



AMERICAN CIVIL LIBERTIES UNION

Maine

PO Box 7860
Portland, ME 04112
(207) 774-5444
www.aclumaine.org

TESTIMONY OF MEAGAN SWAY, ESQ.

Ought to Pass - LD 776

**RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish the
Right to Bodily Autonomy**

Submitted to the

JOINT STANDING COMMITTEE ON JUDICIARY

May 1, 2023

Senator Carney, Representative Moonen, and distinguished members of the Joint Standing Committee on Judiciary, greetings. My name is Meagan Sway, and I am the Policy Director 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. I am here today to testify in support of LD 776, which would allow Mainers to vote on whether to add the right to bodily autonomy explicitly to the constitution.

The right to bodily autonomy is an implied right, rooted in the Fourteenth Amendment to the United States Constitution and Article I, Section 6-A of the Maine Constitution. After *Dobbs v. Jackson Women's Health Org.*, a federally recognized constitutional right to bodily autonomy is now, for all intents and purposes, gone. *Dobbs* eviscerated the right to bodily autonomy in the context of abortion, but many other rights are also tied to bodily autonomy. The right to purchase and use contraception, see *Griswold v. Connecticut*, 341 U.S. 479 (1965), to be intimate with another adult of any gender, see *Lawrence v. Texas*, 539 U.S. 558 (2003), or to marry whomever one loves, see *Obergefell v. Hodges*, 576 U.S. 644 (2015), could be up for debate insofar as they were protected by a federally recognized right to bodily autonomy.

Although the right to bodily autonomy is still protected by the Maine Constitution, it is not explicitly stated there. Explicitly protecting bodily autonomy in the state constitution could provide some measure of relief to those whose federally-recognized rights were destroyed in June 2022. It would also potentially further protect the right to be treated according to one's gender identity, even if that does not match a person's sex assigned at birth, and create a right to possess and use drugs so long as that use does not harm others.

Long-established, bedrock principles of constitutional law were thrown away by the Supreme Court last year. In light of that court's actions, it is prudent to shore up our state constitutional rights, given the ongoing dangers at the federal level. We urge you to vote ought to pass.