

**Testimony of Frayla Tarpinian  
Executive Director of the Maine Commission on Public Defense Services**

**Before the Joint Standing Committees on  
Appropriations and Financial Affairs and Judiciary**

“An Act Making Supplemental Appropriations and Allocations from the  
General Fund and Other Funds for the Expenditures of State Government  
and Changing Certain Provisions of the Law Necessary to the Proper  
Operations of State Government for the Fiscal Years Ending June 30, 2026  
and June 30, 2027”

**February 27, 2026**

Good morning, Senator Rotundo, Representative Gattine, and members of the Joint Standing Committee on Appropriations and Financial Affairs; Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary. I am Frayla Tarpinian, Executive Director of the Maine Commission on Public Defense Services. I am here today to testify in support of the fiscal year 2026-2027 supplemental budget bill, LD 2212, which provides critical funding to help Maine address its current constitutional crisis and move towards a stable system that meets the needs of constitutionally and statutorily mandated legal services.

**Brief Overview of Commission Operations:**

The Maine Commission on Public Defense Services (PDS) is an independent commission whose purpose is to provide high-quality, efficient representation to indigent individuals who are entitled to counsel at state expense under the United States Constitution or under the Constitution or statutes of Maine. These case types include adult criminal, juvenile, and child protective.<sup>1</sup>

In 2025, PDS focused its efforts on ameliorating Maine’s Sixth Amendment crisis, expanding the build-out of the employed public defender system, recruiting and retaining competent assigned counsel, and identifying cost-saving measures. Those efforts have been highly successful. The number of unrepresented individuals saw a steady decline, the first five public defender offices are fully operational, PDS received an increased number of assigned counsel applications and renewals than in recent years, and PDS made changes that have reduced costs. However, there is still much work to be done. With sufficient resources, like those that would be provided in this Supplemental Budget, PDS is confident that it will continue this progress.

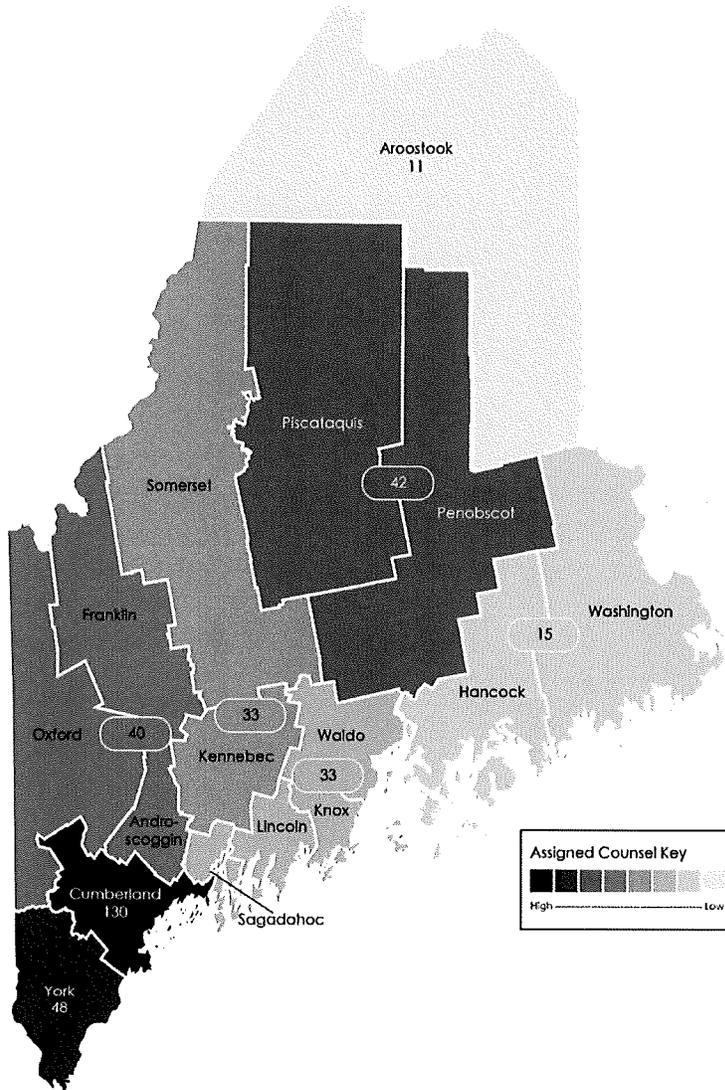
The overall vision of PDS is to create a stable, hybrid system of attorneys who are able to meet the demand for indigent legal services that the state is required to provide. To do this, PDS needs to establish a physical presence in each judicial region of the state and then staff each office to meet

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<sup>1</sup> In prior years, PDS also provided counsel in cases involving involuntary commitment to psychiatric hospitals, involuntary medication, weapons restrictions orders, and emancipation. However, as an austerity measure in August 2025, PDS began only expending funds on case types that were required by statute or Constitution. For these case types, the Judicial Branch was specified to be responsible for making payments. There is pending legislation to move these case types back to PDS, which is currently before the Judiciary Committee.

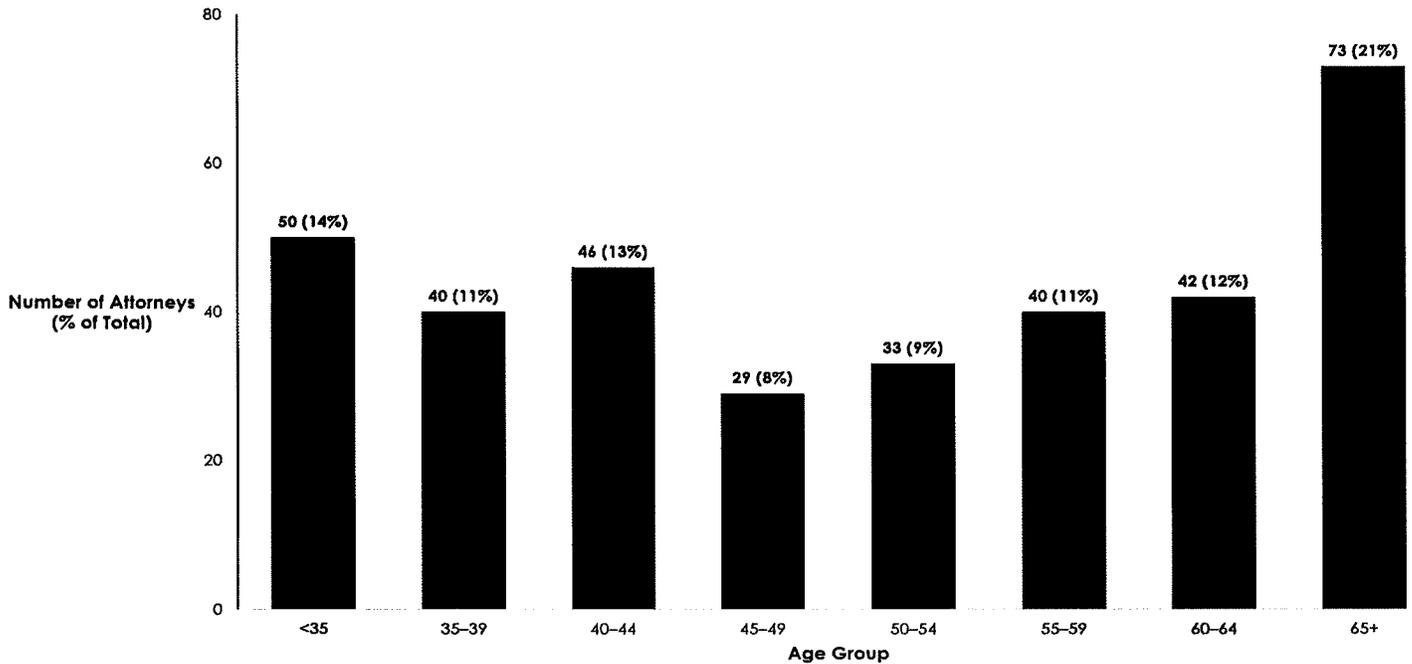
the requirements of that region. In areas where there are fewer assigned counsel, the public defender office staffing level will need to be increased. In areas where there are more assigned counsel, PDS will require fewer proportionate numbers of staff. Having a presence in every region will allow PDS to deploy resources where and how they are needed as the demand for services shifts. The chart below shows the number of assigned counsel by region in 2025.

**Number of Assigned Counsel by Geographic Regions**



In the long term, like other sectors, attorneys in Maine are aging. The median age of assigned counsel is 52 years. Attorneys aged 55 and older make up 44% of the roster, while only 14% are under 35. With comparatively fewer younger attorneys entering the system, the data suggests a potential vulnerability in long-term staffing capacity and succession planning, particularly as experienced attorneys retire or take on reduced caseloads. A benefit of PDS having employed public defenders is the ability to hire new attorneys and provide training and support, which may attract younger attorneys who are less willing or able to establish their own practices or find a firm that would support them doing this work.

## Assigned Counsel: Age Distribution



This bill would provide necessary funding for:

- In Part A, p. A-83, increased transcript costs;
- In Part A, p. A-105, five new positions for the Parents' Counsel Division (four assistant defenders and a paralegal) for FY27 and establishes a Cumberland County Public Defender Office with eleven positions, (a district defender, five assistant defenders, two paralegals, an investigator, a case manager, and an office associate); and
- In Part T, p. T-7 critical, one-time funding for FY26 and FY27 to fund the assigned counsel budget shortfall (\$12.3 million in FY26 and \$13 million for FY27).

### **Transcript Costs, Part A, p. A-85**

The cost of transcripts is rising, and this appropriation would give PDS an additional \$135,000 in each fiscal year to pay the costs of these transcription services. Transcripts are necessary to the provision of legal services. Transcript costs are controlled by an organization that the Judicial Branch has contracted with, which means we are unable to change transcription service providers or attempt to conduct any cost containment measures.

### **Positions for the Parents' Counsel Unit & Cumberland County Public Defender Office, Part A p. A-105:**

The backbone of the hybrid system is a network of PDS offices with at least one in each judicial region. These offices will serve as a hub for employed attorneys, both criminal defenders and

parents' counsel, to share infrastructure and meet the demand for indigent legal services. New employed attorneys will benefit from moving from law school into a structured environment adhering to best practices with stable jobs that allow them to gain experience and knowledge in a supportive environment. This will allow us to train the next generation of indigent legal service providers. Having experienced attorneys in these offices provides mentoring and guidance for newer attorneys as well as ensuring that PDS can staff any case that requires an attorney. This system will allow the assigned counsel to continue to do most of the legal work that exists, while ensuring that Maine can meet the Constitutional and statutory demands of supplying attorneys for all eligible parties, for all types of cases.

PDS used some recently approved positions to address the large unrepresented list in Cumberland County, but these attorneys are functioning without a dedicated supervisor and with insufficient support staff. Also, the office would benefit from an influx of positions for newer attorneys, allowing us to meet the needs in Cumberland County and so PDS can deploy resources where they are most needed. We would like language added to this initiative to allow us to put the staff attorney positions anywhere in the State, so we can adjust to meet current and future needs.

The demand for parents' attorneys is strong and there is a steady need for these attorneys across the state, particularly in the appellate realm. These positions would allow us to ensure parents get counsel in a timely manner and PDS would intend to dedicate some of the positions to staffing appellate cases.

#### **Shortfall Funding, Part T, p. T-7**

As detailed by the DAFS Commissioner, the supplemental budget proposes one-time language to change the use of the state's Budget Stabilization Fund (BSF) in order to fund certain affordability and emergency initiatives. The proposal, which encompasses all of Part T and the language Part T that begins on Page 40 of the language document. Our piece of T may be found on page T-7 and pages 47-48 of the language document. Commissioner Clark noted that the Budget Stabilization transfer language to provide funding for private attorneys and non-counsel vendors is not correct (General Fund Language Doc, Section T-18, page 47). It erroneously references the funding is for "...onetime needs for technology and compliance with new federal legislation, the One Big Beautiful Bill Act." It should have stated that the funding is "...to provide one-time funding to pay for private attorneys and non-counsel vendors who provide indigent legal services."

PDS will run out of funds to pay assigned counsel prior to the start of the fourth quarter of FY26 on or about April 1, 2026. Because assigned counsel bill in arrears, this means that we will not have money to pay the attorneys for work already performed. The impending shortfall is well known by assigned counsel and threatens the extraordinary progress PDS has made to increase attorney participation and reduce the unrepresented list. It will be difficult, if not impossible, to recruit and retain competent counsel if we ask them to work without pay for at least three months. Moreover, if this shortfall occurs and we are unable to pay counsel on time, it will exacerbate the budget issue because some assigned counsel have provided PDS with notice that they will charge PDS interest on late-paid vouchers.

There is a confluence of factors that have led to this shortfall. First, in 2023, the hourly rate for assigned counsel increased from \$80 to \$150. The hourly rate change was necessary to maintain attorney participation in the program and to attract attorneys back onto the rosters. This has been successful because PDS has seen an increase in new attorney applications and renewals by existing attorneys. However, the biennial budget was not sufficiently increased to account for the rate change. Second, PDS was de-appropriated \$10 million dollars across FY24 and FY25. That money would have been used to prevent most of the shortfall for FY26. Third, there is a backlog of felony cases in the court system, representing an increase of 59.9% over 2019 totals as of February 6, 2026. This represents a large increase in the number of pending cases with indigent legal representation and a comparable increase in the number of attorney hours paid by PDS. Finally, the uncounseled list, which has fallen from 1,053 cases in December of 2024 to 253 cases in December of 2025, then fell further to 148 cases on February 18, 2026. The reason those numbers have decreased is that those cases have been assigned to an attorney, who now needs to be paid for the hours they are working on those newly assigned cases. As that list comes down, the number of attorney hours that require payment increases.

**Conclusion:**

This supplemental budget proposal continues the investment that has been made in creating a long-term solution for the constitutional crisis that Maine has been experiencing by continuing to add employed attorneys for both criminal and parents' defense cases along with support staff positions. It provides critical funding to pay for the services that are being performed right now and avoids a budgetary crisis by funding the imminent shortfall that PDS will experience in about four weeks and avoids a repeat of that shortfall at the end of FY27. This budget is necessary to provide continued funding to allow PDS to meet constitutional and statutory requirements on behalf of the State. Left for future initiatives are public defender offices in York County; Midcoast counties; and for specialized appellate, post-conviction, and homicide units.

This concludes my testimony. I am happy to answer any questions you may have or gather any additional information that you may need.