

STATE OF MAINE

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MAINE PROSECUTORS ASSOCIATION

AARON FREY
ATTORNEY GENERAL

April 5, 2021

Senator Deschambault, Representative Warren, and Honorable members of the Criminal Justice and Public Safety Committee, my name is Maeghan Maloney, I am the District Attorney for Kennebec and Somerset Counties and the President of the Maine Prosecutors Association (“MPA”). I am submitting this testimony on behalf of the MPA’s unanimous support of LD 1070 **An Act To Make Assault on a Person 50 Years of Age or Older with a Preexisting Serious Medical Condition a Class C Crime.**

When one person beats and kicks another person with use of hands and feet, the crime is called “assault.” Assault is a misdemeanor. The typical punishment for assault is a \$300 fine and no jail time, although jail time can be ordered. Probation, however, is not allowed by statute. If the person committing the assault uses a weapon, or attacks a person under the age of 6, the crime can be elevated to a Class C felony. But if a young healthy person attacks an elderly, frail person—the law classifies this conduct as a misdemeanor assault. The level of crime should change when the victim is vulnerable.

This is what happened in Waterville. A strong young adult man attacked a husband and wife in their 70’s, only days after the elderly man came home from the hospital after heart surgery. The young adult man attacked them with punching and throwing them to the ground—not a weapon. The attorneys in my office and an attorney in the Attorney General’s Office tried to find a felony that matched the definition of the crime. With a felony, the attacker would not only face a jail sentence, but more important, probation with a requirement of counseling. Unfortunately, Maine law on these facts only allows a misdemeanor charge.

An assault between two people of the same age is entirely different from an assault between a strong, healthy, young adult and an elderly or incapacitated person. The law should reflect this difference.

I would offer a friendly amendment to change the age of the victim to 65 and to remove the “pre-existing medical condition” requirement. The reason is that it will be nearly impossible to prove that an attacker “knew” about the pre-existing medical condition.

We urge you to vote in favor of LD 1070.

Thank you for your consideration,

/s/Maeghan Maloney

Maeghan Maloney
District Attorney