



ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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January 17, 2024

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Committee on Criminal Justice & Public Safety
100 State House Station Room 436

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Augusta, ME 04330

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RE: LD 2046 -- An Act to Continue Allowing the Department of
Corrections to Accept Placement of Certain Defendants Found
Incompetent to Stand Trial

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

MACDL opposes LD 2046.

EXECUTIVE DIRECTOR

Tina Heather Nadeau

This bill removes the sunset provision and makes permanent Title
34-A §3069-A. The value of a sunset provision is it gives an
opportunity for reflection and for seeing the real world implications of
a statute. It allows for all stakeholders to be heard and for corrections
to be made to a flawed statute.

Title 34-A §3069-A is an extremely flawed statute and by removing the
sunset provision it will make those flaws permanent. Title 34-A §3069 is
procedurally flawed and substantively flawed. As an illustrative example, the statute
makes reference to a major mental illness yet nowhere in the statute does it define a
major mental illness nor is a major mental illness defined in the Diagnostic and
Statistical Manual of Mental Disorder commonly referred to as DSM-5. In other
words, a key term has no statutory definition, no common meaning, and therefore
will be at the whim of a judge to define.

Title 34-A §3069-A governs what will happen to individuals who have already
been found incompetent to stand trial, they are among the most vulnerable

individuals in our criminal justice system. There is no need to repeal this sunset provision but instead form a committee or have hearings involving all stakeholders to better understand what has worked and what has not worked in Title 34-A §3069-A. The goal should not be to have any law, the goal should be to have a fair and clear law. Title 34-A §3069-A as currently constituted is neither fair nor clear.

This bill should be voted Ought Not to Pass.

Thank you for the opportunity to address this Committee on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to be 'Jeremy Pratt', written over a printed name.

Jeremy Pratt, Esq.
President, MACDL