



STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE DRUG ENFORCEMENT AGENCY

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**TESTIMONY OF COMMISSIONER MICHAEL SAUSCHUCK
DEPARTMENT OF PUBLIC SAFETY**

OPPOSE

**LD 1862, An Act to Strengthen Maine's Good Samaritan Laws Concerning
Drug-related Medical Assistance**

Before the Joint Standing Committee on Criminal Justice and Public Safety
10 AM Wednesday, 9 February 2022

Senator Deschambault, Representative Warren, and other distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Commissioner Michael Sauschuck. I am here to testify on behalf of the Department of Public Safety in opposition to LD 1862, “An Act to Strengthen Maine's Good Samaritan Laws Concerning Drug-related Medical Assistance.” Thank you for the opportunity to be here before you today.

In 2019 the majority of this Committee endorsed LD 329, *An Act To Exempt from Criminal Liability Persons Reporting a Drug-related Medical Emergency* and the Legislature enacted it without amendment. Governor Mills signed this bill into law, and she strongly supports what is now known as Maine’s Good Samaritan law. Under the current Good Samaritan law, Maine protects both the callers and the overdose victims from arrest or prosecution from drug possession and drug paraphernalia offenses, and from revocation of probation. Unlike some other states, our law has no requirement to be first to call, to provide a name, or to stay at the scene. This simplicity is important because there is clarity about who is protected – anyone and everyone who calls is protected against a violation of the crimes enumerated.

The protection under current law is against all violations of 17-A M.R.S. § 1107-A, Unlawful Possession of a Scheduled Drug, § 1108, Acquiring Drugs by Deception, and § 1111-A, Use of Drug Paraphernalia. These statutes contain numerous felonies. The protection also extends to 17-A M.R.S Chapter 67, Subchapter 1, Probation, so a covered person is not subject to revocation of probation.

Maine’s statute is consistent with 44 other states that provide protection for drug possession offenses only, and 41 states that provide protection from arrest and prosecution (as opposed to

only providing an affirmative defense or mitigating factor at sentencing).¹ Only one state provides protection under their Good Samaritan law for all drug offenses, and, importantly no state with a Good Samaritan law provides protections for all “nonviolent crimes” unrelated to drugs, as this bill proposes to do.² Twenty-five states prevent an immunized offense from being used to revoke probation, including Maine, and 15 states prevent an immunized offense from being used to revoke pretrial release (bail), as the bill proposes.³ Some states’ statutes only apply to the person who calls, and not necessarily the victim, and some only allow someone to benefit from law one time, unlike Maine.⁴

The Administration believes that Maine’s current Good Samaritan Law is good, needed policy, is reasonable and consistent with most other states, and is well designed to target the need for people call 9-1-1 in a drug overdose emergency in order to save lives. While this is well intentioned legislation, this proposal is too broad and will lead to unintended consequences. The current law provides immunity to people who undertake an affirmative act to render assistance by calling 9-1-1, but the bill would immunize anyone who happens to be at a location only because someone else did the right thing, even if the others refused to do the right thing or, worse, even actively interfered with attempts to provide help. The bill would also provide immunity against a long list of crimes that will create many unintended consequences. For example, what if a property owner discovers a person overdosing, calls 9-1-1 and later it is discovered the person in need of assistance had just burglarized the property? What if a person overdoses, 9-1-1 is called and a person at the location happens to be the one who sold the drugs to the overdose victim and is found with a substantial amount of illegal drugs, cash and firearms?

In discussions before the Criminal Law advisory Commission (CLAC), it was suggested that it would be helpful to clarify when a defendant may raise this protection. If a person has done the right thing, they should have certainty about when and how they will receive the benefit of the protection. We would defer to CLAC to draft that language.

It must also be noted that this Administration continues to advance several other response strategies to combat the opioid epidemic outside of law enforcement by increasing support for prevention and treatment. The biennial budget included a \$110 million investment in prevention, early intervention, harm reduction, treatment, crisis care, and recovery assistance. The Governor has supported innovative intervention programs for MaineCare clients and established the OPTIONS program, which placed liaisons in counties around the state to connect people who have overdosed to recovery services and treatment, promote prevention and harm reduction strategies, and distribute naloxone. The Administration supported the distribution of 77,480 doses of naloxone in 2021. Through the Office of Behavioral Health, the Administration is also supporting efforts to increase awareness among law enforcement and the public about the Good Samaritan law to improve its effectiveness.⁵

On behalf of the Department, I thank you for your time and will be pleased to answer any questions that you may have.

¹ United States Government Accountability Office, Report to Congressional Committees, *Drug Misuse: Most States Have Good Samaritan Laws and Research Indicates They May Have Positive Effects*, p. 13, March 2021.

² *Id.*, at 16-17.

³ *Id.*

⁴ *Id.*

⁵ <https://knowyouroptions.me/>