



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

P.O. Box 17642
Portland, ME 04112-8642
(207) 523-9869
mainemacdl@gmail.com

2024-2025 OFFICERS

President
Jeremy Pratt

President-Elect
Matthew D. Morgan

Vice President
Sarah E. Branch

Secretary
Luke Rioux

Treasurer
Justin Andrus

2024-2025 DIRECTORS

Jesse James Archer
Randall Bates
Dylan R. Boyd
Daniel Dubé
Andrew Edwards
Benjamin T. Everett
Kristine C. Hanly
James Mason
Joseph Mekonis
Jennifer Rohde
Robert J. Ruffner
John Steed
Caitlyn Smith
Lisa Whittier

EXECUTIVE DIRECTOR

Tina Heather Nadeau

March 3, 2025

Senator Carney
Representative Kuhn
5 State House Station, Room 436
Augusta, ME 04333

RE: LD 340: An Act Regarding Speedy Trials

Dear Senator Carney, Representative Kuhn and members of the Judiciary Committee:

MACDL **opposes** LD 340 An Act Regarding Speedy Trials.

LD 340 is nearly identical to Revised LD 1771 proposed in February of 2024. MACDL opposed Revised LD 1771 at that time and opposes LD 340 for the same reasons. MACDL regrets opposing a bill that in theory supports the rights of criminal defendants in Maine. LD 340, however, in practice does not support the rights of criminal defendants in Maine.

Maine has been grappling with a constitutional crisis and backlog of cases for years. LD 340 has a road map that offers help in 2031. The road map in LD 340 is far too long and inadequate. The delayed effectiveness of this statute affirms that current criminal defendants in Maine have no speedy trial rights.

LD 340 treats defendants in jail and on conditions of release the same and relies upon unnecessarily long deadlines for trial. Class E and D crimes, for example, must be tried within 6 months. For a class E misdemeanor this means that an incarcerated defendant could serve the statutory maximum available penalty before his or her right to a speedy trial was ever violated. The timelines offer inadequate levels of protection at the opposite end of the spectrums as well where a defendant charged with a Class A Arson offense is required to wait 2 years for a trial. It is inconceivable why an Arson case would take 2 years to reach trial.

LD 340 also has a series of exceptions allowing for delay beyond the deadlines for trial when the reasons for the delay are not always attributable to the defendant or where there may be no delay whatsoever in the first place. Section J for example excludes delays attributable to "Any proceeding, including any examinations, to evaluate the mental competency, abnormal condition of the mind, criminal responsibility or physical capacity of the defendant." Under this provision a defendant could seek a mental examination regarding his or her competency and be penalized for doing so even

if that examination had no impact on the course of the case in the courtroom. Such an outcome unfairly penalizes defendants with mental health conditions.

LD 340 fails to provide a clear and easily applied method to identify when a delay is attributable to one of its many exceptions. Unlike the federal Speedy Trial Rights Act where all offenses must be heard within 70 days from the filing of the charging instruments, 18 U.S.C. § 3161(c)(1), LD 340 sets forth different and much longer trial deadlines depending on the level of offense. A defendant charged with a class A crime, for example, could have a competency evaluation completed over a course of 4 months and not affect the deadline for trial in any way. LD 340, however, does not define “delay attributable to” anywhere allowing prosecutors to argue that any period of time spent on one of the many exceptions under (4)(A)-(N) is a *per se* extension of the already unnecessarily long periods laid out in LD 340.

LD 340 does not require dismissal with prejudice for undisputed speedy trial violations. In other words, the seemingly hard-and-fast deadlines set out in the proposed bill are not mandatory at all. LD 340 allows a Court to dismiss a case without prejudice if the State violates a defendant’s speedy trial rights. This means that the State would be allowed to refile those charges against the defendant and keep prosecuting him or her. Federal case law interpreting the constitutional right to a speedy trial makes clear that a dismissal without retrial (i.e., with prejudice) is “the only possible remedy.” *Barker v. Wingo*, 407 U.S. 514, 522 (1972). This provision of LD 340 is the most critical reason MACDL cannot support LD 340.

For all these reasons, MACDL opposes LD 340.

Thank you.

Sincerely,
/s/ Matthew D. Morgan
Matthew D. Morgan, Esq.
MACDL President Elect