



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF CORRECTIONS
111 STATE HOUSE STATION
AUGUSTA MAINE
04333-0111

RANDALL A. LIBERTY
COMMISSIONER

TESTIMONY OF

ANTHONY CANTILLO, DEPUTY COMMISSIONER MAINE DEPARTMENT OF CORRECTIONS

May 1, 2025

In Opposition to:

LD 1825, An Act to Implement the Recommendations of the Maine Commission on Public Defense Services Regarding the Confidentiality of Attorney-Client Communications in Jails and Correctional Facilities

Senator Carney, Representative Kuhn, and distinguished members of the Joint Standing Committee on Judiciary, I am Tony Cantillo, Deputy Commissioner at the Maine Department of Corrections (DOC) providing testimony today in opposition to LD 1825, An Act to Implement the Recommendations of the Maine Commission on Public Defense Services Regarding the Confidentiality of Attorney-Client Communications in Jails and Correctional Facilities

The department understands that there are two major purposes behind this bill: one is to require the department (and the jails) to provide unlimited free phone calls between residents and their attorneys and the other is to add more requirements and consequences related to attorney-client communications. The department's concerns are summarized below:

- The department already provides unlimited free phone calls for Long Creek residents to make to their attorneys. However, the number of Long Creek residents at any one time is approximately three dozen. The department also already provides 60 minutes of free phone calls weekly to indigent adult facility residents, which they may use to call their attorneys. Adding unlimited free phone calls to attorneys for residents of the department's adult facilities, who usually number over 1900 at any one time, will be considerably more expensive. If the committee is interested, the department can try to provide more information about this fiscal impact at the work session on the bill.
- The language (lines 23 – 25 of the first page of the bill) adding to the current law's protections communications with "an employee of a law office of an attorney" is of concern for two reasons:
 - (1) The department might not know if a person is an employee of the law office of an attorney, since only the attorney's name is required to be given to the department by the Maine Commission on Public Defense Services and presumably it would be asking too much for it to provide the names of all employees of all attorneys who provide public defense services.
 - (2) There have also been instances when an employee of a law office has had communications with the resident for reasons that imperil security, such as to arrange the smuggling of drugs into a facility. Those communications should not be protected for obvious safety and security reasons.
- The requirement that the Department send an email to every attorney on the list provided by the Maine Commission on Public Defense Services upon its receipt is not practical. The list is sent weekly and so an email would have to be sent weekly. The last list had 413 entries.
- If this email requirement is retained, the provision, found at lines 19 – 25 of the second page of the bill, would need to be reworded to better reflect that the department's phone system is not facility specific. So, it should read:



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C. If the sender is the Department of Corrections:

(1) Certify that telephone communications between the listed telephone number for the attorney and residents of correctional facilities administered by the Department of Corrections will not be intercepted and no fee will be charged for the telephone call; and

(2) Provide the name, e-mail address and telephone number of the person at the Department of Corrections who is responsible for ensuring that the telephone calls are not intercepted and no fee is charged as provided in subparagraph (1).

- The monetary penalties subsection is inappropriate, especially the last provision, which would tag the Commissioner of Corrections (or a sheriff) for a civil violation because an employee did not send out an email.

For the reasons stated above, the department respectfully presents this testimony in opposition to LD 1825.

This concludes my testimony. I am happy to answer any questions.

Anthony Cantillo
Deputy Commissioner
Maine Department of Corrections