



March 26, 2025

Re: LD 1006, An Act to Allow Testing of Pregnant Persons for Drugs Directly Before and After Childbirth

To: Senator Ingwersen, Representative Meyer, and members of the Health and Human Services Committee

The Maine Chapter of the Freedom From Religion Foundation (MC-FFRF) writes to testify neither against nor in favor of LD 1006, which would allow a blood test on a pregnant person with the patient's consent.

The bill appears well-intentioned, as it would ensure compliance with a Supreme Court ruling as well as help to improve the health of the mother and possibly the infant. However, there are apparent issues with this particular bill.

The Supreme Court has ruled in *Ferguson v. City of Charleston* that hospital workers cannot test pregnant women for use of illegal drugs without their informed consent or a valid warrant if the purpose is to alert the police to a potential crime. The Court ruled that the facts of the women's pregnancy and of possible danger to their fetuses through use of illegal drugs did not change their basic constitutional rights, and those rights were violated by the test being an unreasonable search if there had been no consent or warrant. This ruling overturned a lower court decision that said that regardless of whether the women provided informed consent, the drug testing was justified by the "special needs" of stopping drug use by pregnant women and getting the women into treatment.

The Court said that the "special needs" exception to the Fourth Amendment (permitted in certain cases to justify drug testing for health and safety purposes, such as the testing of pilots) did not apply when connected to law enforcement.

The law enforcement aspect of this is concerning, since the bill as written does not mention the prosecution of the patient, either pro or con. This is not something that should be left unclear.

It is also unclear how this bill would fit with Title 22, §§ 4011-B and 4014-B (regarding the notification of Child Protective Services).

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Another unclear point regards confirmation testing. Should it be done, and how? Confirmation tests also cannot seem to sort out false positives (either from legal substances or from prescribed medications).

The American Medical Association and the World Health Organization both recommend using verbal screening and questionnaires as being more dependable.

For the reasons provided above, MC-FFRF urges the committee to vote “Ought To Pass” regarding LD 1006, but only after revision and amendment. Thank you for your attention.

Sincerely,

-Ray Vensel, President