

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 1035 – Ought Not to Pass

An Act To Prohibit Maintaining Drug-involved Premises

Joint Standing Committee on
Criminal Justice and Public Safety

April 21, 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 reject LD 1035.

Last year, at least 502 people died in Maine as a result of drug overdoses.¹ During the same period, our state saw between 450 and 700 confirmed deaths from COVID-19.² But our response to these two crises has not been similar. Our response to the decades-long substance use crisis has tilted heavily toward the use of police, courts, jails, and prisons. We have tried to arrest and incarcerate our way out of our despair-driven drug overdose crisis. The results have been disastrous. Our jails have become default depositories in lieu of sufficient mental health or substance-use-treatment.³ A staggering share of the people incarcerated in Maine's jails currently receive psychotropic medications. This cannot continue.

¹ Gillian Graham and Joe Lawlor, *Maine overdose deaths set new record in 2020, and 2021 started even worse*, Press Herald, Feb. 18, 2021, <https://www.pressherald.com/2021/02/18/maine-reports-501-drug-overdose-deaths-in-2020-worst-year-on-record/#:~:text=Maine%20recorded%20its%20worst%20year,during%20the%20COVID-19%20pandemic>.

² See generally Maine Center for Disease Control & Prevention, COVID-19: Maine Data, <https://www.maine.gov/dhhs/mecdc/infectious-disease/epi/airborne/coronavirus/data.shtml>.

³ See *Justice Reinvestment in Maine*, Justice Center: Council of State Governments, at 3, Dec. 2019, available at <https://csgjusticecenter.org/wp-content/uploads/2019/12/JR-in-Maine-Overview.pdf>

Passing this bill would worsen this crisis. The criminal legal system cannot solve our serious problem of substance use disorders. The way to solve that problem is to strengthen our healthcare, housing, and educational systems. We often stand before this committee and object to the creation of new crimes because creating felonies does not stop abhorrent behavior or address its underlying root causes. This bill is no different. Creating a Class C felony will not keep people with substance use disorders safe. Moreover, the conduct this statute attempts to address can be prosecuted under existing law. Should a person knowingly allow their residence or other premises to manufacture, store, or distribute scheduled drugs, they could be prosecuted as an accomplice to unlawful trafficking. *See* 17-A MRS § 57 (accomplice liability), § 1103 (unlawful trafficking). This bill would duplicate existing law.

We urge you to vote *ought not to pass*.