



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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

RE: LD 1862 -- An Act to Strengthen Maine's Good Samaritan Laws
Concerning Drug Related Medical Assistance

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

MACDL supports LD 1862.

This bill truly does strengthen Maine's good samaritan laws. When an individual is overdosing, there should be no impediment to a person contacting medical professionals and law enforcement to get immediate help. That person seeking the help should not have to engage in the complicated analysis of whether they should make the call when it may well be that they are exposed to prosecution for a crime at the scene of the overdose. In order to truly encourage such a critical call to be made, the law must ensure that the good samaritan is protected, fully and completely.

This bill does just that. It exempts out certain violent crimes from any immunity, but at the same time recognizes that there are a whole host of crimes that a person should not be exposed to simply because they made the call for the assistance.

It is important to note that the person has to have made the call "in good faith." There should be no suggestion that someone would make a call here as some sort of a ruse to avoid prosecution. The call has to be made in good faith and has to be to seek the assistance of a medical professional or law enforcement officer to a suspected drug related overdose.

The bill also makes sure that others who are at the scene are also not subject to prosecution. A person who is making the good samaritan call may well not make that call when, even if the caller has no criminal exposure, others at the location could be. This bill protects the others who are at the location where the overdose is occurring and paves the way for the good samaritan to make the call.

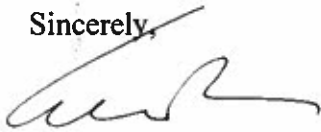
Finally, the bill details the specific procedure for addressing these issues before the court. Instead of having this tied up in a full-blown jury trial, the bill allows for a motion to be filed by a defendant raising the defense, and the matter will be litigated

to a judge to make the decision about whether there was in fact a good faith call and whether the prosecution of the individual was derived from that call.

There has been extensive input into this bill from a number of criminal justice system professionals. MACDL believes that this bill strikes the correct balance in terms of providing the maximum level of protection, while at the same time not making it so overbroad that certain violent crimes are not prosecuted even when they arise out of the call from a good samaritan.

Thank you for the opportunity to address this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Walter F. McKee', written over a horizontal line.

Walter F. McKee
Chair, Legislative Committee