



February 9, 2022

Senator Susan Deschambault, Chair
Representative Charlotte Warren, Chair
Joint Committee On Criminal Justice and Public Safety
State House, Room 436
Augusta, ME 04333

Re: LD 696; An Act To Prohibit Solitary Confinement in Maine's Corrections System

Dear Senator Deschambault, Representative Warren, and Members of the Joint Standing Committee on Criminal Justice and Public Safety,

My name is Kevin Voyvodich and I am a Managing Attorney at Disability Rights Maine (DRM). Thank you for the opportunity to provide testimony in support of LD 696; An Act To Prohibit Solitary Confinement in Maine's Corrections System.

Disability Rights Maine supports this legislation and believes that a critical piece of this legislation is defining solitary confinement and other segregated housing, as well as preventing its use for those with disabilities in order to ensure they are not subject to harm based on those disabilities. It has been recognized that individuals with disabilities may be at a heightened risk of harm in more restrictive segregated prison environments.¹

Correctional environments are subject to the requirements of the Americans With Disabilities Act (ADA)²

¹ Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics
Jeffrey L. Metzner and Jamie Fellner Journal of the American Academy of Psychiatry and the Law Online March 2010, 38 (1) 104-108; <http://jaapl.org/content/38/1/104> ; <https://www.aclu.org/report/caged-devastating-harms-solitary-confinement-prisoners-physical-disabilities>

² <https://adata.org/factsheet/corrections>

The ADA defines “disability” as: (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual; (B) a record of such an impairment; or (C) being regarded as having such an impairment.³

As stated above prisoners with disabilities are at particular risk of harm in segregated environments, this has been further recognized by the United Nations (U.N.). The U.N. has said that no one with mental or physical disabilities should not be placed in solitary confinement:

*... when their conditions would be exacerbated by such measures....*⁴

This is why defining disability and prohibiting the segregated confinement of an inmate with a disability is critical to the protection of those with disabilities. Individuals with disabilities should not be prohibited from access to programs and services based on disability. In addition, in the event that an individual with a mental health disability needs hospital level of psychiatric care outside of a prison, this type of transfer is allowed under Maine law.⁵

Additionally, any of the different types of housing environments must be able to accommodate the prisoners needs related to that disability. For example, in the 7th Circuit Court of Appeals a prison in Indiana was found to have violated a prisoner’s rights under the ADA because he was kept in an infirmary (due to being quadriplegic) rather than being allowed to access programming and services in other parts of the prison.⁶

No prisoner with a disability should be more confined, nor should they have less access to programming or services, due to that disability. For this reason, DRM urges this Committee to support LD 696 as amended.

Thank you for your time and consideration.

Sincerely,

Kevin Voyvodich

Managing Attorney

Disability Rights Maine

³ <https://www.law.cornell.edu/uscode/text/42/12102>

⁴ United Nations Standard Minimum Rules for the Treatment of Prisoners: https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-ebook.pdf (Rule 45)

⁵ Title 34-A, section 3069.

⁶ Love v. Westville Correctional Center, 103 F.3d 558 (7th Cir. 1996).