



# Administrative Office of the Courts

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## **Judicial Branch testimony against LD 1789, An Act to Remove all Marijuana-related Provisions from the Maine Criminal Code and Expunge All Convictions Involving Marijuana:**

Senator Beebe-Center, Representative Salisbury, members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Julie Finn and I represent the Judicial Branch. I would like to provide additional information on this bill.

Section 29 of the bill requires the Department of Public Safety (DPS) to review all records possessed by “any state criminal justice” agency that contain criminal history record information. We read this language to include Judicial Branch files and records. After review, the bill requires DPS to expunge all records that relate to criminal convictions and civil violations for conduct involving marijuana.

While it may seem logical to “expunge” these prior convictions given that the conduct is now legal, unfortunately, it would be extremely difficult to effectuate this bill. There are several reasons for this. First, a lengthy legal analysis would be needed. We would have to review the current statutes to determine exactly what conduct is now permitted and compare with all prior versions of the drug laws. As you know, statutes are frequently revised as times change to reflect community values. Marijuana was first made illegal approximately 100 years ago so there would be many statutes to examine. And the bill’s current language is unclear just how far back we would need to go.

The Maine Judicial Information System, or MEJIS, is the case management tool that keeps all Judicial Branch case information including docket sheets, parties and attorneys, matters pending and disposed, scheduling and notices, fines due and paid, etc. MEJIS came online in 2001. Thus, for cases after 2001, once it was determined which offenses describe conduct now legal under Title 28-B, Chapter 3, and MEJIS identified the docket numbers, all such files would have to be pulled. A clerk would have to enter a copy of the law or court order that seals the conviction, both in MEJIS and in the paper file, and for criminal convictions, transmit the sealing

order to the State Bureau of Identification (“SBI”). It should be noted that civil adjudications are not sent to SBI. The only record of a civil adjudication is at the individual courthouse.

Prior to 2001, our files were completely paper based. For cases prior to MEJIS implementation, there is no computerized way to search for marijuana convictions. Those cases would require a hand search in leather-bound docket books. Moreover, while the docket books are organized alphabetically, it is only by the defendant’s name. Clerks would have to review every page in each year’s docket book to find any criminal or civil marijuana case. This is a massive undertaking and without the addition of personnel specifically assigned to this task, it would be impossible to accomplish the bill’s goals.

Even the gathering of files would be burdensome. Files are kept in many different places - courthouses, storage facilities, state archives – and some have been destroyed pursuant to the Judicial Branch’s retention schedule.

The requirements of section 29 of this bill cannot be achieved within reasonable time lines or current budgets. For these reasons, the Judicial Branch must oppose the passage of LD 1789.

Thank you for your time.