

TESTIMONY OF MICHAEL KEBEDE, ESQ.

Ought Not to Pass – LD 1138

**An Act To Ensure the Right to Self-defense Exists  
Outside the Home by Removing the Requirement To Retreat**

JOINT STANDING COMMITTEE ON JUDICIARY

April 26, 2021

Senator Deschambault, Representative Warren, and Members of the Committee on Criminal Justice, greetings. My name is Michael Kebede, and I am policy counsel for the ACLU of Maine, a statewide organization committed to advancing and preserving civil liberties in Maine. On behalf of our members, I urge you to oppose LD 1138.

This bill would amend Maine’s current self-defense statute to introduce “Stand Your Ground” law into Maine’s criminal code. Enacting this bill would give a person in Maine the right to use deadly force to defend themselves without a duty to retreat from a dangerous situation if the person believes force is necessary to prevent death or serious bodily injury to the individual or a third person or to prevent a kidnapping, robbery, or gross sexual assault. Such a law would likely lead to increases in vigilante justice, loss of due process, and a rise in racial disparities when juries determine who is entitled to a Stand Your Ground defense. We urge you to reject this bill.

First and foremost, this legislation is unnecessary. Maine law currently recognizes a person’s right to self-defense, and does not include a duty to retreat when in one’s own home and not the initial aggressor. See 17-A M.R.S.A. §108(2)(C)(3)(a). Maine law also allows the use of deadly force when it is reasonable to do so. *See id.* §108(2)(A). This reasonableness requirement gives Mainers the ability to protect themselves while recognizing that it is always better to avoid taking a life if possible.

Second, Stand Your Ground laws jeopardize due process rights. The most serious liberty deprivation that a person can inflict is taking someone’s life. The irreversibility of a homicide means that an error discovered after the fact cannot be corrected later. By increasing the circumstances in which private individuals may use lethal force without fear of consequences,

Stand Your Ground laws increase the number of people who are killed without due process of law. For example, since the passage of Florida’s Stand Your Ground law in 2005, the number of legally justifiable homicides has tripled according to data from the Florida Department of Law Enforcement.<sup>1</sup> In the five years before the law’s passage, Florida prosecutors declared “justifiable” an average of 12 killings by private citizens a year. In the five years after the law passed, that number jumped to an average of 36 justifiable killings per year.<sup>2</sup> FBI statistics confirm similar increases in a number of other states with Stand Your Ground laws.<sup>3</sup>

Finally, beyond the potential for an increase in homicides, Stand Your Ground laws create increased possibilities for disparities based on race in our criminal legal system. Because Stand Your Ground is a defense, it will be up to juries to decide whether someone’s shooting was justified when prosecutors elect to press charges. Unfortunately, data has consistently shown that jurors find shootings of Black people to be justified more than shootings of white people, and shootings by white people of Black people to more often be justified than the shootings of white people by Black people.<sup>4</sup> The racial justice implications of Stand Your Ground laws are so severe that in its report on problematic violence against African Americans in the United States, the Inter-American Commission on Human Rights recently included Stand Your Ground laws as laws that should be eradicated.<sup>5</sup>

Maine already has racial disparities it must contend with: In Auburn, Black people are four times as likely to be arrested as white people; they are 3.5 times as likely as whites to be arrested in South Portland, 3.2 times as likely in Bangor, 2.8 times as likely in Lewiston, and 2.6 times as likely in Portland.<sup>6</sup> Rates of incarceration are similarly skewed: we incarcerate Black people at six times the rate we incarcerate white people.<sup>7</sup> Black people make up 7 percent of Maine’s incarcerated population, despite comprising about 1.3 percent of our state’s population.<sup>8</sup>

---

<sup>1</sup> Fisher, M. & Eggen, D. ‘Stand your ground’ laws coincide with jump in justifiable homicide cases, THE WASHINGTON POST (Apr. 7, 2012), available at <http://wapo.st/2fZbeSM>.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See John D. Roman, *Race, Justifiable Homicide, and Stand Your Ground Laws: Analysis of FBI Supplementary Homicide Report*, Urban Institute 2013, available at <https://www.urban.org/research/publication/racejustifiable-homicide-and-stand-your-ground-laws>.

<sup>5</sup> Inter-American Commission on Human Rights, *Police Violence Against Afro-descendants in the United States*, Nov. 26, 2018, at pp. 88-90, available at <https://www.oas.org/en/iachr/reports/pdfs/PoliceUseOfForceAfrosUSA.pdf>

<sup>6</sup> See <https://www.aclumaine.org/en/press-releases/maine-police-departmentsshow-staggering-race-gaps-arrests>

<sup>7</sup> <https://www.sentencingproject.org/publications/color-of-justice-racial-andethnic-disparity-in-state-prisons/>

<sup>8</sup> See <https://www.prisonpolicy.org/profiles/ME.html>

White people make up 94 percent of Maine's population, but 88 percent of its incarcerated people.<sup>9</sup> We have a lot of work to do to address these disparities. Enacting laws that would exacerbate those divisions would take us in the wrong direction. Stand Your Ground laws are unnecessary, they open the door for extrajudicial killing without due process of law and they exacerbate racial disparities in our criminal justice system.

For these reasons, we urge you to vote *ought not to pass*.

---

<sup>9</sup> [https://www.prisonpolicy.org/graphs/disparities2010/ME\\_racial\\_disparities\\_2010.html](https://www.prisonpolicy.org/graphs/disparities2010/ME_racial_disparities_2010.html)