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TESTIMONY OF

**RANDALL A. LIBERTY COMMISSIONER
DEPARTMENT OF CORRECTIONS**

In Opposition

LD 521 An Act to Modify the Rule-making Process for Establishing County and Municipal Jail Standards

**Before the
Joint Standing Committee on Criminal Justice and Public Safety**

March 24, 2021

Senator Deschambault and Representative Warren and other distinguished members of the Criminal Justice and Public Safety Committee, I am Randall A. Liberty, Commissioner of the Maine Department of Corrections providing testimony against LD 521.

The Department of Corrections opposes this bill for two reasons. First, because it will turn all rulemaking related to jail standards into major substantive rulemaking. As this committee is well aware, major substantive rulemaking is a time-consuming and lengthy process that delays the adoption of rules until the Legislature is in session. Historically, the process of simply discussing the potential for rulemaking has taken place within the County and Municipal Detention Facility Advisory Committee, a practice that has worked well. Similarly, the technical rulemaking process currently in place is a reasonable procedure for county commissioners, sheriffs, residents of jails, advocates and victims to dialogue about potential rulemaking. It is also important to note that technical rulemaking is considered a best practice in modern day corrections, as it is the most efficient way to implement fair practices in all facilities.

As there are well worn paths for discussing and initiating rulemaking, this bill begs the question: for what gain? More months will be spent on issues that have already had ample airing via the public comments and public hearings associated with the rulemaking process currently in place.

The second reason we oppose this bill is the addition of the language “minimize the imposition of additional costs.” This is vague language that can be interpreted in multiple ways. The MDOC takes very seriously the potential fiscal impact of policy and practice changes proposed. Currently there is ample opportunity for parties involved to discuss costs during the advisory committee meetings and the rulemaking process. Further, there is already a statutory provision forbidding unfunded mandates. The addition of this vague language may result in a lack of improvement for jail residents, including COVID-19 precautions, medication-assisted treatment for opioid use disorders, and reproductive health care.

The MDOC remains committed to working with the counties and sheriffs to ensure the needs of jail residents are met in an equitable and cost-efficient manner.

This concludes my testimony. I am happy to answer questions.

Randall A. Liberty