



January 20, 2026

Dear Chairs Carney and Kuhn and distinguished members of the Committee on Judiciary:

I am writing in **support** of LD 2059: An Act to Provide required Funding for the Reimbursement of Assigned Counsel and to Develop the Public Defender Office for Cumberland County. This bill is the best mechanism to ensure that critical indigent defense work has sufficient funding to prevent delay in payment of attorney's fees and provides funding to properly develop a Public Defender Office in Cumberland County.

As you are aware, the current Biennial Budget was funded at a level insufficient to meet the baseline budget of PDS. This will result in PDS running short on funds to pay Constitutionally mandated legal services near the end of the third quarter of FY 26. This shortfall was a result of a failure to allocate funds to pay for the rate for attorney hours and a substantial \$10 million de-appropriation made from PDS in FY 24 and FY 25. These actions have led to what is projected to be a \$13 million shortfall in the PDS budget for FY 26.

PDS has benefited from tremendous support from this Committee, along with the Legislature as a whole, and the Executive and Judicial branches. That support has enabled PDS to reduce the number of people who are on the unrepresented list from over 1,000 to under 200 in the past 12 months. These significant positive gains are directly threatened by the funding shortfall.

The State and PDS are current defendants in a lawsuit in which there has already been a finding that there are ongoing Sixth Amendment violations occurring because there are individuals eligible for State funded counsel, without enough attorneys available to take the cases. Because PDS relies on private counsel to take assignments for the vast majority of cases, failing to pay attorneys is likely to lead to an increase in unrepresented people, as attorneys seek other types of work that will sustain them. We have already heard from attorneys who have or plan to diversify their practices in favor of accepting more privately retained work and less court-appointed work in anticipation of the shortfall.

If payments are delayed, it will cost PDS more to pay the bills in July because of late fees and interest, which will lead to a dire situation in the third and fourth quarters of FY 27. PDS has received numerous letters from counsel indicating that they will pursue late fees from PDS if vouchers are paid late due to the shortfall. The delayed payments will also inflict devastating economic harm on the solo practitioners and small businesses that provide the attorneys who do this work. This will likely lead to losses in the availability of private counsel, the probable departure of attorneys to different practice areas and an increase in stress in a cohort of attorneys who are already suffering from high rates of burnout. As attorneys exit this area of practice it will take years to replace their experience and knowledge to rebuild capacity. Additionally, funding shortages serve as a disincentive for new attorneys to enter the indigent defense field and work with PDS because the pay is already half the market rate for attorney services and is made less attractive without the security of knowing that funding will be available to pay work they have already completed.

The second part of the bill provides funds for a proper Public Defender Office in Cumberland County. This funding would support the creation of public defender offices in every judicial region in the State. Given the recent volatility in the availability of providing indigent defense reliant on attorneys in private practice, having public defenders in every region serves to stabilize the market for purchasing attorneys hours and provide support to the private bar. This would ensure a healthy, hybrid system of indigent defense that is prepared to address the issues of today, meet the high demand for indigent defense counsel based on the number of cases in the system today, and contribute to a sustainable system of indigent defense that will meet ongoing needs in the future.

Finally, the emergency nature of this bill means that it would provide the necessary funds before PDS is forced to stop paying attorneys. If funding is allocated through the Supplemental Budget, that would be helpful, but those funds would likely be available in the first quarter of FY27, which would not be in time to make payments in the fourth quarter of FY 26.

I appreciate your consideration of this bill and urge you to vote “ought to pass” on this critical legislation.

Thank You,



Frayla Tarpinian

Executive Director Maine Commission on Public Defense Services