

STATE OF MAINE

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MAINE PROSECUTORS ASSOCIATION **SHIRA BURNS, EXECUTIVE DIRECTOR**

“An Act to Provide Comparable Compensation and Benefits for Deputy and Assistant District Attorneys, Assistant Attorneys General and Public Defenders” LD 374
Before the Joint Standing Committee on Judiciary
Public Hearing Date: February 24, 2025
Testimony in Support of LD 374

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary. My name is Shira Burns and I represent the Maine Prosecutors Association (MPA). I am here to testify in support of LD 374.

The intent of LD 374 is very limited in nature, the specific purpose is to increase prosecutors' compensation and benefits to be comparable with public defenders. Looking back, we do not believe it was the intent of the legislature when creating public defenders to have a pay discrepancy between the two entities. It was an unforeseen circumstance that was created by different processes that were enacted to employ prosecutors and public defenders.

Prosecutor recruitment and retention have been a top priority of the MPA these last two years as we have seen a significant increase in turnover and inability to hire. Over 50% of our prosecutors have less than 5 years' experience. To understand the breadth and depth of this problem, prosecutors were asked to fill out a survey regarding recruitment and retention. 54.8% of prosecutors who completed the survey have contemplated a career change in the past 6 months. The most applicable reason they are contemplating a career change is because of salary. A very common theme prosecutors noted was that public defenders are being paid more and have case limits. Even though prosecutors have significantly reduced the number of new criminal cases, pending case numbers are still significantly high making prosecutorial caseloads very high. Caseload numbers are then exacerbated when open positions need to be filled. Comments from prosecutors include feeling “stupid” about staying a prosecutor when they could go to the public defender's office, make more money and have a significant reduced caseload that comes with a caseload cap.

This bill amends Title 30-A M.R.S. § 272(3) which already sets assistant district attorneys' compensation and benefits to be comparable to assistant attorneys general. This allows District Attorney Offices to be competitive with the Office of the Attorney General. Prosecutors that transfer between the two offices are considered lateral transfers. The point of this statute is to have parity between offices to make sure not one office is better off than the other otherwise we would see vacancies in one sector and none in the other. This line of reasoning was then used when

increasing pay to \$150 an hour for criminal defense attorneys and attorneys representing parents in child protective matters rostered by the Maine Commission on Public Defender Services (PDS). The argument was made that if pay only increased for attorneys providing representation in criminal matters and not child protective matters, PDS would lose all their attorneys on the child protective roster for better pay representing defendants in criminal matters. This parity theme went further when it was argued that if pay increased for attorneys rostered with PDS, both criminal attorneys and child protective attorneys, the same pay needed to be implemented for guardian ad litem that are paid by the Court. Even though being a criminal defense attorney is different than being an attorney representing a parent in a child protective matter which is also different than being employed as a guardian ad litem, the legislature saw the need to pay all three positions the same so there would not be an imbalance in a certain profession. The legislature is now again in that position when comparing compensation for prosecutors and public defenders.

The Maine Prosecutors Association respectfully requests you follow the precedent set in the enactment of Title 30-A M.R.S. § 272(3) which established parity between assistant district attorneys and assistant attorneys general and the precedent used last session in the increase in pay for criminal defense attorneys, attorneys for parents in child protective matters, and guardian ad litem and support this bill and the funding needed for there to be comparable compensation between prosecutors and public defenders.

For these reasons, the Maine Prosecutors Association supports LD 374.