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*Testimony of Representative Dan Ankeles presenting*

## **LD 884, Resolve, to Establish the Criminal Justice Legal Aid Clinic Pilot Project at the University of Maine School of Law**

*Before the Joint Standing Committee on Education and Cultural Affairs*

Senator Rafferty, Representative Noonan Murphy, and honorable members of the Joint Standing Committee on Education and Cultural Affairs, thank you for the opportunity to come before you today. I am Representative Dan Ankeles, and I serve House District 100, a central portion of Brunswick. I'm here to present **LD 884, Resolve, to Establish the Criminal Justice Legal Aid Clinic Pilot Project at the University of Maine School of Law.**

While not a department bill, this is a measure I'm introducing in collaboration with Maine Law School Dean and former Law Court Chief Justice Leigh Saufley. The primary purpose of this legislation is to ensure that Maine meets its obligations under the 6th Amendment of the United States Constitution, which includes the right of those accused of a crime to an attorney and to a speedy trial.

If you've read the news on this topic, then you probably understand the backstory. But let me just summarize the barest of bare bones. For years, Maine never had a public defender system, but we managed to muddle through without one until we couldn't. The American Civil Liberties Union sued us, and when we tried to settle, judges determined that we were so far away from doing what the Constitution requires of us that they rejected the settlement. While we've made great strides since then and have begun to transition to a true public defender system in some counties, there is still a way to go.

That fact was hammered home last week when a member of the judicial branch informed us that people accused of crimes and sitting in limbo for a long period of time may have to be released. So now it's not just a matter of constitutional fairness, but also potentially a matter of public safety. At least some of these defendants surely did what they are accused of doing and may even, in some cases, pose a danger to themselves or to others.

At the State of the State address, the Chief Executive referenced the ongoing debate — that I'm oversimplifying here — over whether our indigent legal services policies are failing because they are underfunded or because they are over-regulated.

LD 884 avoids that debate completely and goes right to the source: the job pipeline. Right now, the law school has or is affiliated with other kinds of legal clinics, but nothing specifically dedicated to criminal defense. The resolve directs Maine Law to establish a legal clinic as a **three-year pilot program** dedicated to criminal defense. This will create a clear, well-lit professional pathway to criminal defense law at exactly the moment when Maine needs to staff up its new public defender offices, and enlarge the attorney pool in counties where those offices are still pending approval and funding.

There are other law school bills this session about remote learning or nighttime coursework options. Those are good bills that will hopefully make it easier for more people from all walks of life to attend law school. But the reason we also need LD 884 is because it's the missing piece of this policy puzzle. It's not enough to just say "we need more lawyers" (should anyone be saying that?) With LD 884, the law school can ensure that both the current and — if those other bills pass — a potentially more expansive pool of law students who could show an increased interest in criminal defense.

There's no sugarcoating the fact that this bill isn't free. While you haven't received a fiscal impact statement yet, you can see right in the bill that there is a one-time cost of \$1 million in the first year of the biennium that begins on July 1. What I will say is that I didn't structure the funding this way just to make it more palatable for the Appropriations and Financial Affairs Committee, or to trick the administration into ongoing spending. We are attempting to solve a very serious constitutional problem here in our state, and it's paramount that if we try this, that we don't just fold it into our baseline budget without some initial evidence that it's working as advertised. Going forward as a pilot would ensure the Legislature gets the opportunity to thoroughly vet the results.

With Maine's budget situation somewhat uncertain, I understand that most bills with a cost are at a disadvantage right now. But given the recent developments in this particular policy area, it's very easy to imagine the cost of *not* setting up this type of clinic being far, far higher.

And just quickly before I end, I have heard there was some discussion about whether this resolve should be heard here or in Judiciary. I'm neutral on that question and believe that both you and your colleagues across the patio have a full understanding of the dire constitutional straights we are in, and the wisdom of including something like this as part of a multi-pronged response.

Thank you for listening, and thank you for considering how this resolve could help restore the health of Maine's justice system. I'm happy to answer questions, get information for the work session or even repeat this entire testimony a second time if you decide to send the resolve elsewhere.