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Testimony of Major Brian Scott
130th First Regular Session 5-14-2021

NEITHER FOR NOR AGAINST TO LD 1478 AN ACT TO DECRIMINALIZE HOMELESSNESS

Senator Deschambault, Representative Warren and members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Major Brian Scott and I am here today to testify on behalf of the Maine State Police and the Department of Public Safety NFNA LD 1478.

While we believe that the intent of this bill is a noble one, we also believe it would result in unintended consequences. Being homeless may increase the risk of a person coming into contact with law enforcement for what might seem like minor crimes, however being homeless should not be a license to engage in behavior that infringes on the rights of others. As written a person who “lacks a home” may commit a criminal trespass on the property of another and refuse to leave when ordered to do so. They may also engage in disorderly conduct with loud and unreasonable noise or by starting a fight in public or knowingly expose their genitals to a school bus full of children as long as they are also urinating. They could openly use drugs and alcohol at a school playground with children playing or at a crowded beach where families are trying to enjoy the outdoors and the refuse to stop their conduct after having been ordered to do so by a law enforcement officer. The police would not be able to stop these crimes in progress by making an arrest and restoring order to what could be a disturbing and chaotic situation resulting in the continued victimization of others.

I am concerned that, as an example, a person could ‘camp’ in the front yard of one your constituent’s residence, make loud and unreasonable noises and urinate on their flower garden with their children watching. And then when we, the police, are called and respond we would be powerless to be able to help them remove this person from their premises or arrest them if they refuse to leave.

A person who is not actually homeless could simply say that they lacked a home as a defense to any of these crimes listed in the bill and law enforcement may not be able to prove that they in fact have a home. The bill also does not define what the meaning of “lacks a home” is. If a person does not rent or own, but stays with family or friends are they considered to lack a home since the home is not theirs, yet they still have a roof over their head?

This bill would also mandate that if law enforcement encounters a person, who lacks a home, committing the crimes described in this proposed statute that we would have to require mental health and substance use disorder professionals respond and provide appropriate information and referrals to resources in the community to include crisis services, emergency and transitional housing and case management services. Most law enforcement agencies do not employ these professionals, so we would either have to hire or contract with such professionals without the available funding or the expertise to properly supervise them. And many communities in Maine do not have the services contemplated in this bill.

Law enforcement officers exercise discretion every day and rarely arrest for minor violations when other options are available. District Attorneys often do not prosecute minor crimes with extenuating circumstances and there is currently a statute in the Maine Criminal code (17-A MRS, Section 12) that allows a court to dismiss “De minimis Infractions.”

We recognize that homelessness is a terrible problem that Maine must deal with and we hope that steps are taken to provide housing and other services to reduce this issue. However, even though this bill aims to help homelessness, we are not sure that it will reach that end and we remain concerned of the unintended consequences that will impact the quality of other Mainer’s lives.

On behalf of the Department of Public Safety and the Maine State Police, I thank you for your time and would be happy to try and answer any questions that you might have.