



April 28, 2025

Dear Senator Carney, Representative Kuhn, and members of the Committee on Judiciary,

Re: LD1410 An Act to Provide Due Process in Confiscation and Destruction of Personal Items of Unhoused Persons

There are few things more traumatic than homelessness. There is a moment when you leave your home and you know it's for the last time and whatever you have in your hands, and maybe in your car, is all that you have to get you through the rest of the day, that night, and for several days to come. For some people, like those escaping domestic violence, speed and stealth prevent you from taking anything other than what you have on your back. You hope you have the important things – your ID, your medication, enough clothes, your stuffed shark from your high school retreat senior year that is a great pillow and a great comfort.

For a few weeks, friends and family let you stay with them. But there are time pressures, and not everyone is safe. You know you're a burden. Pretty soon people start talking. You've overstayed your welcome. Maybe you drink too much one night and you say things that probably needed to be said but leave people feeling raw. That plus the dead grass under your tent is all that it takes for your friends and family to ask you to leave.

You're out of money and have nowhere to go. You end up at a soup kitchen because the people are nice and the food is decent. When the meal is over you walk around for a bit, trying to
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figure out where you can curl up out of the way from prying eyes. You find a hidden place near a park and try to sleep, but you hear things in the night, the sound of crawling things and shuffling feet, people yelling, the sound of glass breaking. You barely sleep a wink. The next day you are back at the soup kitchen. Some of the same people are there and they can see you're struggling, so they invite you to come and camp with them down by the river. It's quiet and they look out for each other.

It goes like that for several weeks until the city decides there are too many of you. The community response officer from the police department says you all need to leave and they will be back in a few days to make sure you're gone. You don't really believe them, and besides, where are you going to go? Your feet are swollen, and you are struggling to walk. Your fibromyalgia has flared up, and it hurts to lift a back pack let alone trying to pack up your tent and all the things you have collected to keep yourself warm and alive.

But they do come back, and they bring heavy equipment. You aren't there when they arrive because you went to the soup kitchen for breakfast. By the time you get back, you have minutes to pack up. You have just enough time to grab some of your clothes and shove them into a shopping bag. Before you know it, you are whisked away by a case worker who says there is a bed at a shelter for tonight only, and to forget about your tent, you can't take it to the shelter anyway. You will be given one tote box to store your things. Everything else is trash – your clothes, your camp kettle and stove that have kept you fed on ramen and instant coffee for weeks, your air mattress that's a bit cold and has slow leak but is softer than the ground, your sleeping bag, even the stuffed shark. All of it is trash, scooped up by a bulldozer and taken to the nearest transfer station, never to be seen again. And there you stand, stripped bare not of your possessions, but of your human dignity, all of your worldly goods disposed of like so much trash.

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You start to feel like trash yourself and wonder if they'd like to scoop you up in the bulldozer. You realize as you stand there that even when they confiscated your makeup case in middle school they had to give it back by the end of the year. But not when you're homeless. When you're homeless, you have fewer property rights than an eleven year-old.

This is the reality of hundreds of Mainers every year. To say it is an injustice is a vast understatement. The state has no authority to confiscate and dispose of property in the absence of due process except when the owner of that property is homeless. In this one circumstance, due process doesn't apply; or rather, municipalities conveniently forget about it, which is easy enough to do when no one is going to sue you over it. You can do a lot to homeless people because they don't have lawyers, they don't have money for court fees, and they are often too overwhelmed with staying alive to worry about protecting their constitutional rights.

Like similar abandoned property statutes already on the books (see Title 33, The Maine Revised Unclaimed Property Act, chapter 45), LD1410 makes sure that the due process rights of the homeless are protected. It requires municipalities to store seized property until the owner can retrieve it. Landlords are required to do something similar, and they seem to manage compliance well. I trust municipalities have the skill of your average landlord.

Municipalities say this will cost too much and is an undue burden. That burden must be viewed in proportion to the harm caused to people whose property they have taken, property that has not been abandoned and is often necessary for survival and to climb out of homelessness.

Justice has never been the exclusive jurisdiction of the comfortable and the well-connected. It is the right of every citizen. Justice does not allow an injury to go unaddressed, especially one inflicted by the state due to procedural defaults. This commitment to procedural fairness is at the heart of our legal tradition, dating all the way back to the Magna Charta. One of

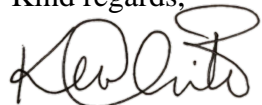
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my favorite legal maxims is "Injuriā est contra jū" which translates to "injury is against the law". It signifies that an act of injury or wrongdoing violates fundamental legal principles and is not in accordance with what is lawful, with what is just. Nor is justice predicated on a condition precedent, like whether or not someone has a home. People do not surrender their property rights simply because they are unhoused. They retain those rights, especially fundamental rights, like the right to possess and enjoy property.

Increasingly, more and more people are being subjected to encampment sweeps, and not just in Portland. Sweeps have occurred in Biddeford, Bangor, and Waterville, to name just a few. In a time when rental vacancy rates across the state are falling, homelessness numbers are increasing and the average period of homelessness is now measured in months not days or even weeks, more and more people are suffering the very damaging effects of those sweeps which always result in the loss of valuable, life preserving property. This is an injury that requires procedural safeguards, safeguards only the state legislature can protect. We don't have to look far to find it in the Maine Constitution. In Article 1, Section 19 it reads: "Right of redress for injuries. Every person, for an injury inflicted on the person or the person's reputation, property or immunities, shall have remedy by due course of law; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay."

Here is another legal maxim: justice delayed is justice denied. Don't delay any longer and vote ought to pass.

Kind regards,



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