



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

P.O. Box 17642
Portland, ME 04112-8642
(207) 523-9869
mainemacdl@gmail.com

May 8, 2023

**2022-2023
OFFICERS**

President
Amber L. Tucker

President-Elect
Jeremy Pratt

Vice President
Matthew D. Morgan

Treasurer
Walter F. McKee

Secretary
Sarah E. Branch

**2022-2023
DIRECTORS**

Dylan R. Boyd
Andrew Edwards
Devens Hamlen
Scott F. Hess
James Mason
Harris Mattson
Joseph Mekonis
Stacey D. Neumann
Neil Prendergast
Luke S. Rioux
Adam P. Sherman
Adam Swanson
Robert T. Van Horn

**EXECUTIVE
DIRECTOR**

Tina Heather Nadeau

Senator Anne Carney, Chair
Representative Matt Moonen, Chair
Committee on Judiciary
100 State House Station, Room 438
Augusta, ME 04333

RE: LD 1865: An Act Establishing the Maine Sentencing Guidelines Commission

Dear Senator Carney, Representative Moonen, and Members of the Judiciary Committee:

MACDL is submitting this testimony neither in support or opposed to LD 1865. We want a seat at the table if one is built, but we are not sure of the goals of this bill or the proposals to achieve those goals. As we have testified previously, Maine's defense bar is of course invested in the improvement of sentencing procedures and policies on behalf of our clients and in the interest of justice.

We are concerned about the development of sentencing guidelines by the Legislature. Federal sentencing guidelines—which have obliterated the discretion of federal judges over the past four decades—have led to the explosion of lengthy terms of incarceration to federal prison, without accounting for the just individualization of sentences that is necessary to ensure justice. That is not what Maine needs.

The sentencing procedures Maine's judges employ in sentencing people convicted of felonies have been in place for decades. There is nothing to indicate that the procedures for sentencing are so broken as to require the Legislature to remove decision-making from judges or at least bind judges' hands to imposing a sentence tailored to a particular person. Equity in sentencing does not mean "everyone gets the same." The current sentencing practices recognize this reality. I am concerned that guidelines developed by consensus would not.

The proposed membership and size of this Commission is also unwieldy and does not account for the legal and technical expertise needed to craft such guidelines. Of course, a wide variety of advocacy groups and constituency groups should be consulted, but there is a sincere concern that this proposed group is still too law-enforcement and "victim" centered—leaving our clients' and their rights behind. No doubt there are good intentions behind this proposal, but the unintended consequences of this bill could be disastrous for the thousands of Mainers who stand accused of felony crimes each year.

Thank you for your consideration, for your attention to this matter, and for allowing me to share this testimony with you all today.

Sincerely,

Tina Heather Nadeau, Esq.
MACDL Executive Director