

Testimony of the Maine Municipal Association

In Qualified Support

LD 1978, An Act Regarding Government Liability Related to Sexual Acts Toward Minors

May 19, 2025

Senator Carney, Representative Kuhn and esteemed members of the Judiciary Committee, my name is Rebecca Graham, and I am submitting testimony on LD 1978 on behalf of the Association as our Legislative Policy Committee (LPC) which is generally supportive of the goals of the bill but feel compelled to point out some significant language concerns with the principles as drafted.

This bill creates an immunity exception under Maine Tort Claims Act for “intentional and negligent acts or omissions *relating to* [emphasis added] an employee’s or agent’s commission of sexual acts towards a minor. All other exceptions in 8104-A establish potential liability for “*its* [emphasis added] negligent acts or omissions” in ownership maintenance and use of motor vehicles, construction or operation of public buildings, in the discharge of pollutants, arising out of street cleaning or construction.

The amendment also applies to the exemption to “agents” of municipalities which would mean contractors such as plowing companies and their employees, which municipalities have no direct control over. To add some additional context, the bill would apply to volunteer fire departments who use firefighters classed as volunteers not employees and are also separately incorporated through the volunteer fire department but acting as an agent of the municipality. This amendment would seem to apply liability to the municipality for the actions of volunteer firefighters operating under a volunteer fire department that may serve multiple municipalities. The expansion of municipal liability here is problematic and broader than the standard applied to private employers and potentially unmanageable.

The language in the bill would be more helpful and make more sense if the governmental entity was to be held liable for “its” intentional and negligent actions and limited to employees of the municipality, rather than any action “relating to” an employee’s sexual acts toward a minor, which may not have been made directly by the local government or its employees. Here it would also be better to clearly state the employer/employee relationship and in a more limited way to include true employees that the municipality has control over. A complaint against the employee of a contractor may not even be known to a municipality unless there is a path to compel disclosure by the contractor for a pending investigation.

While the statute of limitations is also expanded, municipal officials expressed a desire to have the claims conform with all existing statute of limitations to related reports and claims against private entities, because there are a number of important policy reasons for limiting government liability under the Maine Tort Claims Act, not least of which is the impact of the costs of government liability on the taxpayers. The exception as drafted is so expansive and will undoubtedly increase costs not just for judgments but also for claims as many claims may be brought that will need to be defended, even if they are not successful.

Again, officials are supportive of the accountability goals expressed and recognize their need to be the preservers of public trust where all others fail. However, they respectfully ask you to appropriately provide guidelines that limit the impacts to where they have direct control of the actors and provide tools that will help them hold the actors accountable.