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**Testimony Neither For Nor Against L.D. 1492, *An Act to Reform
Drug Sentencing Laws***

Senate Chair Deschambault, House Chair Warren, and members of the Joint Standing Committee on Criminal Justice and Public Safety: my name is Aaron Frey, I live in Bangor, and I presently serve as Maine's Attorney General. I am here today to testify neither for nor against L.D. 1492, *An Act To Reform Drug Sentencing Laws*.

I support amending 17-A MRSA §1107-A to increase the amounts of schedule W drugs that trigger a felony level charge. While I do not believe the proposed increase to 3.5 grams for all eight (8) schedule W drugs is appropriate, some increase may better recognize the realities of what individuals struggling with substance use disorder may possess at any one time. The District Attorneys are supportive of going to 500 milligrams of Heroin, Oxycodone, Hydrocodone, and Methamphetamine before possession becomes felonious. I am open to discussing an amount in between 3.5 grams and 500 milligrams.

To help with the conversation on what the appropriate level may be, a common dosage amount is .1 gram (100 milligrams). If a common transaction involves the purchase of 1 gram, this would approximate 10 common dosages. I would suggest that this discussion consider what amount an individual may commonly have on their person immediately after a purchase balanced with legitimate public safety concerns about limiting the proliferation of these drugs.

17-A MRSA §1107-A(1)(A) permits a Class B offense to be charged if an individual has a prior conviction under Chapter 45 and is in possession of a certain quantity of cocaine base, cocaine powder, or methamphetamine. I support the proposal to repeal this statute.

I also support removing the different treatment of cocaine in the form of cocaine base ("crack") and cocaine, which may be done by removing "4 grams or more" from 17-A MRSA §1103(3)(B).

There are two (2) objectives of L.D. 1492 that I agree should be examined, but that I am not prepared to make a specific recommendation on. First, I am agreeable to some modification to how prior convictions are used to elevate a possession charge in the future. Second, I am agreeable to discussion on the statutory definition of activity that constitutes trafficking and furnishing.

With respect to the changes proposed to the statutes prohibiting the trafficking and possession of hypodermic apparatus, I would support some amendment downward to reduce the significance of a charge. At the same time, there are significant public safety concerns related to the unauthorized

provision of needles or the maintaining of a significant number of used needles. A criminal or civil charge should remain available to address this activity. Concurrent efforts should also be taken to bolster the activity of needle exchanges and education about the risks of reusing needles.

L.D. 1492 seeks to legalize the possession of schedule W, X, Y, and Z drugs. I strongly oppose this. While I support efforts to reduce the stigma for those suffering from a substance abuse disorder and to reduce barriers to recovery, wholesale legalization of these drugs fails to recognize how dangerous these drugs are.

I also do not agree with the proposal to strike “any quantity of” from 17-A MRSA §1101(25) or “in any quantity” from 17-A MRSA §1101(26). The cost to test drugs for purity would be significant, and it is not clear what benefit this would have for an individual found to be in possession of illegal drugs.

Finally, it would be remiss of me if I did not highlight the significant impact that illegal drugs have on individuals, families, and our communities in Maine. The *Expanded Maine Drug Death Report for 2018* released by the Office of the Attorney General indicated that 354 Mainers died from a drug overdose in 2018, with 89% of those deaths being accidental. The threat that these drugs pose is significant. I am confident that there is a balanced approach that will both reduce the stigma of the disease and promote legitimate public safety goals.

Thank you for your attention to this testimony, and I look forward to working with the Committee on this legislation.