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**MAINE PROSECUTORS ASSOCIATION
JACQUELINE SARTORIS, DISTRICT ATTORNEY, D2
"An Act to Provide Funding for Prosecutor Positions"
Before the Joint Standing Committee on Judiciary
Public Hearing Date: March 28, 2023
Testimony in Support of LD 186**

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary. My name is Jacqueline Sartoris, I am the District Attorney for District 2, which includes Portland and 27 diverse Cumberland County communities comprising a quarter of Maine's total population. I am here to testify in support of LD 186, because my prosecutors are persistently carrying an unsustainable workload, one which challenges our ethical obligations to both defendants and victims of crime, and which erodes my ability to retain dedicated and highly trained professionals.

I have been a prosecutor for 5 years next month, first as an ADA in Kennebec County, District 4, and just since January as the elected DA in my home county. The differences in caseload and workload I've seen just over those 5 years, and since the start of the pandemic, are stark. I can honestly say that my D2 prosecutors are now approaching burnout at a rate that deeply concerns me. Many of them have offered brief statements which are included in MPA President Maeghan Maloney's testimony.

For workload, anyone with a prior history as a prosecutor would be hard put to sift through the volume of evidence we must consider prior to charging many if not most of our cases. This is a substantial change just over the 5 years I have been a prosecutor, largely due to the enormous increase in video evidence. Each case now takes significantly more time, not just since the 1990's, when a police report and a mug shot would often be the entirety of the evidence reviewed, but even since 2018, as Ring cameras, body and dash cams, witness cell phone, text messages, photos, store videos, etc, comprises the electronic evidence we must review. When everyone has a cell phone, we need to speed-review hours of video evidence for many cases. I strongly support the results -- the evidence which girds our cases is unequivocally better. But we have largely ignored the increase in burden on prosecutors.

In terms of caseload, my prosecutors are carrying an average of 150% of the caseload they shouldered prior to the pandemic. We were already well over the suggested caseload recommended by the American Bar Association for Prosecutors. This is simply not sustainable. My prosecutors are routinely working nights and weekends just to keep up. We always expect to go above and beyond in the weeks leading up to trials, but this has become the normative practice even without trial prep.

Prosecuting has always been a high stress profession, which our State prosecutors overwhelmingly welcome. But my ADAs report that they now feel guilty about taking earned leave time to take a break for health or vacation, because they know the unsustainable burden placed on their colleagues will become even greater. They really need their earned breaks for their own mental health. This is inherently trauma-inducing work. We review very verbally and physically violent, sometimes bloody, encounters, featuring often inebriated and angry citizens cursing at law enforcement, photos of heart-wrenching injuries to victims, statements of children and other victims who have experienced all manner of violence. Against this backdrop of trauma, we are professionally required to maintain an analytical distance, assessing provability and weighing our options for plea offers and trial strategy.

Significantly, unlike defense attorneys, who can simply decide to reduce their caseload by taking fewer criminal matters, prosecutors must always take the caseload we get. Our only choice is to continue to drink from the firehose, even to the point of personal harm, or walk away from our increasingly unsustainable profession.

Many of my colleagues have told me that they have indeed begun to consider options other than prosecuting, which they do not want to do, but feel compelled to in light of the numerous factors that have made this work such a personal and emotional drain. In addition to the recently unsustainable caseload and workload, those factors include: consistently lower pay compared to other comparable legal work; no light at the end of the caseload Covid tunnel; the actual loss of a prosecutor in my District, leading to an incrementally significant increase in caseload in the midst of the pandemic; extreme increases in court appearances, directed by our Judiciary partners, intended to address the pandemic caseload, which have removed most of our time to actually review and make progress on active and referred cases.

As stated above, in D2, my prosecutors are dealing with an additional 20 appearances a month, set by the judiciary to try to keep up with the pandemic backlog. Our backlog numbers are about the same as the rest of the state, but our increased court time has now removed most of our actual work time to review and prep cases. While I respect that this change is a sincere effort to reduce the backlog, it is another significant burden which has resulted in prosecutors stating that they can't invest the time they believe is required to meet their high ethical obligations in careful consideration of their cases, the needs of the defendants, and the interest of justice. We are more than court appearances, yet at a time of increased cases, court appearances are dominating our weekday time.

Adding these new prosecutors to handle the treatment courts will not solve all of these issues. In fact, there is far greater structural work on top of this that needs to occur, but what I have found in my district is that even

getting the time of the real experts who should inform our restructuring - my prosecutors – is virtually impossible given our current work level. It is like changing the tires on a moving vehicle, and asking my prosecutors to add strategy meetings on top of their court appearances and case work feels like far too much. They are grabbing lunch to spend an hour here and there to work on increased diversion and realigning our prosecution policies, which I've found are largely unchanged for over two decades. Do I need their time to do this work well? Absolutely and critically. Is it fair to ask them to do yet more? No.

For these reasons, I urge your support of LD 186.

I am always happy to take any questions or provide additional information, and thank you so much for your time and concern for the important work we do.