



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 1823: An Act to Promote Transparency in the Criminal Justice System by Requiring the Posting of Criminal Case Decisions

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 **neither for nor against** LD 1823.

As defense attorneys, we see with regularity how our clients' names and the unproven allegations against them are broadcast in news publications and social media seemingly instantaneously. For the rest of their lives, no matter what the result of the charges against them, the stain of the accusation lives on. Their digital footprint is forever altered—rarely for the good.

It is highly unlikely, unless a very public resolution like an acquittal following a high-profile trial, for there to be any follow-up coverage of our clients' charges—whether they were dismissed for lack of proof, whether the alleged victim recanted their allegations, whether a constitutional violation by law enforcement led to the suppression of material evidence, whether a judge or jury handed down a “not guilty” verdict following trial.

For those reasons, we support the spirit of this bill. The public at large does not have complete or accurate information about how criminal charges are resolved in the state of Maine. This bill seeks to address that.

We do have concerns, however, about whether dismissals and other resolutions that could be confidential pursuant to the Criminal History and Records Information Act would be made public by this bill—in violation of that law.

Our understanding is that after many years of delays, court records will soon be digitized across the state, which would make the collection of data regarding case

resolution broadly and in specific cases much more easily accessible. What would be publicly accessible in those digital files would already be culled by controlling law to protect confidential information. It may be prudent to await the final roll-out of these digital systems to determine whether the information accessible with those systems addresses the concerns that led to this proposal.

There may also be some benefit to exploring the way the District Attorneys' Offices across the State, as well as the Attorney General's Office, process criminal cases—aggregating data about the decision-making process of the state's prosecutors could prove informative and help drive discussions regarding case backlogs and lists of unrepresented persons throughout the state. Such data would not violate any confidentiality provisions and could be, if there was either political will or a legislative directive, collected and presented by each prosecuting office.

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

Sincerely,

A handwritten signature in blue ink, reading "Tina Heather Nadeau". The signature is fluid and cursive, with a large loop at the end.

Tina Heather Nadeau, Esq.
MACDL Executive Director