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TESTIMONY OF MEAGAN SWAY, ESQ.

LD 1412 - Ought to Pass

**RESOLUTION, Proposing an Amendment to the Constitution of Maine  
Establishing That All Maine Residents Have Equal Rights Under the Law**

JOINT STANDING COMMITTEE ON JUDICIARY

April 24, 2023

Senator Carney, Representative Moonen, and members of the Committee on Judiciary, greetings. My name is Meagan Sway, and I am Policy Director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. I am here today to testify in support of LD 1412.

For more than 100 years, the ACLU has been at the forefront of the struggle to win full legal equality for all. For example, since its founding, the ACLU has argued more women's rights cases before the United States Supreme Court than any other organization. In 1970, we endorsed the Equal Rights Amendment, and established our Women's Rights Project soon after, directed by then-Professor Ruth Bader Ginsburg. In the context of that legacy, we are proud to support an amendment to the Maine constitution that will guarantee equal rights to people in Maine regardless of their actual or perceived race, color, religion, sex, sexual orientation, gender identity, gender expression, age, physical or mental disability, ancestry or national origin.

The central concept of civil liberties is that all individuals have the fundamental right to be judged on the basis of their individual characteristics and capabilities, not the characteristics and capabilities that are supposedly shared by any group or class to which they might belong. This fundamental right is the premise of the Fourteenth Amendment to the United States Constitution, which guarantees the equal protection of the laws to all individuals.

The Fourteenth Amendment has not been an effective tool to combat many forms of discrimination, including sex and race discrimination. Though the Fourteenth Amendment covers all "persons," it is worth noting that when it was adopted in 1868 women were not "persons" in the legal sense. Despite the guarantees of equal protection in the federal and Maine constitutions, inequities in our legal system remain.

LD 1412 would enshrine full legal equality in the Maine Constitution for protected classes. It is wrong to suggest that we should not act because the amendment would cause some uncertainty and require legislation and, possibly, litigation to clarify its specific meanings. The same could be said of every section of the state and federal constitutions. It is wrong also to assume that passage of the Equal Rights Amendment will invalidate any of the necessary protections and benefits that have been extended to protected classes by statute. This amendment would not supplant or invalidate any existing statutory protections, but would complement and strengthen them.

It is time for Maine to recognize the full legal equality of Maine's people. We urge you to vote ought to pass.