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March 29, 2021

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

RE: LD 877 – An Act to Expand the Definition of Unlawful Sexual Touching

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

MACDL opposes LD 877.

This bill adds kissing to the definition of sexual touching. The definition currently requires that there be “touching of the breasts, buttocks, groin, or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire.”

It is critical to note that if someone kisses another person without their consent, this is already the crime of assault, a Class D offense that carries with it a penalty of up to 364 days in jail. A person who kisses someone on the mouth will, in certain instances, be considered as causing “offensive physical contact,” which squarely puts the conduct within the definition of a Class D assault.

Adding kissing to the definition of “sexual touching” also really dilutes what the unlawful sexual touching statute is supposed to be addressing. The definition as it stands now focuses on actions that are sexual in nature by all measures, as opposed to kissing which is not always sexual in nature. People kiss each other on the mouth all the time in the regular course of interpersonal relationships and adding a kiss on the mouth to the definition of unlawful sexual touching, a sexual crime, potentially over-criminalizes conduct and places it into the category of sexual offenses where it does not belong.

Kissing someone without their consent is already a crime. It does not need to be made a sex offense. This Committee should vote that this bill ought not to pass.

Thank you for the opportunity to address this issue.

Sincerely,

Walter F. McKee
Chair, Legislative Committee