

TESTIMONY OF MEAGAN SWAY, ESQ.

LD 1604 – Ought To Pass

An Act To Reclassify Certain Offenses under the Inland Fisheries and Wildlife Laws and Motor Vehicle Laws and Increase the Efficiency of the Criminal Justice System

Joint Standing Committee on Criminal Justice and Public Safety

February 11, 2022

Senator Deschambault, Representative Warren and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Meagan Sway, and I am policy director 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 support of LD 1604, which would make some low-level crimes from Titles 12 and 29-A into civil violations or traffic infractions, saving people from unnecessary criminal convictions on their records for minor misbehavior.

The ACLU of Maine has long opposed unnecessary expansion of our state's criminal code. It has been our position that creating new crimes for behavior that is already illegal does not deter bad behavior but does expand our jail and prison populations. Even with one of the lowest incarceration rates in the country, our state's incarceration rate is still higher than Bahrain, Brazil, United Arab Emirates, Singapore, Israel, Turkey, Portugal and the United Kingdom, among many other countries. It is no wonder we have this relatively high incarceration rate, because we have thousands of crimes on the books. There are approximately 1,482 Class E crimes alone, across 35 different titles of the Maine Revised Statutes. There are more crimes in each of the titles that this bill addresses, titles 12 and 29-A, than Title 17 and 17-A combined.¹

¹ Title 12, our Conservation code, contains 679 Class E crimes, and 29-A, the Motor Vehicles and Traffic title, contains 183 Class E crimes. Together, titles 17 and 17-A contain 146 Class E crimes.

The ACLU is glad to support LD 1604, which was written by Maine's prosecutors, in an effort to start to chip away at our overreliance on the criminal legal system as a mechanism to control peoples' behavior. The bill addresses almost exclusively Class E crimes, which punish behaviors that the legislature has determined are the least serious offenses under our criminal laws. Under LD 1604, a person would no longer be subject to arrest or being sentenced to 180 days in jail or fined up to \$1,000 for such behaviors as holding trials for beagles and other rabbit hounds outside of the September 1 to April 10 window, 12 M.R.S.A. §12054(2), or driving on an out-of-state driver's license after living in the state for more than 90 days, 29-A M.R.S.A. §1251(1)(D).

These are commonsense reforms that do not jeopardize public safety but do move away from giving people criminal records and the collateral consequences that criminal records can bring. Even though they are not felonies, Class E misdemeanor convictions can jeopardize a person's housing, employment, and education. And, with fines up to \$1,000, Class E convictions can mean spending years in a payment arrangement with our courts as folks pay what little extra they have in their monthly budget to the judicial branch. Missed payments on fines when times get tough, can mean dire consequences including arrests and additional court fines.

LD 1604 takes modest steps towards lessening our reliance on the criminal legal system. We encourage the committee to go farther, and look at the other hundreds of Class E crimes in Title 12 to see if there are other ways in which we can reduce reliance on the criminal legal system. We also encourage the committee to think about whether we can go farther, by removing some of the Class E crimes and not replacing them with civil violations at all.²

This committee has made great strides to make our criminal legal system smarter and leaner. We encourage you to continue that work by supporting this legislation.

² Civil violations still involve entanglement with our courts, and still can lead to similar problems with unpaid fines as fines on criminal charges.