



January 20, 2026

Sen. Anne Carney, Chair
Rep. Amy Kuhn, Chair
Joint Standing Committee on the Judiciary
Maine State Legislature
100 State House Station
Augusta, ME 04333

Re: *LD 2059, An Act to Provide Required Funding for the Reimbursement of Assigned Counsel and to Develop the Public Defender Office for Cumberland County (Emergency)*

Dear Sen. Carney, Rep. Kuhn, and Members of the Judiciary Committee:

On behalf of the Board of Governors of the Maine State Bar Association, we write to provide comments in qualified support for *LD 2059, An Act to Provide Required Funding for the Reimbursement of Assigned Counsel and to Develop the Public Defender Office for Cumberland County (Emergency)*. MSBA strongly supports increased and sustained funding for Maine's indigent defense system and appreciates the Legislature's continued attention to addressing the serious and ongoing resource challenges affecting access to constitutionally required legal representation. Our support is qualified to the extent our Association: (1) does not take a position regarding funding for Cumberland County public defenders; and (2) we think it is critical that funding for indigent legal defense not just consider funding for budget year FY26 and a portion of FY27, but consider ongoing funding demands for such services.

About MSBA. The Maine State Bar Association is a statewide trade association chartered in 1891 by the Maine Legislature. The Association currently represents approximately 2,500 attorneys in the State in both public service and private practice. The Association maintains 28 separate sections covering nearly every field of law practiced in Maine, from Administrative Law to Workers' Compensation Law.

What does LD 2059 do? LD 2059 would provide targeted General Fund appropriations to the Maine Commission on Public Defense Services to address two issues: (1) addressing a current shortfall in funding available to reimburse assigned counsel for indigent defense services during the biennium; and (2) to establish and staff a public defender office serving Cumberland County. The bill funds compensation¹ for assigned counsel for FY26 and a portion of the costs for FY27, and it supports the creation of multiple public defender office positions beginning April 1, 2026, including attorneys and support staff, along with related administrative costs. The bill is intended to ensure continuity of indigent defense services and to support the State's ability to meet its constitutional obligations.

Discussion. MSBA has consistently emphasized that Maine's criminal justice system functions as an integrated whole. Courts, prosecutors, public defenders, assigned counsel, and private attorneys all play essential and interdependent roles in ensuring fairness, efficiency, and public confidence in the administration of justice. When any part of that system is insufficiently resourced, the consequences are felt throughout the system—by defendants, victims, attorneys, and the courts themselves.

¹ The bill title and language uses the term "reimbursement" to describe the "compensation" of attorneys fees. We believe "compensation" is a better term because attorneys are not providing funding for which they are being reimbursed, but rather are being compensated for their services.

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MSBA therefore supports the funding provided in LD 2059 for the biennium, with the qualification that: (1) full funding be provided for FY27, and (2) adequate funding be provided into the future, not just the biennium. Adequate compensation for assigned counsel and continued development of public defender capacity are critical to addressing attorney shortages, managing caseload pressures, and ensuring timely access to counsel. We further note that a significant reason for the current budget shortfall is the fact that, when the Legislature raised the hourly fee for assigned counsel to \$150/hour, it did not further increase the budget appropriation to account for this change. As a result, the system is confronting a shortfall in 2026 that cannot be addressed without this additional appropriation. Moreover, without addressing this shortfall, there is a risk that assigned counsel might ramp down their activities heading into next year in order to avoid working on cases for which payment might get delayed for many months, up to 180 days. Such an outcome would only worsen the current backlog of cases, and exacerbate Maine's indigent legal defense crisis.

With regard to the funding for Cumberland County, our Association takes no position regarding the establishment of a public defender office. We are aware that Cumberland County faces particularly acute volume and complexity challenges; however, we also are aware that there are multiple avenues to address this shortfall, including modifications to the assignment of cases to rostered attorneys, and we have not yet determined which of these options works best.

LD 2059 is part of a larger funding solution. MSBA encourages the Legislature to view LD 2059 as part of a broader, statewide funding strategy. Significant unmet needs persist across Maine, particularly in rural counties where access to qualified defense counsel remains a persistent challenge. While targeted investments can provide necessary relief, long-term solutions will require sustained and comprehensive funding for indigent defense services statewide to ensure that constitutional obligations are met in every region of the state.

Conclusion. For these reasons, the Maine State Bar Association strong support for fully funding Maine's indigent legal defense system, which we believe should consider not only full funding for the biennium, but adequate funding for the out years as well. We also take no position on the funding for a Cumberland County public defender office.

Thank you for the opportunity to provide testimony, and we would be happy to answer any questions.

Sincerely,



President, Board of Governors

cc: Angela Armstrong, Executive Director
 Kristine Hanly, Chair, MSBA Legislative Committee
 James I. Cohen, Verrill Dana, LLP, Legislative counsel for MSBA