https://www.pressherald.com/2024/02/25/more-than-100-mainers-are-in-jail-waiting-for-lawyers-no-one-can-agree-on-the-cause-or-a-remedy/>

