

# STATE OF MAINE

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## **MAINE PROSECUTORS ASSOCIATION** **SHIRA BURNS, EXECUTIVE DIRECTOR**

“An Act to Provide that the Legal Use or Possession of Cannabis is Not a Violation of Probation, Parole or Pretrial Release”

Before the Joint Standing Committee on Criminal Justice and Public Safety

Public Hearing Date: April 10, 2023  
Testimony in Opposition of LD 1311

Senator Beebe-Center, Representative Salisbury and members of the Joint Standing Committee on Criminal Justice and Public Safety. My name is Shira Burns and I represent the Maine Prosecutors Association. I am here to testify in opposition of LD 1311.

There is a lot of conduct that is legal, but can be prohibited through a court order making the conduct illegal. Conditions of release and probation conditions often limit a defendant’s conduct that otherwise would be legal because of the specific circumstance. For instance, if a defendant committed a crime while intoxicated, the use or possession of alcohol may be prohibited during the pendency of the case. Almost always, defendants are prohibited from contacting the victim of their crime through these court orders, which otherwise would be legal.

This bill narrowly addresses one type of legal conduct that can be prohibited through court orders. Since the legalization of cannabis, court forms have been amended so marijuana is separate from the prohibition of illegal drugs. A judicial officer, with the input of a prosecutor and defense attorney, narrowly define any conditions to the least restrictive manner while adhering to the purposes of sentencing and bail.

This bill also does not take into account that almost all conditions of probation are by agreement and so are the majority of conditions of release. This would add a new judicial procedure in making findings on the record when an agreement is presented to the judicial officer. It is not sensible that these additional findings would need to be made when it is the defendant themselves who are offering the agreement to the judicial officer.

This bill is not needed. For these reasons, the Maine Prosecutors Association opposes LD 1311.

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