



Pinny Beebe-Center  
Senator, District 12

THE MAINE SENATE  
131st Legislature

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Testimony of Senator Pinny Beebe-Center introducing

LD 1625, "An Act to Update Criminal Indictment Procedures and Expand the Provision of Counsel to Certain Indigent Defendants"

Before the Joint Standing Committee on Criminal Justice and Public Safety  
May 2, 2023

Good afternoon, Representative Salisbury and Distinguished Members of the Joint Standing Committee on Criminal Justice and Public Safety. I am Senator Pinny Beebe-Center, and I represent all of Knox County, except for Isle Au Haut and the town of Washington I am pleased to present to you LD 1625 "An Act to Update Criminal Indictment Procedures and Expand the Provision of Counsel to Certain Indigent Defendants."

When it comes to court room proceedings, it is important to have the necessary counsel to get you through proceedings in the hopes of obtaining a favorable ruling. Nobody should have to go through that process alone, and this bill aims to help secure that to our most vulnerable citizens.

This bill requires that all persons who are indicted for a crime, receive a copy of the indictment, unless it is under seal. It also requires that the court assign counsel to those who are disabled and for those who are non-citizens in which the disability would prevent them from fairly participating in the criminal proceedings.

Subsections 810(2)(C) and (D) propose an expansion of the right to counsel for two classes of indigent criminal defendants charged in misdemeanor cases that do not present a risk of jail, namely, disabled defendants and non-citizen defendants. Persons who have "a physical, mental or emotional disability preventing the accused from fairly participating in the criminal proceeding without counsel" have both a Due Process and ADA (Americans with Disability Act) right to be provided court-appointed counsel. Provision of counsel is a reasonable accommodation that is not unduly burdensome on the State of Maine. Currently in Maine, some judges appoint counsel to represent disabled indigent criminal defendants in misdemeanor cases without a risk of jail if it appears to the judges or is otherwise obvious that the disabled criminal defendants cannot reasonably represent themselves (such as when the defendants are obviously significantly intellectually impaired). This practice should not be left to the discretion of individual judges; rather the statute should expressly state such defendants' right to court appointed counsel.

Non-citizens facing adverse immigration consequences (that sometimes can be quite drastic or life-changing) should also be provided counsel at the start of their cases. Rule 11(h) of the Maine Rules of Unified Criminal Procedure requires courts to address "Potential Adverse Immigration Consequences to Noncitizens of the Plea to Any Crime," but that procedure comes too late (at the time of a guilty plea) to help many non-citizens. Non-citizens need counsel at the start of their cases, not just at the end of their cases. Non-citizen defendants have a constitutional right to timely receive legal advice about the potential adverse immigration consequences of their cases. *Padilla v. Kentucky*, 559 U.S. 356 (2010). So proposed Section 810(2)(D) addresses this issue.

I thank you for your time and consideration. I invite you to direct your questions to Walter McKee of the Maine Association of Criminal Defense Lawyers.