

TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 759 – Ought Not to Pass

**An Act To Amend the Child Endangerment Laws To Include Certain
Unauthorized Access to a Loaded Firearm**

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 oppose Section 2 of this bill because it criminalizes conduct that we believe is already covered under Maine law.

The ACLU of Maine does not oppose requiring firearms to be stored properly so that they are not accessible to children. We believe that the right to own and use guns is not absolute nor free from government regulation since firearms are inherently dangerous instrumentalities and their use, unlike other activities protected by the Bill of Rights, can inflict serious bodily injury or death. Therefore, firearms are subject to reasonable regulation in the interests of public safety, crime prevention, maintaining the peace, environmental protection, and public health.

The ACLU of Maine's opposition is focused on the creation of a new crime in Section 2, because existing criminal law already covers the conduct proscribed by this bill. As this committee knows, the ACLU of Maine generally opposes the expansion of the criminal code. Maine should only expand its criminal code when existing law is insufficient to address the problem at hand. The behavior that this bill seeks to prevent—leaving a firearm accessible to children who then use that

firearm to harm others—is already covered under our criminal laws. 17-A M.R.S.A. §211 provides that it is a Class D crime to engage in reckless conduct: “A person is guilty of reckless conduct if he recklessly creates a substantial risk of serious bodily injury to another person.” Leaving a loaded firearm in a location where a person should reasonably know that a child under the age of 16 is likely to gain access to it seems to fit the definition of Reckless Conduct, and for that reason we believe the new crime in this bill is redundant.

We recognize that gun violence is increasing, reaching levels not seen in the past twenty years.¹ We also recognize that Black people and young people age 18 to 24 are the most frequent victims of gun violence.² And, we recognize that this committee is tasked with creating public policy that promotes public safety in our state, and may feel moved to enact gun control measures as part of its work. We ask that as you deliberate over this legislation and other bills like it, that you look for solutions that do the most good while preventing the most harm, and consider in your weighing process whether creating new crimes is the best way to change behavior.

¹ See Ed Pilkington, Gun deaths in US rise to highest level in 20 years, data shows, THE GUARDIAN, Dec. 13, 2018, available at <https://www.theguardian.com/us-news/2018/dec/13/us-gun-deaths-levels-cdc2017>

² <https://www.bjs.gov/content/pub/press/fv9311pr.cfm>