



MAINE CHIEFS OF POLICE ASSOCIATION

P.O. Box 2431 • South Portland, Maine 04116-2431

Chief Edward J. Tolan (ret.), Executive Director, Tel: (207) 838-6583
email: mcopa@maine.rr.com Web site: www.mainechiefs.com

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Cumberland Police Dept.

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Statement in Opposition to L.D. 748, An Act to Strengthen the Due Process Rights of Persons in Law Enforcement Custody Submitted by Chief Charles Rumsey March 8, 2023

Senator Carney, Representative Moonen and distinguished Members of the Joint Standing Committee on Judiciary. My name is Charles Rumsey, and I am the Chief of the Cumberland Police Department. I am submitting testimony on behalf of the Maine Chiefs of Police Association in Opposition to LD 748.

The Mission of the Maine Chiefs of Police is to secure a closer official and personal relationship among Maine Police Officials; to secure a unity of action in law enforcement matters; to enhance the standards of police personnel, police training and police professionalism generally; to devise ways and means for equality of law enforcement throughout the state of Maine; to advance the prevention and detection of crime; to prescribe to the Law Enforcement Code of Ethics; and to promote the profession of law enforcement as an integral and dedicated force in today's society sworn to the protection of life and property.

According to the bill summary,

This bill amends the Maine Civil Rights Act to provide that a person who is placed under arrest, in custody, under interrogation or temporarily detained by a law enforcement officer and who is not warned by the law enforcement officer of the person's privilege against self-incrimination and the person's right to the assistance of legal counsel may institute and prosecute in the person's name and on the person's behalf a civil action for legal or equitable relief against the law enforcement officer for failure to provide such warnings.

We are in opposition to LD 748 because the courts already provide the protection that this bill seeks to provide. In 1966, the United States Supreme Court held, in *Miranda v. Arizona*, that the Fifth Amendment serves to protect people when "their freedom of action is curtailed in any significant way." From that point, the Supreme Court has made clear that *Miranda* is a part of our national culture, and it and the Maine Supreme Court have set the rules that law enforcement must follow.

LD 748 greatly expands the situations when *Miranda* warnings are required to be administered to almost all police-citizens encounters. It would require law enforcement to give *Miranda* warnings whenever a law enforcement questions a subject about a crime that is likely to elicit an incriminating response. Like, if a

police officer goes to the home of an incident of domestic violence and questions the alleged perpetrator of the violence then they would need to immediately read the alleged perpetrator their *Miranda* rights. This would have a chilling effect on the police officers' ability to investigate that crime.

There is always a balance between protecting a potential victim's right to closure and the potential defendant's right to the Fifth Amendment protections. But this balance is *already* considered by the United Supreme Court and the Maine Supreme Judicial Court. Like in creating the exclusionary rules that prevent evidence from being introduced if law enforcement illegally obtained that evidence.

Further, LD 748 would expose a law enforcement officer to civil liability for the expansion of *Miranda* set forth by this bill. Our law enforcement officers already have a strong incentive to follow the Constitution – if they do not then the court will not accept the evidence obtained which can derail a case and even result in a person walking free. This is *all* the deterrent that is needed because no one in the law enforcement community wants that to happen. We already have every incentive needed to follow the law and to abide by the Constitution.

We want to assure you that the Courts have already achieved the goal of this bill and they will not hesitate to protect a defendant's constitutional rights. Therefore, we believe the legislation before you is not needed.

For these reasons, we hope that you will vote in opposition to LD 748. And, on behalf of the Maine Chiefs of Police Association, we want to thank you for your work on this Committee.