

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 59– Ought Not To Pass

An Act to Ban the Drug Tianeptine

JOINT STANDING COMMITTEE ON
CRIMINAL JUSTICE & PUBLIC SAFETY

February 3, 2025

Senator Beebe-Center, Representative Hasenfus, and distinguished members of the Joint Standing Committee on Criminal Justice & Public Safety, greetings. My name is Michael Kebede, and I am the Policy Director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to reject this bill.

This bill seeks to list tianeptine as a Schedule W drug, 17-A MRS §1102(1), trafficking of which is a Class B felony. 17-A MRS §§ 1102(1), 1103(1-A)(A). With a possible ten-year prison term, Class B felonies carry the highest level of punishment for unlawful trafficking in scheduled drugs. *See* 17-A MRS § 1103(1-A)(A).

At a time when Maine is beginning to turn a corner on its overdose crisis,¹ this bill would take us in the wrong direction. Rather than reduce drug use, criminalization of drugs has exacerbated drug-related violence and deaths.² It has driven the drug market underground, causing sellers to violently compete for territory and customers.³ It has left drug users with no

¹ Joe Lawlor, *Drug overdose deaths in Maine continue to decline after plummeting in 2023*, Press Herald, July 22, 2024, available at <https://www.pressherald.com/2024/07/22/drug-overdose-deaths-continue-to-decline-in-maine/#:~:text=The%20number%20of%20overdose%20deaths,declining%20to%20607%20in%202023> ("The state is on track for a 9.8% decline in 2024 from the previous year, after seeing a 16% decrease in 2023.")

² *See generally*, Christopher J. Coyne & Abigail R. Hall, *Four Decades and Counting: The Continued Failure of the War on Drugs*, Cato Inst., Policy Analysis No. 811, Apr. 12, 2017, available at <https://www.cato.org/policy-analysis/four-decades-counting-continued-failure-war-drugs>.

³ *See* Hannah LF Cooper, *War on Drugs Policing and Police Brutality*, 50 (8-9):1188-94 *Subst Use Misuse* (2015) doi: 10.3109/10826084.2015.1007669. PMID: 25775311, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4800748/>.

guarantee of the safety or purity of drugs, leading to an epidemic of overdose deaths.⁴ Those experiencing poverty, especially poor people of color, have been much likelier than the rest of the population to be arrested and convicted for drug use, possession, and sale. As a consequence, people of color shoulder a vastly disproportionate burden of records for drug crimes. In Maine, Black people make up 1.6 percent of our population, but 21% of the people arrested for Class A drug trafficking and 15% of Class B drug trafficking.⁵

Passing this bill would worsen this crisis. Mental health challenges, often driven by despair, are the reason people turn to tianeptine. The way to solve that problem is to through better public education and to strengthen our healthcare, housing, and educational systems. We often stand before this committee and object to the creation of new crimes because creating felonies does not stop abhorrent behavior or address its underlying root causes. This bill is no different. Creating a new felony will only create more problems.

Maine should only expand its criminal code when existing law is insufficient to address the problem at hand. That is not the case here. We urge you to vote *ought not to pass*.

⁴ Glen Olives Thompson, *Slowly Learning the Hard Way: U.S. America's War on Drugs And Implications for Mexico*, 9:2, 59-83 *Norteamérica*, Dec. 2014, <https://doi.org/10.20999/nam.2014.b003>, available at <https://www.sciencedirect.com/science/article/pii/S1870355016300039> (arguing that legalizing drugs would increase drug safety).

⁵ Ben Shelor, Jessica Gonzalez-Bricker, and Carl Reynolds, *Justice Reinvestment in Maine: Second Presentation to the Maine Commission to Improve the Sentencing, Supervision, Incarceration and Management of Prisoners*, THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, at 23 (Nov 19, 2019), available at <https://csgjusticecenter.org/wp-content/uploads/2020/10/JR-in-Maine-second-presentation1.pdf>. See also *A Tale of Two Countries Racially Targeted Arrests in the Era of Marijuana Reform*, ACLU, July 1, 2020, at 68, https://www.aclu.org/sites/default/files/field_document/tale_of_two_countries_racially_targeted_arrests_in_the_era_of_marijuana_reform_revised_7.1.20_0.pdf (finding that Black people in Maine were four times more likely than white people to be arrested for cannabis possession in 2018 – and that in York County, Black people are more than twelve times more likely than white people to be arrested for cannabis possession).