

STATE OF MAINE

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MAINE PROSECUTORS ASSOCIATION **SHIRA BURNS, EXECUTIVE DIRECTOR**

“An Act to Implement a Statewide Public Health Response to Substance Use
and Amend the Laws Governing Controlled Substances”
Before the Committee on Health and Human Services
Public Hearing Date: January 17, 2024
Testimony in Opposition of LD 1975

Senator Baldacci, Representative Meyer and members of the Committee on Health and Human Services. My name is Shira Burns and I represent the Maine Prosecutors Association. I am here to testify in opposition of LD 1975 in regard to section B only. The Maine Prosecutors Association does not take a position on Section A, but does support efforts to expand services in our community for people that use substances.

Section B eliminates the crime of unlawful possession of scheduled drugs in its entirety, no matter what the drug is or the amount possessed. Often this is a crime charged in conjunction with other criminal activity. The crime of unlawful possession of schedule drugs is most commonly used as a drop down to a more serious crime during resolution of a case. For instance, a defendant may be charged with unlawful trafficking in scheduled drugs, but will be plead to the misdemeanor crime of unlawful possession of scheduled drugs. This bill prevents the ability to have the drop down crime available to avoid Class B and C level convictions.

Deferred dispositions are the most common used prosecutorial tool in resolving the crime of unlawful possession of scheduled drugs. The legislature has even codified it in 17-A M.R.S. § 1902(5) that a deferred disposition is the preferred disposition of a scheduled W drug. This means a defendant would plead guilty upfront to the crime of unlawful possession of scheduled drugs, be put on a set of conditions usually including to engage in substance use counseling, and at the end of the deferred the guilty plea would be withdrawn and the case dismissed.

If this bill is enacted, using drugs in public with the community watching, including children, would not be illegal. Public safety is at risk. For these reasons, the Maine Prosecutors Association is in opposition of LD 1975 in regard to section B of the bill.