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MAINE PROSECUTORS ASSOCIATION
MAEGHAN MALONEY, PRESIDENT

“An Act to Remove the Age-related Statutory Prerequisite for
Sealing Criminal History Record Information”

“An Act to Expand the List of Crimes Eligible for a Post-Judgment Motion to Seal Criminal
History Record Information to Include Convictions for Possession and Cultivation of Marijuana”

Before the Joint Standing Committee on Judiciary
Public Hearing Date: March 15, 2024
Testimony in Support of LD 2218 and LD 2236

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary. My name is Maeghan Maloney, I am the District Attorney of Kennebec and Somerset Counties and the President of the Maine Prosecutors Association. I am here to testify in support of LD 2218 and LD 2236.

I represented the Maine Prosecutors Association on the Criminal Records Review Committee and voted in favor of these recommendations.

First, in regard to LD 2218, the bill expands the number of people that can request to have their class E criminal conviction sealed by taking out the requirement that the person shall be between the age of 18 and 28 at the time of the commission of the crime. We appreciate the first step the legislature took in 2021 recognizing the lack of brain development for those under 28 years of age and giving the criminal justice system a chance to work with the law under these parameters. Now, in 2024, we as a criminal justice system are ready to expand on that law and support the sealing of class E crimes for people that have met the other eligibility requirements in the statute.

As prosecutors we recognize the change in the criminal justice system that has happened over the last decade. In fiscal year 2015, there were 64,643¹ criminal and civil violations filed by prosecutors statewide. In fiscal year 2023, that number was reduced to 42,164² meaning prosecutors filed 22,479 less cases than 8 years ago. People that were convicted of certain class E crimes in 2015 probably would not be charged today. The expansion of this law gives those who were convicted in the past and continued to stay out of the criminal justice system a chance to seal their conviction. We support those efforts.

¹ <https://www.courts.maine.gov/about/reports/ar2019.pdf>

² <https://www.courts.maine.gov/about/reports/ar2023.pdf>

Second, in regard to LD 2236, the Maine Prosecutors Association supports the expansion of eligible criminal convictions with the caveat that it be limited to conduct that is no longer criminal. The best example of this is the reference in the bill to seal a conviction for 17-A M.R.S. § 1105-D(1)(C)(4). This law prohibits a person to “enlist or solicit the aid of or conspires with a child who is in fact less than 18 years of age to cultivate marijuana and the person grows or cultivates five or fewer plants.” The home cultivation of cannabis for personal adult use, pursuant to 28-B M.R.S. § 1502, requires that reasonable precautions are taken to prevent unauthorized access by a person under 21 years of age. The proposed bill as drafted does not make sense in allowing convictions only prior to January 30, 2017, the effective date of Maine’s first adult use cannabis laws, if it includes conduct that is still illegal. The Maine Prosecutors Association agrees that if the conduct would now be legal pursuant to enactment of our adult use cannabis programs, the crimes should be eligible to seal.

For these reasons, the Maine Prosecutors Association is in support of LD 2218 and LD 2236 for conduct that is now legal.