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RE: LD 921 - An Act to Expand Use of Electronic Proceedings in the Judicial Branch

Dear Senator Carney, Representative Kuhn, and Members of the Committee on Judiciary,

MACDL opposes LD 921.

As everyone is aware, Maine is experiencing a crisis in its Constitutional obligation to provide counsel to people accused of committing a crime. Currently, there are approximately 6,500 more criminal cases pending than there were prior to the COVID-19 pandemic. The use of electronic proceedings is a necessary tool needed to combat this problem; however, mandating court proceedings happen electronically is not the right approach.

MACDL recently wrote in support of LD 267 because it offers a more balanced approach to remote appearance. One considerable difference is LD 267 allows remote appearance in non-testimonial hearings, whereas LD 921 requires it in all proceedings.

Testimonial hearings should not be conducted by electronic means unless the litigants specifically request it. There are numerous situations where remote appearances are not in the interest of justice and fairness. For example, it can be more difficult for non-English speaking people to understand the nature of the proceeding or receive necessary interpretation services. Furthermore, many important aspects of a testimonial hearing — credibility assessments, attorney-client interactions, and judicial discretion — are better preserved through in-person engagement.

LD 267 presents a superior alternative to LD 921 by ensuring that remote appearances remain a tool rather than a requirement. Courts, attorneys, and litigants should retain the

discretion to determine when virtual participation is appropriate, rather than being forced into a one-size-fits-all mandate. Encouraging, rather than requiring, the use of technology will allow the judicial system to evolve while ensuring fairness and due process for all.

For these reasons, MACDL opposes LD 921, but supports LD 267, which better balances the use of technology with the interests of fairness and justice.

Sincerely,

/s/ Eric S. Thistle
Eric S. Thistle, Esq.