

TESTIMONY OF MICHAEL KEBEDE, ESQ.

**LD 476 – Ought to Pass**

**An Act To Provide Licensed Assisted Living and  
Nursing Facilities Levels of Care for Incarcerated Persons**

Joint Standing Committee on  
Criminal Justice and Public Safety

March 24, 2021

Senator Deschambault, Representative Warren and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede, and I am Policy Counsel 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, we urge the committee to support LD 476.

Maine has one of the highest percentages of elderly prisoners in the country, with at least 1 out of 10 prisoners over the age of 55. As a result of 40 years of tough-on-crime sentencing, our criminal justice system has undergone a gargantuan expansion. Our nationwide prison population has almost quadrupled in four decades, and with it so too has the number of elderly people in prison. Maine's prison population has more than doubled since 1983.<sup>1</sup> Our jail population has grown over six-fold since 1970.

Like older people in the general population, elderly prisoners tend to be more susceptible to chronic health and medical conditions, translating into higher health care costs and assistance performing daily tasks of survival. The Eight Amendment to the federal Constitution guarantees all prisoners a right to health care while incarcerated and protects them against indifference to their serious medical needs. However, prisons are not built to accommodate an aging populace and there are

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<sup>1</sup> *Incarceration Trends in Maine*, Vera Institute of Justice, available at <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-maine.pdf>

serious challenges and costs associated to providing adequate care within the prison settings. While we cannot erase the 40 years of extreme sentencing and unfair and unjust criminal justice policy, there are steps we can take to reform the system both in the short and long term.

In effect, some of our prisons have become assisted living facilities in all but name. But unlike accredited assisted living facilities, they are not held to the same standards of care. This bill would help solve that problem by establishing appropriate standards of care for our aging prison population, by accrediting parts of some prisons as long-term care facilities, and by requiring the Department of Corrections to collaborate with accredited long-term care facilities in caring for elderly prisoners. These reforms are commonsense. They formalize current practice and would hold us to the promise of our Constitution.

We urge you to vote *ought to pass*.