

# STATE OF MAINE

KATHRYN SLATTERY  
DISTRICT I

JACQUELINE SARTORIS  
DISTRICT II

NEIL MCLEAN  
DISTRICT III

MAEGHAN MALONEY  
DISTRICT IV



R. CHRISTOPHER ALMY  
DISTRICT V

NATASHA IRVING  
DISTRICT VI

ROBERT GRANGER  
DISTRICT VII

TODD R. COLLINS  
DISTRICT VIII

## MAINE PROSECUTORS ASSOCIATION SHIRA BURNS, EXECUTIVE DIRECTOR

“An Act to Strengthen the Due Process Rights of Persons in Law Enforcement Custody”  
Before the Joint Standing Committee on Judiciary

Public Hearing Date: March 8, 2023  
Testimony in Opposition of LD 748

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary. My name is Shira Burns and I represent the Maine Prosecutors Association. I am here to testify in opposition of LD 748.

This bill expands when *Miranda*<sup>1</sup> warnings would need to be given that are not required under current law and adds two new forms of de facto arrest: “under interrogation” and “temporary detention.” *Miranda* is given when there is custodial interrogation, meaning you need both custody and interrogation. However, this bill would require *Miranda* if either of the situations arise, not both. Further, the expansion would have many collateral consequences, including citizens not wanting the warning when they are temporarily detained during a traffic stop. This would instill fear in an everyday citizen that is not coming into our criminal justice system and does not need to know about a person’s right to the assistance of legal counsel in a criminal matter.

Officers respond to thousands of emergency calls each year in Maine, many domestic violence in nature. The response to those calls include separating the parties on the scene and asking each party what happened. Even though no one is in custody at that time, because the officer is asking them what happened it would be considered an “interrogation.” The officers would then need to give both parties, the victim and the defendant, *Miranda* warnings which would have a chilling effect on victims calling for emergency services.

Furthermore, the exclusionary rule, a law that prohibits the use of illegally obtained evidence in a criminal trial, is a very good checks and balance system to make sure law enforcement is following proper procedure and giving “*Miranda*” warnings when applicable.

For these reasons, the Maine Prosecutors Association is in opposition of LD 748.

---

<sup>1</sup> *Miranda v. Arizona*, 384 U.S. 436 (1966).