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April 11, 2025

Senator Anne Beebe-Center, Chair
Representative Tavis Hasenfus, Chair
Committee on Criminal Justice and Public Safety
5 State House Station, Room 436
Augusta, ME 04333

RE: LD 1288: An Act to Amend Certain Provisions of Maine's Drug Laws Regarding Heroin, Fentanyl, and Cocaine

Dear Senator Beebe-Center, Representative Hasenfus, and Members of the Committee on Criminal Justice and Public Safety:

The Maine Association of Criminal Defense Lawyers is a non-profit organization that has nearly 300 member attorneys who practice criminal defense across the state. Since 1992, MACDL has advocated for its members and the people we are fortunate to represent in courtrooms throughout Maine and at the State House.

MACDL presents this testimony in **opposition** to LD 1288.

This bill seeks to recreate the “bad old days” when mere possession of small amounts of certain drugs could lead to trafficking or furnishing criminal charges and reinstitutes the problematic and historically racist “crack disparity”—punishing people more harshly for smaller amounts of crack cocaine than powder cocaine. The 130th Legislature in 2021 just recently addressed these issues and [passed thoughtful legislation](#) that addressed the harm created by the old laws. Why would we undo that work now?

The current laws require the State’s prosecutors to prove any trafficking or furnishing charge with more evidence beyond the mere possession of the drug. There is nothing to suggest that this change in Legislation has impacted public safety negatively or made it impossible for prosecutors to secure convictions for trafficking and furnishing—they just need more evidence than the drugs alone to do it. I don’t think this Committee will hear from prosecutors that they need the old laws reinstated to do their jobs effectively.

Many of the drug amounts referenced in this proposed bill are amounts that are typical of those who are addicted to drugs and who possess those drugs merely for personal use—as opposed to selling them for profit. This bill would also allow dangerous “permissible inferences” that people who possess smaller amounts of drugs must in fact be trafficking those drugs. For example, a paperclip weighs one gram. What this bill would allow is for possession of even one-fifth of a gram (200 milligrams/0.20 grams) of any substance containing cocaine, fentanyl, etc., would raise that inference for trafficking or furnishing—which is madness. These inferences are troubling and, when presented to a jury, can lead to a jury convicting a defendant for felony trafficking offenses when that same defendant merely possessed the drug to support their addiction. This is wrong.

The "crack" disparity was also something that was addressed by the 129th Legislature. It makes no scientific or practical sense to punish people more harshly for possessing small amounts of crack cocaine than they would otherwise be punished for possessing larger amounts of powder cocaine. When the War on Drugs ramped up in the mid-1980s, this was a blatantly prejudicial and simply wrong way to differentiate between people who possessed drugs—white defendants tended to use or possess more expensive powder cocaine; Black defendants tended to use or possess cheaper crack cocaine—and were subject to much harsher treatment because of it. Federally, the Fair Sentencing Acts of 2010 and 2018 eliminated sentencing disparities between powder and crack cocaine and even applied that elimination reactively given the serious harm from these misguided practices, particularly in communities of color. We should leave such discriminatory drug laws in the wastebin of history—yet another reason to reject this proposed legislation.

The felony prosecution of people addicted to substances for the possession of drugs serves no legitimate public interest. People who are addicted to drugs should be given the benefit of diversionary programs that give them the treatment opportunities they need, but also the opportunity to avoid felony convictions that will forever affect their future employment, housing, and life prospects.

Too many bills each session simply try to undo the hard work of the previous Legislature—the 131st Legislature fought back an identical effort with [LD 1509 in 2023](#). These fights are repetitive and disheartening. Unraveling all the good progress done so recently, for such important reasons, would set a dangerous precedent, and this Committee should push back on such efforts and vote **ought not to pass** on LD 1288.

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

Sincerely,



Tina H. Nadeau, Esq.
MACDL Executive Director