



TESTIMONY OF ALICIA REA, ESQ.
LD 1888 – Ought Not to Pass

An Act to Combat Organized Criminal Enterprises in Maine

Joint Standing Committee on
Criminal Justice and Public Safety

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Senator Beebe-Center, Representative Hasenfus, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Alicia Rea, and I am a policy fellow 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, I urge you to oppose LD 1888.

This bill furthers the failed policies of the War on Drugs, expands government powers, threatens individuals' privacy rights, and violates the Constitution.

LD 1888 Creates Unnecessary and Harmful Criminal Laws

LD 1888 would create new crimes for “racketeering” and would reinstitute problematic asset forfeiture in drug crimes. These measures are unnecessary and violate civil liberties.

We understand that this bill may have arisen out of concern over illegal cannabis grow operations in Maine. Maine law, along with news reports of several recent arrests across Maine, show that law enforcement has sufficient tools to address unlawful grow operations already. First, it is already a Class B crime, punishable by up to 10 years' imprisonment and a \$20,000 fine, to grow more than 500 cannabis plants.¹ It is a Class C crime, punishable by up to 5 years in prison and a \$5,000 fine, to grow more than 100 plants.² Additionally, the law already provides that “[q]uantities of scheduled drugs in violations of section 1103 [trafficking of cannabis]...committed pursuant to one scheme or course of conduct and confiscated within a 6-month period may be aggregated to charge a single

¹ 17-A MRS §1103(D).

² *Id.* (C).

violation of appropriate class.”³ Recent news stories show that police are arresting people across the state for illegal grows.⁴ Not only are new laws unnecessary, but the laws proposed by this bill would do more harm than good.

Since their inception in the 1970s, Racketeer Influenced and Corrupt Organizations (RICO) laws have raised a number of civil rights concerns.⁵ “To achieve its objective^{6,7,8}

The enactment of RICO laws and the declaration of the “War on Drugs” also helped kick off the United States’ dubious career as the world’s largest jailer—both in absolute numbers and by the percentage of the population that we imprison.⁹ These policies have been used to target communities of color, leading to far higher incarceration rates for people of color, particularly Black people.

Maine is no outlier to this national trend. While overall arrests in the State have decreased by 30 percent over the past decade, drug arrests during that

³ 17-A MRS §1106-A(1).

⁴ See Jim Keithley, *Illegal Chinese-owned marijuana farms under investigation in Maine*, WMTV (Feb. 5, 2024 at 5:42 PM), <https://www.wmtv.com/article/chinese-owned-marijuana-farms-maine/46652242> (“It turns out the discovery of an illegal marijuana grow operation at a farmhouse in Turner could be one of 270 in Maine.... [O]fficials have been dealing with illegal grow houses in recent times with a half dozen people charged just in the last few weeks.”); Dylan Tusinski, *Sheriff: Three arrested, hundreds of plants seized in latest marijuana growing bust at a central Maine residence*, Portland Press Herald (Jan. 17, 2024), <https://www.pressherald.com/2024/01/17/sheriff-three-arrested-hundreds-of-plants-seized-in-latest-illegal-potoperation-bust-at-central-maine-residence/>; and Christopher Burns, *More than 3,700 marijuana plants seized from illegal operation in Corinna*, WGME (Feb. 12, 2024 at 10:57AM), <https://wgme.com/news/local/more-than-3700-marijuana-plants-seized-from-illegal-operation-in-corinna-maine-penobscot-county-sheriffs-office-leaked-federalgovernment-memo-crime-pot-weed-cannabis>.

⁵ William L. Anderson and Candice E. Jackson, *Law as a Weapon: How RICO Subverts Liberty and the True Purpose of Law*, 9 THE INDEPENDENT REVIEW (2004); Nixon Signs Bill to Combat Crime, New York Times (Oct. 16, 1970), <https://www.nytimes.com/1970/10/16/archives/nixon-signs-bill-to-combat-crime-gives-tools-for-total-warto.html>.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Although Maine itself has lower rates of incarceration than other states, we still have higher incarceration rates than the United Kingdom, Portugal, Canada, France, Italy, and many other western nations. See Prison Policy Initiative, Maine, and NATO incarceration comparison, available at <https://www.prisonpolicy.org/graphs/NATO2018/ME.html>.



time have increased and racial disparities persist.¹⁰ For example, according to a 2020 ACLU report, Black people in Maine were four times more likely than white people to be arrested for cannabis possession in 2018, despite both groups having similar usage rates.¹¹ Maine's drug laws are extremely harsh. Possession of small quantities of drugs is defined in the criminal code as drug trafficking, even if the person is possessing drugs only for personal use. The amounts considered trafficking are often less than the amount one person with substance use disorder is likely to use in a single day. These are some of the same crimes included in LD 1888 as the basis for racketeering charges.

Expanding government powers and increasing incarceration rates will only harm Maine and its people, with already marginalized communities bearing the brunt of the harm. As they have already demonstrated, Maine's law enforcement agencies can address illegal grow operations under existing laws and regulations; they do not need this legislation.

Conclusion

LD 1888 is unwise and unnecessary to enforce existing laws. It would expand penalties for behaviors that are already crimes and double down on the failed drug policies of the past 50 years.

We urge you to vote ought not to pass.

¹⁰ Ben Shelor, et al., *Justice Reinvestment in Maine Second Presentation to the Maine Commission to Improve the Sentencing, Supervision, INCARCERATION AND MANAGEMENT OF PRISONERS*, Nov. 12, 2019, pp. 15, 20, available at <https://csgjusticecenter.org/wp-content/uploads/2020/10/JR-in-Maine-secondpresentation1.pdf>.

¹¹ *A Tale of Two Countries: Racially Targeted Arrests in the Era of Marijuana Reform*, American Civil Liberties Union, 32, 35 (2020), https://www.aclu.org/sites/default/files/field_document/marijuanareport_03232021.pdf