

TESTIMONY OF MICHAEL KEBEDE
LD 2058 – Ought to Pass



An Act to Require Municipal and County Jails to Be Available at All Times for Detention of Persons Arrested on Criminal Charges by Maine Law Enforcement Officers

Joint Standing Committee on
Criminal Justice and Public Safety

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Senator Beebe-Center, Representative Hasenfus, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, good morning. My name is Michael Kebede 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. On behalf of our members, I urge you to support LD 2058.

This bill provides a simple but necessary clarification to Maine law, following the Legislature’s original intent in enacting Section 1502 of Title 25: ensuring Maine jails are available to receive individuals arrested on criminal charges, while preserving local control over whether to accept detainees not charged with crimes. LD 2058 would restore clarity to a statute that is vulnerable to misinterpretation.

In 1964, the legislature amended section 1502 to add the following sentence: “Municipal and county jails shall at all times be available for detention of persons arrested by state or any other law enforcement officers.”¹ The statute does not define “other law enforcement officers.”

The legislative history makes clear that the 1964 amendment, adding this single sentence, was enacted solely to govern cooperation between local and state law enforcement regarding criminal detainees, and had nothing to do with civil detainees.² The Emergency Preamble to the 1964 law states that it was enacted as an emergency measure because the “arrest and detention of persons alleged to have committed crimes is a statutory responsibility of state

¹ 25 M.R.S. § 1502.

² If the legislature did intend to create a sweeping mandate, requiring that all local jails accept and hold all individuals presented by federal law enforcement officials, that mandate would not be buried in a single sentence of an unrelated provision about state police power. The legislature “does not alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions—it does not, one might say, hide elephants in mouseholes.” *Whitman v. Am. Trucking Associations*, 531 U.S. 457, 468 (2001).



law enforcement officers,” but there was “no statutory provision for the detention of such persons,” and therefore these facts created an emergency requiring immediate legislation.³ In other words, the statute governs only the detention of people who are charged with crimes, not civil infractions.

The emergency statute was enacted in response to a situation in which the City of Rockland, which historically had received individuals arrested by the state police and neighboring cities and towns at no cost, had decided that it would no longer do so.⁴ In response, the Attorney General’s Office issued a legal opinion explaining that, because a municipality like Rockland is a subdivision of the state, it cannot refuse a request by the state or other municipalities to house people who are arrested for violating state law.⁵ The 1964 statute was enacted to codify that opinion into law. But the Attorney General’s rationale does not apply to people arrested by federal law enforcement for civil offenses. The legislative history makes clear that the legislature enacted this emergency legislation to permit necessary cooperation between state and local law enforcement regarding holding of criminal detainees.

The 1964 amendment reflects a basic principle of Maine governance: there should be cooperation between state and local law enforcement in enforcing Maine criminal laws, while respecting the independence of localities. Maine jails have long exercised control over how their operations are conducted and should have the benefit of maintaining control over decision-making whether to allow federal detainees in their jails. Strengthening the original intent of Section 1502 would protect this local independence, by allowing communities to choose how to use their limited resources.

We urge you to vote ought to pass.

³ Pub. L. 1963, c. 436,

https://lldc.mainelegislature.org/Open/Laws/1963/1963_PL_c436.pdf.

⁴ Leg. Rec., https://lldc.mainelegislature.org/Open/LegRec/101/House/LegRec_1964-01-14_HP_p0124-0134.pdf.

⁵ December 5, 1963 letter from Deputy Attorney General George C. West to State Police Major Parker Hennessey.