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LD 340: An Act Regarding Speedy Trials

Testimony of Rep. Matt Moonen, Portland
March 3, 2025

Good afternoon, Senator Carney, Representative Kuhn, and honorable members of the Joint Standing Committee on Judiciary. I am here today to present LD 340: An Act Regarding Speedy Trials, and to ask for your support.

The 6th Amendment to the US Constitution reads as follows:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

In recent years, this committee has been very focused on efforts to fulfill that last clause in the 6th Amendment, which obligates us to provide an attorney to those who can't afford one, and rightly so. But I would argue that we are consistently failing to meet our obligation in the first clause: providing for a speedy trial.

The right to a speedy trial is in our constitution because our nation's founders recognized the fundamental harms caused by long delays awaiting trial, including:

- harms that come with long incarceration and loss of liberty - breakdown of families, ability to support self, self-worth and self-determination;
- anxiety/reputational harm of unresolved charges, even if not incarcerated;
- impairment of ability to present defense, including fading of witness memories;
- impairment of prosecution due to passage of time, which can impact their ability to present their case; and

- pain and uncertainty for victims, who must wait an indeterminable amount of time for the resolution of the case.

The Maine Constitution mirrors the federal constitution by guaranteeing that everyone accused of a crime will “have a speedy, public and impartial trial.” Unfortunately, the reality is that this is a right on paper but not in practice because until recently our state courts had not found a violation of the speedy trial right since 1960. In fact, our courts have found delays of even multiple years did not violate the speedy trial right. This is likely because the constitutional right to a speedy trial has no specific or enforceable timelines for trial. As a result, no one is sure exactly what “speedy” means, which makes it hard to prove that the state is failing to provide for a speedy trial.

In order to make sure this constitutional right is more than just words, we need to pass a statute that makes it real. The federal government has done this by enacting the federal Speedy Trial Act. 41 other states have also enacted their own state speedy trial acts, which of course means that Maine is an outlier as one of just 9 states with no statute defining what constitutes a speedy trial. The Maine Supreme Judicial Court invited the legislature to do just that in its 2023 decision in *Winchester v. State of Maine*. We should take action and provide for enforceable timelines, specific exceptions, and bright-line rules for prosecutors and defendants to follow.

The specifics of this bill are based on the best features of bills from other states, as well as the federal speedy trial law. This bill is also the product of significant work during the 131st Legislature, when I originally introduced a bill on this topic, and incorporates all of the compromises made to address stakeholder concerns:

- The Chief Justice of the Maine Supreme Judicial Court took the original bill that I introduced last session and rewrote it in a way that would work for the Judicial Branch.
- The AG’s office expressed concerns last year about the time it can take to prosecute murder, and the bill before you has a longer timeline for prosecuting the most serious offenses, murder and Class A crimes, than any other state in the country with a speedy trial law.
- The prosecutors proposed many language changes, and the bill before you reflects the agreement we were able to reach on most, but not all, of their suggestions.
- The Maine Coalition to End Domestic Violence weighed in and we included their proposed edits to ensure victim participation remains intact in the legal process.
- The Criminal Law Advisory Commission weighed in on the concept last session and the bill before you reflects changes based on CLAC’s feedback.

- The Maine Association of Criminal Defense Lawyers suggested some clarifying language that we incorporated, though I understand they wish for other changes.

You may hear a lot today about the timelines and remedies suggested in this bill. For the most serious offenses, murder and Class A crimes, trial must commence within two years. As I mentioned, this is longer than any other state with a speedy trial law allows. For all other levels of crime, the bill sets out three separate dates at which the timeline will change, to give stakeholders the chance to gradually ramp up to a final timeline. For those charged with a Class B or C crime, they must be brought to trial within 15 months of arraignment starting on January 1, 2027, within 12 months starting January 1, 2029, and within 9 months starting January 1, 2031. For those charged with Class D and E crimes, often called misdemeanors, trial must commence within 12 months of arraignment starting January 1, 2027, within 9 months starting January 1, 2029, and within 6 months starting January 1, 2031. The purpose of these timelines is to ensure that the government does not delay trial, but the bill also recognizes that a defendant may seek delays in order to prepare their defense and does not count that time against the government.

Finally, I want to address what might be at the top of mind for many of us, which is how to deal with something like this while courts are still facing a backlog of cases. I am hopeful that the additional resources we provided in last session's biennial and supplemental budgets will help, but I would also argue that the backlog is exactly why we should be legislating on this issue.

People in Maine are waiting years to go to trial, and that is unfair, unconstitutional, and unacceptable. The State bears the responsibility of bringing the people it charges to trial speedily, and if it can't do that it has to re-prioritize and reallocate resources. That could mean exercising prosecutorial discretion differently, or it could mean putting more resources into the prosecution, the courts, and criminal defense. But it cannot mean forcing people accused of crimes to wait years until they're adjudicated.

A speedy trial act with concrete timelines will help with the backlog. Prosecutors, defense attorneys, and the courts will know the required timelines for trial, will know what kinds of delays are excusable, and will know the remedy for not meeting those deadlines. This will incentivize courts and prosecutors to prioritize and devote resources to those cases that must be moved, and ultimately might result in the dismissal of lower-level cases that are not prioritized. You may hear from prosecutors who would be unhappy about that, but I would point you to Justice Souter's opinion in *Doggett v. United States*, which explained that the government's "persistent neglect in concluding a criminal prosecution indicates an uncommonly feeble interest in bringing an accused to justice."

As things stand now, people are waiting years for their day in court. That's not fair for anyone - not just defendants, but also victims and their families who have to wait years to see that justice is done.

It is not an easy thing to produce a bill that satisfies all of the interested parties: the Judicial Branch, the Attorney General's Office, victim advocates, prosecutors, criminal defense lawyers, and the ACLU of Maine. While this bill will not make everyone happy, it is a middle ground where all sides have given a little in order to see the promises of the constitution made real. I ask for your support, and I thank you for your time and attention.