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Testimony in Support of LD 1492: An Act To Reform Drug Sentencing Laws

May 13th, 2019

Senator Deschambault, Representative Warren, and honorable members of the Criminal Justice and Public Safety Committee:

My name is Taryn Hallweaver. I am the Political and Legislative Director for the Maine People's Alliance. MPA's 32,000 members stretch from Kittery to Fort Kent. We work to engage everyday people in the political process, because we believe our democracy will make the biggest difference in Mainers' lives when as many people participate as possible. Our citizen outreach team holds hundreds of face-to-face conversations with members of the public each night about critical issues facing our state. Each week, we hear from Mainers from all walks of life about the opioid epidemic's devastating impact on their families and communities.

It's become clear we're facing a disconnect between the toll being taken on our state and the commensurate action being taken to address the crisis. With that in mind, I am pleased today offer testimony in support of LD 1492: An Act to Reform Drug Sentencing Laws. Our organization is a member of the Coalition for Sensible Drug Policy, and our coalition supports this bill as a critical piece of the puzzle when it comes to solving the opioid epidemic.

It's almost become cliché to say "we can't arrest our way out of this problem." We've heard this refrain time and time again in the Health and Human Services Committee during public hearings on bills that take a harm reduction approach and treat substance use disorder as a public health problem, which it certainly is. The other side of that coin, though –or at the expense of mixing metaphors, where the rubber hits the road –is our policies on the books that dictate who is arrested and for what and how it will impact the rest of their life.

This bill starts with the understanding that substance use disorder is a disease, not a crime, and adjusts criminal penalties to reflect that we should not be felonizing people for their suffering from this disease. It does three things:

1. Removes **criminal penalties for simple possession of drugs**. We should not be giving felonies to people actively struggling with substance use disorder. The bill would remove criminal penalties for the possession of 3.5 grams or less of heroin, the amount that somebody who's actively using might be carrying for a week's worth of personal use. Several states have already amended drug laws to re-classify smaller drug offenses as less severe, opening up pathways to recovery that would otherwise be restricted by punitive measures.¹

¹ Elderbroom, B & Durnan, J. (2018). Reclassified: State Drug Law Reform to Reduce Felony Convictions and Increase Second Chances. Retrieved from:
https://www.urban.org/sites/default/files/publication/99077/reclassified_state_drug_law_reforms_to_reduce_felony_convictions_and_increase_second_chances.pdf

2. **Eliminates the presumption of trafficking based solely on the weight or amount of drugs a person possesses.** Most of the drug weights in our statutes are low enough that heavy users are being charged with trafficking. Our current threshold for trafficking—2 grams of fentanyl or heroin—does not reflect the reality of drug use. Two grams is much less than a person with intense substance use disorder might have on them at any one time. This bill tries to make our trafficking laws reflect what real trafficking looks like, and what it doesn't. If we are truly focused on going after traffickers, we should base the judgment on more than simply the amount of drugs possessed.
3. **Adjusts some of our drug laws to encourage a public health approach to drugs.** This bill would remove some of the crimes that would promote harm reduction. We know that harm reduction works.² Approaching individuals from a humanistic, educational, and person-centered approach leads to the best outcomes for long term recovery. Without these resources, recovery becomes all the more difficult and recidivism increases.³

Using our criminal justice system to address substance use disorder means furthering the shame, stigma, isolation, and long-lasting impacts of the disease for those individuals. With a felony drug record, accessing employment, public housing, voting rights, public assistance and other needed resources becomes extremely challenging.

Beyond impacts on the individual, we know that setting people up for success impacts their families, communities, and our whole state. It's high-time for this bill. The rate of women's incarceration in Maine has grown exponentially over the past decade, and most of it is due to our drug laws. About half of the women at Maine Correctional Center in Windham are there for drugs. This bill would stabilize our overfull jails that are currently being used as detox facilities and mental health facilities and allow resources to be diverted to treatment, recovery supports, and other public health initiatives.

One final note: I would be remiss in omitting the fact that after decades of a War on Drugs that has incarcerated millions of black and brown people across the country (with Maine being no exception to massively disproportionate rates of harm by the criminal justice system), it has taken a drug crisis that has impacted many primarily-white communities to prompt a major shift in response towards compassion and care.⁴ The cost has been the lives of countless people of color, their families, and their communities. We need a public approach towards the opioid epidemic, *and* we need justice for the individuals and families who because of their race weren't afforded the same.

We urge the committee to vote *ought to pass* on LD 1492.

Thank you for your time,

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² Ritter, A (2009). *A review of the efficacy and effectiveness of harm reduction strategies for alcohol, tobacco and illicit drugs* Retrieved from: <https://www.tandfonline.com/doi/abs/10.1080/09595230600944529>

³ Drug Policy Alliance (2019). *Barriers to Re-Entry for Convicted Drug Offenders*. Retrieved from: <http://philadelphia.pa.networkofcare.org/ps/library/article.aspx?id=1830>

⁴ <https://www.vox.com/identities/2017/4/4/15098746/opioid-heroin-epidemic-race>