



AMERICAN CIVIL LIBERTIES UNION

Maine

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TESTIMONY OF MICHAEL KEBEDE, ESQ.

Ought Not to Pass - LD 761

**An Act to Amend the Laws Governing the Crime of
Endangering the Welfare of a Child and to Create the Crime of
Aggravated Endangering the Welfare of a Child**

JOINT STANDING COMMITTEE ON
CRIMINAL JUSTICE & PUBLIC SAFETY

March 27, 2023

Senator Beebe-Center, Representative Salisbury, and distinguished members of the Joint Standing Committee on Criminal Justice & Public Safety, greetings. My name is Michael Kebede, and I am the Policy Counsel at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to reject this bill.

Under current law, a parent, foster parent, guardian or other person responsible for the long-term care of a child faces up to five years in prison if they recklessly endanger the child in a manner that leads to the child's physical injury. 17-A MRS §554 (1)(B-2). Depending on the facts of the case, the accused can be charged and convicted for multiple counts of this same crime, and face a decade, or even multiple decades, of prison time. *See* 17-A MRS §554 (1)(B-2); §1608 (defining circumstances in which a court can order multiple sentences of imprisonment). The bill before you would create three new felony crimes if a person who has a duty of care over a child is found to have been reckless or consciously disregarded a risk, leading to injury of that child.

Imposing tougher punishments for behavior that is already criminalized will only swell failed systems. It punishes after the fact but does not prevent the victimization of children. It will not get to the root of the problem: the exploitation of impoverished families and their children, especially families and communities of color, in whom the government does not invest sufficient resources.

Imposing tougher penalties will, however, open the door to the increased criminalization of poor women, especially women of color. Laws that punish a failure to protect can lead to outcomes where victims of domestic violence end up with longer prison sentences for failing to protect their children than the abusive parent themselves.¹ This bill will also likely disproportionately punish parents, particularly women, who struggle with substance use. Policies that threaten women with criminal prosecution and the loss of their children drive women away from health care and discourage them from seeking help and safety.

Maine should only expand its criminal code when existing law is insufficient to address the problem at hand. That is not the case here. We urge you to vote *ought not to pass*.

¹ See Juana Summers, Gabe O'Connor, Ashley Brown, *Are 'failure to protect' laws failing mothers?*, Aug. 17, 2022, available at <https://www.npr.org/2022/08/17/1118009546/are-failure-to-protect-laws-failing-mothers>.