



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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March 10, 2021

Senator Susan Deschambault
Representative Charlotte Warren
Committee on Criminal Justice & Public Safety
100 State House Station Room 436
Augusta, ME 04330

RE: LD 536, An Act to Amend the Maine Criminal Code

Dear Senator Deschambault, Representative Warren and Members of the Criminal Justice and Public Safety Committee:

MACDL opposes LD 536.

For sentences in criminal cases to be just they must be individualized to the facts of the particular case and to the particular defendant. In order for sentences to be individualized judges must have discretion to impose a wide range of potential sentences.

Section A-1 mandates consecutive sentences and non-probated sentences. This one size fits all approach removes the discretion of judges and all but ensures there will be, in some cases, unjust results. If the mandates for consecutive and non-probated sentences were removed nothing would preclude a judge from imposing a consecutive non-probated sentence if the facts of that particular case warranted it.

Because of Section A-1 MACDL cannot support this bill.

MACDL does support parts C and D of this bill.

Part C correctly separates out kidnapping with the intent to inflict bodily injury from kidnapping with the intent to subject a person to a sexual offense. The latter would trigger registration pursuant to the Sex Offender Registration and Notification Act. The crime of kidnapping with the intent to inflict bodily injury would not trigger sex offender registration.

This makes sense. A kidnapping case that has no connection to any sexual offense should not be a registrable offense. The Sex Offender Registry should have registrants that are involved in sexual crimes. By having all defendants convicted of kidnapping on the Sex Offender Registry (what few there may well be) unnecessarily puts defendants on a registry that was never meant to have them on the registry in the first place.

Part D of the bill clarifies the immunity provisions. This “good samaritan” law should apply to probation violations just like it does with respect to other crimes. This appears to be something that was missed when the bill was previously passed.

Thank you for your consideration.

Sincerely,

/s/

Jeremy Pratt
Vice-President, MACDL