



Administrative Office of the Courts

P.O. Box 4820, Portland, Maine 04112-4820

Tel: (207) 822-0792 FAX: (207) 822-0781 TTY: (207) 822-0701

Julia Finn, Esq.
Legislative Analyst

Tel: (207) 822-0767
julia.finn@courts.maine.gov

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Judicial Branch testimony neither for nor against LD 1604, An Act to Reclassify Certain Offenses under the Inland Fisheries and Wildlife Laws and Motor Vehicle Laws and Increase the Efficiency of the Criminal Justice System:

Senator Deschambault, Representative Warren, members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Julie Finn and I represent the Judicial Branch. I would like to provide testimony neither for nor against this bill. My testimony considers the draft circulated last week, not the original bill.

The Judicial Branch supports the goal of this bill: to decriminalize minor offenses within the Title 12 fish and wildlife offenses and the Title 29-A motor vehicle offenses. The Judicial Branch also supports authorizing the Chief Judge of the District Court to set fines as set forth in the legislation.

There are a few issues with the current language of the bill that we would like to point out:

- In Part A of the bill, pertaining to Title 12 violations, there are several instances where the following sentence appears: *A person who violates this paragraph commits a civil violation for which a fine may be imposed as provided in a schedule adopted by the Chief Judge.* The phrase “for which a fine may be imposed as provided in a schedule adopted by the Chief Judge” is not necessary as the Chief Judge already has the authority to set fines under 4 MRS §164.

- In Part B of the bill, pertaining to Title 29-A offenses, there are several instances where the following language appears: *A person commits a Class E crime traffic infraction for which a fine may be imposed as provided in a schedule adopted by the Chief Judge.* Again, the phrase that comes after the words “traffic infraction” might be stricken.

In both instances above, the additional language might be misinterpreted to mean that even contested infractions must be assessed fines as set forth in the Schedule of Amounts Due.

- In Part B-8 of the bill, 29-A MRS §2412-A, Operating while license is suspended or revoked, the amendment provides that a waiver fine may be imposed in cases arising under §2412-A(1-A)(B), (C), and (D) (suspensions for OUI and prior convictions) that are subject to mandatory fines and imprisonment under subsection 3 of section 2412-A. These two subsections are inconsistent.

- In Part D-1 of the bill, 4 MRS §164(12), Violations bureau, is amended to include criminal offenses. The violations bureau can only handle civil infractions. Criminal offenses require various constitutional protections that can only occur in the Unified Criminal Court.

- In Part D-2 of the bill, 4 MRS §164(15), is amended to allow court clerks to accept pleas for criminal offenses. Currently, the clerks only accept pleas and advise persons of their rights for uncontested traffic infractions. Adding criminal offenses to this statute may infringe upon the constitutional due process rights of defendants.

We have noted that the amendment has extended the effective date to 1/1/23. This revision will provide much needed time to program our system and implement the revisions. We will begin work on a detailed fiscal analysis to assess the costs.

Thank you for your consideration.