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LD 821 "An Act to Improve the Investigation and Prosecution of Cases that Involve Vulnerable Road Users"

Greetings,

Senator Diamond, Representative Martin, and other members of the Committee on Transportation. My name is Kevin Joyce, and I am providing written testimony on behalf of the Cumberland County Sheriff's Office to urge an "ought to pass" vote from the Transportation Committee on LD 821, "An Act to Improve the Investigation and Prosecution of Cases That Involve Vulnerable Road Users", after making some recommended amendments.

LD 821 will change the current process by requiring a District Attorney (DA) to review any case of a crash that results in the injury or death of a vulnerable user and permit a more deliberate, objective, and impartial review and decision of the crash. Law enforcement officers who respond to bicycle and pedestrian crashes have to both investigate the facts of a crash and decide what sort of legal actions to take against a driver.

The structure and language of the original bill before you is adapted from Title 25, §3871, and thus reflects a policy already extant in Maine Law.

We support the below changes in the law.

A law enforcement officer who investigates:

1. A reportable accident as defined in section 2251 involving a vulnerable user;
2. Or an incident involving bodily injury or death to a vulnerable user; and who has probable cause to believe, or believes it is more likely than not, that a motor vehicle operator or other person committed any type of a traffic infraction, civil violation, or criminal violation, shall inform a district attorney of relevant jurisdiction about the investigation and any evidence relevant to the potential prosecution of an alleged criminal or civil violation resulting from the investigation within 7 days of the event. Failure of a law enforcement officer to inform a district attorney in accordance with this subsection does not affect any authority of a district attorney to take any action nor precludes the ability of a private citizen to notify the district attorney about the case.



The term vulnerable user as defined herein shall have the same meaning as set forth in 29-A § 101 (91-A).

The reasoning behind these changes is as follows:

- The addition of language regarding officers investigating "an incident" is designed to ensure those roadway events that injure or kill a vulnerable user but don't necessarily involve a collision with a moving vehicle (e.g. a vehicle encroaches on a bicycle rider's operating space and forces an evasive maneuver that results in a crash; passengers in a motor vehicle throw objects at a bicycle rider which result in a serious crash; "dooring" incidents, etc.) are investigated and reviewed by a DA. This revision would ensure that operators who caused a crash but did not actually collide with a rider/pedestrian have their cases reviewed by a DA.
- The reference to an officer who "who has probable cause to believe, or believes it is more likely than not, that a motor vehicle operator or other person committed any type of a traffic infraction, civil violation, or criminal violation," is intended to ensure that the DA has the opportunity to review not just potentially criminal cases, but also cases resulting in injury or death that might include more serious civil violations beyond a traffic violation or when there are two tiers of violation. The goal of this legislation is to ensure that DAs are seeing more of the offenses that put vulnerable users at risk so that they can better assess the appropriate level of response.
- The change in the time frame from 60 days to 7 days is to ensure that an investigating officer acts in a timely fashion to prepare a report for review. §2251 requires a report be submitted within five days--this revision would permit an additional two days to prepare the report for submission to the DA.
- The addition of the clause that notes that a private citizen may reach out to a DA directly is intended to clarify that such an option exists, whatever the LE agency working on a case might do.
- The inclusion of the reference to the definition of vulnerable user is intended to clarify that the term already exists in Maine law and to guide legal professionals and law enforcement to the relevant statutory definition.

If it becomes law, LD 821 will:

- Make law enforcement officers' jobs easier, by letting them focus on accurate and detailed collection of facts and putting the burden of whether to issue charges in the hands of the DA.
- Create greater consistency in crash response—all injury/fatal crashes will get the same legal review from the DA's office.
- Encourage drivers to be more careful if they know that their actions would be reviewed by a DA in the event of a crash involving a person walking or bicycling.
- Create a database that captures the frequency with which injury/fatal crashes involving Vulnerable Users result in citations or charges.



- Recognize and seek to address the epidemic of vulnerable user deaths and life-changing injuries by making charges and citations against bad drivers a more common outcome of a crash.
- Ensure accurate crash investigations and reporting on the part of police officers combined with the review of the case by the local DA's Office.

It's time for the legal system to do a better job for the vulnerable users on Maine's roads. Passing LD 821 is an important step in that direction.

Respectfully,



Kevin J. Joyce, Sheriff
Cumberland County

