



Maine Sheriffs' Association

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March 6, 2023

L.D. 748 – An Act to Strengthen the Due Process Rights of Persons in Law Enforcement Custody

Senator Carney, Representative Moonen, and esteemed members of the Joint Standing Committee on Judiciary, my name is Joel Merry. I am the Sheriff of Sagadahoc County and here on behalf of the Maine Sheriffs Association.

Maine sheriffs discussed this bill and those present voted unanimously to oppose L.D. 748 – An Act to Strengthen the Due Process Rights of Persons in Law Enforcement Custody. Maine Sheriffs' legislative policy committee met and discussed this bill in great detail. Our members voted unanimously to oppose L.D. 748.

Maine sheriffs, along with all other police officers in the State of Maine, take an oath to uphold and support the Constitution of the State of Maine. This includes the Declaration of Rights, enumerated under Article I. Furthermore, our commitment to the rule of law is embedded in the Law Enforcement Code of Ethics. Our training and policies call for the strict adherence to the warnings mandated by the U.S. Supreme Court in *Miranda v. Arizona* (1966), having been implemented successfully for over sixty years and its intent to protect a suspect's Fifth Amendment right to refuse to answer self-incriminating questions. In that case, and others, the courts have been clear that Miranda rights do not go into effect until an arrest or in custody has occurred.

When considering the implementation of a new law, the question becomes whether or not such passage will initiate positive change for those constituents who have elected lawmakers to office. LD 748 would impede investigations and compromise public safety. While we understand the intent of this bill is to protect the rights of some, we cannot ignore the potential for negative consequences that will impact others. The threat that civil charges could be filed against law enforcement officers for failing to Mirandize would inhibit police from doing the very job they took an oath to perform.

The outcome of *Vega vs. Tekoh* ascertained that a citizen cannot sue a law enforcement officer for violating their Fifth Amendment right by not reading them their Miranda warning. LD 748 is in front of this committee today because of a national initiative to respond to those court findings. Passage of LD 748 would unnecessarily burden law enforcement agencies across the state who are currently facing critical staffing shortages and it would remove protection for those who have dedicated their lives to serve and protect.

The question begs to be asked, will implementing these additional Miranda warnings correct an injustice that has been occurring in Maine? The resounding answer is no, the only outcomes of LD 748 would be confusion in our criminal justice system and another detriment to those considering a career in law enforcement.

Maine sheriffs appreciate the opportunity to share our unanimous position of opposition to LD 748, and we urge each of you to vote Ought Not To Pass. I welcome any questions you may have.

Sincerely,
Sheriff Joel Merry
Past President-At-Large
Maine Sheriffs' Association