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TESTIMONY OF OAMSHRI AMARASINGHAM, ESQ.

LD 1541 – Ought Not To Pass

An Act to Increase Sentences Imposed for the Illegal Importation of Scheduled Drugs

Joint Standing Committee on Criminal Justice and Public Safety

January 25, 2016

Senator Rosen, Representative Fowle and members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Oamshri Amarasingham, and I am the Advocacy Director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions through advocacy, education, and litigation.

The ACLU of Maine has consistently opposed bills that seek to expand the so-called War on Drugs. It is clear that we cannot arrest our way out of the public health crisis of addiction. For many years we have been concerned that Maine's valuable resources continue to be spent on enforcement, to the detriment of treatment programs and Mainers suffering from addiction. In that context, we oppose LD 1541, which will further entrench the cycle of incarceration and drug use.

The illegal importation of scheduled drugs is already a serious crime in Maine. The offense of illegal importation carries heavy penalties. We urge the committee to consider whether there is any evidence to support the assumption that enhancing already severe criminal penalties and creating new mandatory minimum sentences will reduce drug trafficking in Maine. Too often there is a conflation between the moral mandate to take harm seriously and the solution of imposing a criminal penalty. On the contrary, a sound criminal justice policy will respond to social harms in a way that addresses underlying problems, fosters safe and healthy communities, serves the needs of victims, and imposes real accountability on those who commit harm. A sound policy does not reflexively assume that imposing more criminal penalties signifies a more serious engagement with the problem. We do not believe that ratcheting up criminal penalties from class B to class A or mandating prison sentences will reduce drug use or trafficking in Maine. This approach has been tried in the past and it has not worked.

In fact, in recent years, this committee has moved *away* from mandatory minimum sentences because they remove judicial discretion in sentencing at a high cost to the taxpayer.

First, mandatory sentences do not allow judges to reduce a defendant's sentence based on any number of mitigating factors, including circumstances of the case or a person's role, motivation, or likelihood of repeating the crime. This approach to sentencing is unfair, treating similar defendants differently and different defendants the same.

Second, mandatory minimums create a powerful incentive for the perversion of justice. A defendant faced with a plea deal of 1.5 years or a risk of 20 years imprisonment if she goes to trial is likely to choose the former, no matter how weak the evidence. The threat of mandatory minimum penalties may cause offenders to give false information, to plead guilty to charges of which they may actually be innocent, or to forfeit a strong defense. That is not justice.

Finally, it is extremely expensive to introduce mandatory extra years of incarceration. In Maine, the average annual cost per inmate is \$56,269.¹ Policies that increase the length of prison and jail sentences do so at significant cost to Mainers. Before passing that cost on to the taxpayer, lawmakers should be sure that such an expensive policy creates some societal benefit.

Existing laws like those proposed in LD 1541 have not curbed drug use in Maine. Despite increased arrests and incarceration, Maine continues to have one of the highest rates of opiate addiction in the nation. The most effective and cost efficient way to address the public health problem of drug addiction, abuse and related crimes is increased treatment, not incarceration.

We urge the committee to reject LD 1541.

¹ Vera Institute of Justice, *The Price of Prisons: Maine* (Jan. 2012).