

# MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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Senator Louis Luchini  
Representative Christopher Caiazzo  
Committee on Veterans and Legal Affairs  
100 State House Station Room 437  
Augusta, ME 04330

RE: LD 1821 -- An Act to Make Interfering With an Election Official a  
Class C Crime

Dear Senator Luchini, Representative Caiazzo, and Members of the Joint Standing  
Committee on Veterans and Legal Affairs:

MACDL opposes LD 1821.

This opposition is not without some sympathy for what is trying to be done with this bill. MACDL certainly appreciates the critical nature of ensuring that election officials are not interfered with when discharging their critical duties in our democratic process. The events of January 6, 2021, all taught us that our democracy, as strong as it seems, is really fragile. Making sure that elections are free and fair and without any intimidation whatsoever is a key component of the democratic system in the United States.

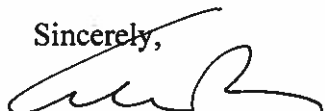
But MACDL is concerned about the elevation of this crime to a full-blown felony crime. I am aware of very few, if any, cases where this crime was prosecuted in the State of Maine. Even then, I can say with confidence that if this crime had been prosecuted and a significant sentence had been imposed, many of us would know about it already. As it stands now, though, there is no evidence that the misdemeanor crime of interfering with an election official is inadequate to address the conduct of someone committing this crime. A Class D offense carries with it up to 364 days in jail. Given the paucity of cases of interfering with an election official in the first place, it is hard to imagine that there is any need to elevate the crime to a felony crime that would carry with it up to 5 years in prison.

MACDL's position with respect to this bill is consistent with MACDL's position when it comes to all proposals that recommend the increase in a class of a crime: unless there is some indication that judges feel constrained by the class of a crime such that they are looking for a more significant class of crime to punish a defendant, there should be no elevation of a crime at all. Several years ago, the Criminal Justice Committee recognized that there had been a steady change in the class of crimes that made many previously misdemeanor crimes felony crimes. The Criminal Justice Committee saw this as an unfortunate progression and, with very limited exceptions, the Criminal Justice Committee has not increased the class of a crime unless there

were exceptional circumstances, and those exceptional circumstances usually revolved around some increased numbers of crimes committed and a recognition that the penalties for the crime should be elevated significantly. As noted above, there is no evidence here.

Thank you for the opportunity to address this bill.

Sincerely,



Walter F. McKee  
Chair, Legislative Committee

wfm/rp