

TESTIMONY OF MICHAEL KEBEDE, ESQ.

Ought to Pass - LD 429

**An Act to Reclassify Certain Offenses Under the Motor Vehicle Laws  
and Increase the Efficiency of the Criminal Justice System**

JOINT STANDING COMMITTEE ON  
CRIMINAL JUSTICE & PUBLIC SAFETY

March 6, 2023

Senator Bebee-Center, Representative Salisbury, and distinguished members of the Joint Standing Committee on Criminal Justice & Public Safety, greetings. My name is Michael Kebede, and I am the Policy Counsel for the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, we urge you to support LD 429, which would turn some low-level crimes from Title 29-A into civil violations, saving people from unnecessary criminal convictions 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 the incarceration rates of Bahrain, Brazil, the United Arab Emirates, Singapore, Israel, Turkey, Portugal and the United Kingdom, among many other countries. With thousands of crimes on the books, it is no wonder that we have this relatively high incarceration rate. There are over 1,400 Class E crimes alone, across 35 different titles of the Maine Revised Statutes. Indeed, there are more crimes outside the criminal code than inside it.<sup>1</sup>

The ACLU is glad to support this bill. Indeed, last session, this committee heard a similar bill written by Maine's prosecutors in an effort to start to reduce our overreliance on the criminal legal system as a mechanism to control behavior. The bill addresses almost exclusively Class E

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<sup>1</sup> Title 12, our Conservation code, contains over 600 Class E crimes, and 29-A, the Motor Vehicles and Traffic title, contains over 150 Class E crimes..

crimes, which punish behaviors that the legislature has determined are the least serious offenses under our criminal laws. If this bill passes, 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 displaying a revoked license, 29-A MRSA §2102(1), or failing to return a revoked a revoked license, 29-A MRSA §1603(9).

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 cause. Even though they are not felonies, Class E misdemeanor convictions can jeopardize a person's housing, employment, and education. With fines of up to \$1,000, Class E convictions can mean spending years in a payment arrangement with our courts as folks pay what little 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.

This bill would also enshrine in civil legal practice the rule of criminal procedure that makes "fruits of the poisonous tree" inadmissible in court to prove a crime. Under that rule, if a law enforcement officer discovers evidence of a crime as a result of an unconstitutional search or seizure, that evidence is inadmissible in court. We applaud this effort, as it would help ensure that no person in Maine is found legally liable as a result of illegal, unconstitutional state behavior.

This bill takes modest steps towards reducing our reliance on the criminal legal system. We encourage the committee to go farther, and to look at the other of Class E crimes in Title 29-A to see if there are other ways to 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.<sup>2</sup> 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.

We urge you to vote *ought to pass*.

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