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THE LOUISIANA Supreme Court recently delivered a dramatic decision -- and a valuable lesson to Virginia. Poor people facing criminal charges have a constitutional right to a state-provided lawyer, the court noted, but the legislature hasn't provided adequate funds to fulfill that right. The remedy: Judges should halt prosecutions in which defendants are not being provided adequate counsel.

Louisiana's system for funding indigent defense is perhaps the country's most bizarre. The bulk of money in each parish, or county, comes from court fees, in most cases local traffic enforcement. So some jurisdictions simply run out of money to pay attorneys. In the case before the state's supreme court, one parish wished to try two accused murderers but couldn't drum up money to pay a lawyer to represent them.

The high court took two key steps. First, it overturned a lower court order tapping a separate local fund for the money. Figuring out how to fund indigent defense, the court rightly ruled, is a legislative, not a judicial, duty. But courts are responsible for "ensur[ing] that the criminal justice system is functioning in a constitutional manner." So the court said that if the state doesn't find some way to ensure payment of lawyers for the poor, it can't put the poor on trial.

Virginia should take note, since it too has abdicated its responsibility to provide reasonable counsel to defendants, a constitutional obligation the U.S. Supreme Court articulated more than four decades ago. The problem in Virginia is not that funds run out but that payments to court-appointed lawyers are capped at levels so absurdly low as to be inconsistent with a constitutionally adequate defense in any case that is the least bit complicated. A lawyer facing a potentially lengthy trial for a pittance has an overwhelming interest in a quick guilty plea, not an aggressive defense. The Virginia courts cannot order the legislature to lift the fee caps. They could, however, bar prosecutions when the state refuses to pay adequately for an indigent's defense.