



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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Senator Anne Carney, Chair
Representative Amy Kuhn, Chair
Joint Committee on Judiciary
5 State House Station, Room 438
Augusta, ME 04333

RE: LD 1651: An Act to Remove the Term “Alleged” When Referring to Victims of Sexual Assault in the Maine Revised Statutes

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

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 1651.

Although we can understand why certain advocacy organizations, prosecutors, and legislators may understand the word “alleged” to mean “not real” or “made up”—and want to validate the stories and experiences of alleged victims by removing that term—that is not what the term “alleged” means in the statutes at issue here today. These statutes live in the chapter of Title 5 concerning the “Victims’ Compensation Fund.” Notably, that chapter itself does not define “victim.”

Pursuant to [Title 17-A, section 2101](#), the definitional statute under Chapter 75 “Victims’ Rights,” a “victim” is defined (rather circularly) as “a person who is the victim of a crime; and [t]he immediate family of a victim of a crime if: (1) the underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or (2) [d]ue to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.” For there to be a “victim,” a “crime” must have occurred. Until a case is resolved, we simply do not know if a crime has occurred or been proven beyond a reasonable doubt.

The statutes at issue in the current bill utilize the term “alleged victims” because unless and until a person is convicted of a crime, there is no adjudication that determines the status of these “alleged victims” as established victims. “Victims” is a conclusory term: “alleged victim” is the appropriate term, particularly in statutes such as these, that refer to the payment of sexual forensic examinations and other “up

front” costs that occur at the very beginning of any investigation or subsequent prosecution.

The truth is, when such examinations are performed or testing completed, we often have very little idea of what happened that led to someone coming into the hospital. Sometimes, these examinations are done when alleged victims are unconscious—and cannot even consent to the examinations themselves. We do not know, at the point of evidence collection or storage, whether any crime at all occurred—we most certainly do not know if a person later accused of a crime will eventually be convicted.

We want alleged victims to be entitled to compensation and to have medical costs covered immediately—we do not want to have to have people wait for a final adjudication to hinge those payments upon. There is some fear, not unfounded, that if we were to strike the word “alleged” from these statutes, then people whose alleged attackers are ultimately acquitted or their cases dismissed would not be entitled to have payments made for their examinations and other reimbursements—because they are not adjudicated “victims.” Given how difficult it is to secure convictions in cases involving sexual assault, this could potentially exclude the majority of people who have been subjected to these examinations and testing.

This Committee, as well as others, has done admirable work during this session and in recent sessions regarding the rights of alleged victims and the preservation of forensic examination kits, and much more. This proposal is semantic overreach.

This bill, while well-intentioned, is muddying waters that do not need it. When a forensic examination is completed, when sexual assault kits are transported and stored, when drug and alcohol testing of an alleged victim is done—all these events have been clearly understood with the reference remaining “alleged victim” for so long. This bill is simply not necessary—the real fights to be had are in funding support services and other initiatives that would do much more to protect people impacted by sexual assault.

For these reasons, we ask that this Committee vote **ought not to pass** on LD 1651.

Thank you for your consideration, for your attention to these important matters, and for allowing me to present this testimony on this bill to you all today.

Sincerely,



Tina Heather Nadeau, Esq.
MACDL Executive Director