

STATE OF MAINE

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JACQUELINE SARTORIS
DISTRICT II

NEIL MCLEAN
DISTRICT III

MAEGHAN MALONEY
DISTRICT IV



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NATASHA IRVING
DISTRICT VI

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DISTRICT VII

TODD R. COLLINS
DISTRICT VIII

MAINE PROSECUTORS ASSOCIATION **SHIRA BURNS, EXECUTIVE DIRECTOR**

"An Act to Prohibit Arrest and Detention for Civil Violations and Require an Attorney for the State to Determine Whether to Charge a Class E Offense as a Civil Violation"

Before the Joint Standing Committee on Judiciary

Public Hearing Date: April 4, 2025

Testimony in Support of LD 1189

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary. My name is Shira Burns and I represent the Maine Prosecutors Association. I am here to testify in support of LD 1189. We would like to thank Representative Moonen for his leadership on this bill.

All eight elected districts attorneys- democrats, a republican and an independent- support this bill and the policy goals behind it. The concept of this bill follows a statutory scheme that is already in place but expands it on a wider level. 17 M.R.S. § 1031(4) allows prosecutors discretion when charging a Class E offense or a civil violation for Cruelty to Animals. That specific statutory structure would expand to apply to all Class E crimes except for Class E crimes that are eligible for probation.¹ For the cases that are diverted to civil violations, they can face a fine up to \$1,000 which is the maximum fine amount on a Class E crime. All elements of the crime stay exactly the same. Both Inland Fishery and Wildlife and the Bureau of Motor Vehicles would retain their inherit authority for administrative license suspensions.

One of the policy goals of this bill is to divert cases out of the criminal justice system and into the civil system that is more cost effective and efficient. Public safety and victim safety are still accounted for as the bill gives the prosecutor the discretion on how to proceed. The determination will be based on the factors listed in the bill including what sanction would best accomplish the purposes of the general sentencing provisions. This will not take away any tools law enforcement has on scene, including their ability to summons or arrest on a Class E crime. This process addresses what the prosecutor can do with the case once it is submitted for charging decisions.

Everyday prosecutors have to weigh public safety, victim safety, and the overcrowded criminal justice system as a whole in deciding what to do on every individual case. This will give prosecutors one more tool to utilize that will help focus our limited resources. We have seen great success² with our efforts last session in the decriminalization of some Operating After Suspension laws that turned criminal violations into civil infractions. Attached is data provided by the Maine Judicial Branch on those efforts. Maine is still a safe place despite holding those people accountable for their actions through a civil adjudication compared to a criminal conviction.

¹ A list of Class E crimes that are eligible for probation are attached.

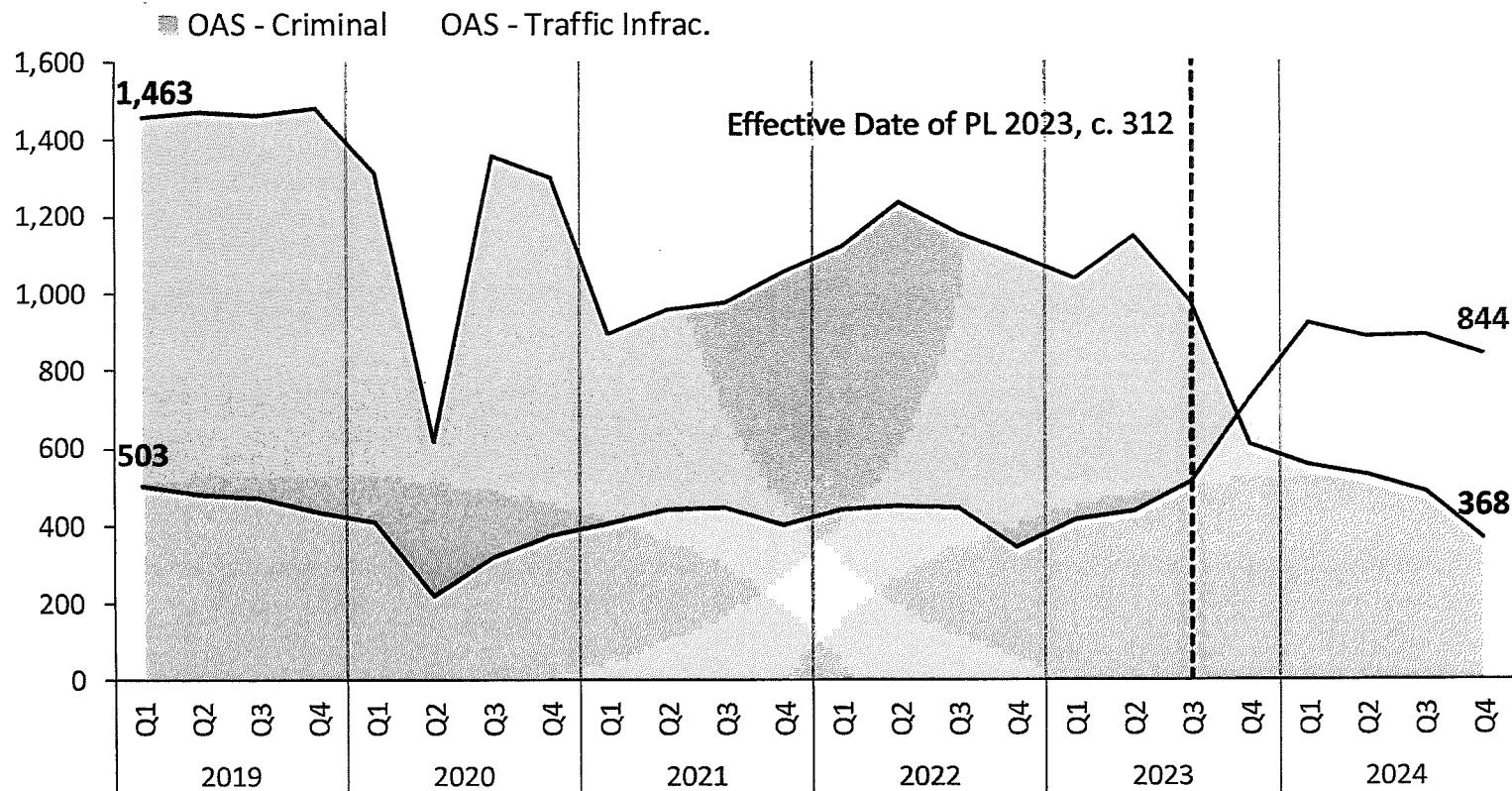
² Success defined as diverting cases out of the criminal justice system without compromising victim or public safety.

This multifaceted approach incorporates “compassionate exercise of prosecutorial discretion”³, less Maine citizens facing criminal penalties, but still upholding public and victim safety, and having people take responsibility for their actions with civil adjudications. This bill will help the criminal justice system as a whole and keep Maine citizens safe.

For these reasons, the Maine Prosecutors Association is in support of LD 1189.

³ “Compassionate exercise of prosecutorial discretion” is discussed in *State v. Peck*, 2014 ME 74 when the Maine Supreme Court looked at the Cruelty to Animal statute.

Filings of 29-A M.R.S. § 2412-A Operating While License Suspended or Revoked, 2019-2024



The chart above shows the number of quarterly filings for *Operating while license suspended or revoked* (29-A M.R.S. § 2412-A) broken out by criminal offenses and traffic infractions. These counts represent distinct charges and are not a unique count of cases or individuals. In October 2023, PL 2023 c. 312 became effective and a number of OAS violations that were previously criminal offenses became classified as traffic infractions.

Filings	2019				2020				2021				2022				2023				2024			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Criminal	1,463	1,476	1,466	1,485	1,318	620	1,359	1,301	897	958	974	1,057	1,121	1,235	1,155	1,099	1,038	1,148	974	611	554	528	486	368
Traffic	503	479	470	435	410	222	318	375	404	443	444	402	443	449	445	344	415	437	510	727	923	889	891	844

Statute

17-A M.R.S. § 254 ©
17-A M.R.S. § 255-A (S)
17-A M.R.S. § 260 (J)
17-A M.R.S. § 261(1)
17-A M.R.S. § 552
17-A M.R.S. § 854(1)(A)(2)
17-A M.R.S. § 854(1)(B)
17-A M.R.S. § 854(1)(C)
15 M.R.S. § 1092(1)(A)*

Class E crimes eligible for probation

Title

Sexual Abuse of a Minor
Unlawful Sexual Contact
Unlawful Sexual Touching
Prohibited Contact with a minor; sex offender registry zone
Nonsupport of dependants
Indecent Conduct
Indecent Conduct
Indecent Conduct
Violation of Condition of Release*

* if the condition violated is specified in 15 M.R.S. § 1026(3)(A)(5) or (8) and the underlying crime involved domestic violence