

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 2130 – Ought Not to Pass

An Act to Prohibit Unauthorized Paramilitary Training

Joint Standing Committee on
Criminal Justice and Public Safety

January 29, 2024

Senator Beebe-Center, Representative Salisbury and members of the Joint Standing Committee on Criminal Justice and Public Safety, good morning. My name is Michael Kebede and I am Policy Counsel 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. On behalf of our members, we oppose the parts of LD 2130 that would create a new Class C crime, and that could punish firearms and explosives teachers for things they neither know nor intend. Should the committee address our two concerns, we would rescind our opposition.

Amid a rise in radical neo-Nazi behavior across the country and here in Maine, we understand and share elected officials' desire to protect people from violence and intimidation. However, we ask that as you deliberate over this bill and other bills like it, you look for solutions that do the most good while preventing the most harm. We also ask you to consider in your deliberations whether creating new crimes is the best way to change behavior. Every three seconds a person is arrested in this country. According to the FBI, of the 10.3 million arrests each year, only 5 percent are for offenses involving violence. Popular culture teaches that people accused of crimes are violent and dangerous, but most arrested each year are accused of minor infractions. More than three-fourths of Maine's arrests every year are for misdemeanors. Moreover, the system disproportionately arrests and punishes people of color as compared to white people. For example, while only 1.6 percent of Maine's population is Black, Black people make up 5 percent of all arrests and more than 10 percent of those in Maine's prisons. This disproportionality increases as the class of crime increases, so that Black people are more likely to be arrested for felonies (class C, B and A crimes) than white people.

If enacted, this bill would create the new Class C crime of unauthorized paramilitary training. Class C crimes, the third most serious class of crimes in Maine, are punishable by up to five years' incarceration and a \$5,000 fine. One of the categories of people this bill would potentially criminalize is firearms or explosives teachers who "knows or reasonably should know that the teaching, training or demonstrating is intended to be used in or in furtherance of civil disorder." As written, the teacher has an obligation to guess at why someone is in their self-defense class, attending their lecture, or reading their "guide to firearms."

To better comply with First Amendment law, we recommend removing the "knows or reasonably should know" requirement and replacing it with a requirement the teacher *intends* that the information be used in an unlawful way or "with intent to cause or further civil disorder" (taken from the bill's exemption C). Requiring firearms and explosives teachers to guess at their students' intent is overbroad and risks ensnaring innocent people.

If those sections were amended in accordance with our suggestions, and if the crime were removed, then we would remove our opposition.