

# STATE OF MAINE

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**"An Act Regarding Speedy Trials"**  
Before the Joint Standing Committee on Judiciary  
LD 340  
Public Hearing Date: March 3, 2025

Senator Carney, Representative Kuhn, and members of the Joint Standing Committee on Judiciary. My name is Neil E. McLean Jr., and I am the District Attorney for Prosecutorial District 3, representing Androscoggin, Franklin, and Oxford Counties. I am here on behalf of District 3 to testify in opposition to LD 340; An Act Regarding Speedy Trials.

We all understand and respect that Amendment VI of the United States Constitution, and Article 1, section 6 of the Maine Constitution secure the right of the accused in all criminal prosecutions to a "speedy, public, and impartial trial, . . . Me. Const. art. VI. In *Winchester v State*, the Court has articulated a four-factor test for analyzing a speedy trial claim; (1) the length of the delay, (2) the reason for the delay, (3) the assertion of the right, and (4) prejudice to the defendant. 2023 ME 23, *Id.* ¶¶ 25-31.

Those of us involved in the criminal justice system, whether it be the judges, defense counsel, or prosecutors, we are all committed to honoring and upholding the constitutional rights of the accused. None of us take lightly that responsibility, or easily shirk the hallowed obligations placed upon us by the Constitution. As prosecutors, we balance those obligations against the other sacred responsibility to prosecute crime, protect society and secure peace and liberty within the communities we are sworn to represent. It is the weight of these obligations and responsibilities that we carry forward daily in the service of justice.

Unfortunately, the criminal justice system is experiencing several significant adversities and we must navigate them all at once. These many hardships directly affect speedy trial issues and should be addressed prior to the enactment of legislation the remedy of which is dismissal. In many regions, there continues to be a backlog of cases. There is a shortage of attorneys on rosters able to take cases and represent indigent defendants. There is also a general lack of court resources, as well as a lack of human resources, capable of facilitating a viable remedy for the many issues ailing the criminal justice system. To effectively defend constitutional rights, protect public safety, and sustain the criminal justice system, we must consider these issues collectively in contemplating a proper remedy.

In light of the current state of the criminal justice system, it is difficult to imagine that LD 340, An Act Regarding Speedy Trials, can succeed without inflicting significant unintended negative collateral consequences against public safety. This is because it will be impossible to meet the time restraints established by LD 340.

Speaking to the current situation in District 3, in Androscoggin County specifically, according to the Uniform Criminal Docket (UCD), as of February 21, 2025, there were a total of 2094 cases pending. Each month we have three or four arraignment days with a list anywhere from fifteen to twenty pages on average. Whatever cases are not resolved, and only a very small percentage are, the remaining cases are automatically placed on the jury trial track and set for a dispositional conference. In February, those dispositional conferences were being set out approximately three to four months. If a case is not resolved at the dispositional conference, it is then scheduled for a jury trial, or a docket call, unless the defendant waives the jury trial and requests a bench trial. Again, this rarely occurs. That process alone has already consumed anywhere from four to six months, and unfortunately, it is at this point that the process can really begin to slow down. Regarding these docket calls, cases that are selected for trial are typically prioritized by defendants in custody, age of the case, cases with victims/survivors. Many of the lower level cases, Class D and E crimes (with the exception of DV cases and OUIs) have generally been less likely to receive exposure to trial under this analysis.


Androscoggin County has trial dates monthly. There are typically between ten to fourteen days per month set aside for jury trials. Although cases can be tried in a single day, it is not uncommon that a single case may require two to four days to complete a jury trial, depending on the type and complexity of the case. Further complicating the limited number of days, we only have one day of jury selection per month. With all the different jury questionnaires utilized as part of the selection process: substance use, domestic violence, sex assault, race, gender identity, etc., we are often fortunate if we are able to select three to five juries on any given jury selection day. With that in mind, in a productive month, we have three to five jury trials. To resolve all 2094 pending cases by jury trial it would take us approximately thirty-five years. Of course, not every case will go to a jury trial, but it should not be difficult to conceive that if speedy trial legislation were enacted, and understanding the impossibility of reaching all cases would be common knowledge, a strategy of letting the clock run out and earning a dismissal, which is the ultimate goal for a defendant, may be employed.

We just had docket call for March and April. Our docket call list was fifty-nine pages long; it included 201 individual cases, and 138 different defendants. Some cases were worked out and plead, but the majority of the cases were either rolled over to the next docket call, while a few were scheduled for jury trial in March and April. Again, if we are fortunate, we will have the resources and time to try ten of those 201 cases. Before enacting speedy trial legislation, the lawyer shortage must be addressed, and we must expand the resources of the courts, as well as the resources for prosecutors and the Public Defender's Office. Otherwise, cases will simply expire due to a speedy trial violation. There will be no accountability, no rehabilitation, and no justice for victims and survivors. Public safety will not be served.

Smaller counties are at an even greater disadvantage in terms of time. Oxford County currently has 1353 cases pending. We only have trials bi-monthly in Oxford, and similarly only one jury selection day per month. If we are able to have five trials bi-monthly, that is thirty per year. It would take us approximately forty-five years to try all pending matters. In Franklin County there are currently 473 cases pending and we have quarterly trial months. With one jury selection day quarterly, and the possibility of five trials quarterly, that would facilitate twenty trials per year. It would take approximately twenty-three years to try all pending matters.

At a minimum, the lack of attorneys issue should be resolved prior to speedy trial legislation. The lack of attorneys is a direct contributor to the delay in individual cases timely proceeding through the system and results in a drag on the criminal justice system generally. The lack of judicial resources is also a contributing factor. It may be time to consider two or three days of jury selection to make sure we can empanel enough jurors to do more trials per month. We should consider having two courtrooms available, adding an additional judge, hiring more clerks and judicial marshals. Prudence would suggest that consideration for appropriate and necessary resources and personnel be allocated and put in place prior to speedy trial legislation. This would advance a proper balance between public safety and individual rights. Importantly, no one is suggesting that speedy trial violations be suspended or ignored while other crises are addressed. As pointed out above, there is already a legal analysis and remedy in place that is intended to address speedy trial violations. Speedy trial violations are not without recourse, but the potential unintended consequences of this speedy trial bill, at this time, may be that crimes, accountability, responsibility, rehabilitation, victims, survivors, and public safety may go without recourse or remedy.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

• Neil E. McLean Jr.  
District Attorney  
District 3