



126 Sewall Street
Augusta, ME 04330-6822
TTY/Voice: (207) 626-7058
Fax: (207) 621-8148
www.mejp.org

Maine Equal Justice
People Policy Solutions

Frank D'Alessandro
Legal Services Director
(207) 430-3255
frank@mejp.org

**Testimony of Frank D'Alessandro,
Maine Equal Justice
In Support of LD 1410,
An Act to Provide Due Process in Confiscation and Destruction
of Personal Items of Unhoused Persons
April 28, 2025**

Good morning, Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary. My name is Frank D'Alessandro, and I am the Legal Services Director of Maine Equal Justice. We are a civil legal services organization, and we work with and for people with low income seeking solutions to poverty through policy, education, and legal representation. Thank you for the opportunity to offer testimony in support of LD 1410.

Why Maine Equal Justice Supports LD 1410

LD 1410 would prevent the destruction or confiscation of a homeless person's personal belongings without due process of law. Maine Equal Justice supports this bill because it is an element of fundamental fairness that the constitutional guarantee that an individual not be deprived of their property without due process of law applies equally to everyone, whether they are homeless or housed.

Maine's Housing Landscape Leave many Mainers Behind and at Risk of Homelessness

In Maine, wages are not high enough for everyone to keep a roof over their heads.

¹ On average, Mainers need an annual income of \$54,863 to pay for a two-bedroom home, but a typical low-income renter makes only \$37,966 (and many make far

¹ National Low Income Housing Coalition. Maine Housing Profile (2024). <https://nlihc.org/oor/state/me>

less).² Today, Mainers earning a minimum wage would need to work 105 hours a week to afford a median-priced apartment, which is currently \$1,599.³

With so many households living on a razor thin edge to make rent, it is no surprise that in 2024 Maine Courts handled between 4,843 eviction cases.⁴ According to a study by the Maine Affordable Housing Coalition, 73% of evictions are for non-payment of rent.⁵ This means that an average 13 households faced loss of their homes every day - these include families with children, seniors, veterans, and single adults striving to make ends meet. These individual experiences of displacement ripple out into Maine's economy.

65% of extremely low-income households pay more than 50% of their monthly income towards rent, a threshold which HUD deems severely rent burdened.⁶

These extremely low-income households are the households most vulnerable to housing instability.⁷ For severely rent burdened households, missing any bills can lead to housing instability and eviction--a family's forced removal from their home.

Evictions trap people in poverty because unstable housing makes it extremely difficult to maintain steady employment.⁸ Evictions have been linked to psychological trauma and have been identified "as a risk factor for suicide."⁹ Those evicted are 63% more likely to lose Medicaid coverage, and getting prescriptions filled becomes extremely difficult.¹⁰ A housing change during childhood can lead to half a year of loss in school.¹¹ Children that are forced to move three or more times generally have lower earnings, fewer work hours, and

² *Id.*

³ Redfin. Feb. 24, 2025. <https://www.redfin.com/news/minimum-wage-rent-affordability/>

⁴ <https://www.courts.maine.gov/about/stats/statewide.pdf>

⁵ <https://mainehousingcoalition.org/wp-content/uploads/2020/09/Maine-Eviction-Report-FINAL-September-2020.pdf>, p.9.

⁶ <https://nlihc.org/housing-needs-by-state/maine>

⁷ National Low Income Housing Coalition, Housing Needs by State: Maine, (Accessed on March 2, 2021) <https://nlihc.org/housing-needs-by-state/maine>,

⁸ ACLU, No EVICTION, *supra* note 5, at 3.

⁹ Matthew Desmond et al., *Evicted: How the Threat of Homelessness Shapes Our Lives*, 92 SOCIAL FORCES 303, 303 (2013).

¹⁰ ACLU, No EVICTION, *supra* note 5, at 6; THE NETWORK FOR PUBLIC HEALTH LAW, THE PUBLIC HEALTH IMPLICATIONS OF HOUSING INSTABILITY, EVICTION, AND HOMELESSNESS (2021), <https://www.networkforphl.org/wp-content/uploads/2021/04/Fact-Sheet-Public-Health-Implications-of-Housing-Instability-Eviction-and-Homelessness.pdf>.

¹¹ ACLU, No EVICTION, *supra* note 5, at 5

less educational attainment.¹² Children with unstable housing "are more likely to be truant and are more likely to drop out"¹³ and they "are at higher risk for developmental delay, decreased academic achievement, anxiety, depression, behavioral disturbances, and even death."¹⁴

Finding affordable housing has become so difficult, many Mainers become homeless because they simply cannot find somewhere to live that meets their budget.

In addition, Maine's lack of affordable housing has an outsized impact on communities of color. According to Maine Housing 2024 Point In Time Count of people experiencing homelessness in Maine there were 2,695 homeless people on January 23, 2024. Over 40% of this population was Black or African American,¹⁵ although Black or African American people make up only 2.1% of Maine's population.¹⁶

The Due Process Clause of the Maine and U.S. Constitution Protects the Personal Property of People Experiencing Homelessness

A homeless person's unabandoned personal property is protected by the Fourteenth Amendment's due process clause.¹⁷ "The Fourteenth Amendment provides that no State shall 'deprive any person of life, liberty, or property, without due process of law.'"¹⁸ In *Lavan v. City of Los Angeles*, the Ninth Circuit Court of Appeals condemned the city's practice of summarily seizing and destroying homeless persons' belongings found on city sidewalks.¹⁹ The court held that homeless persons retain a constitutionally protected property right to their possessions.²⁰ A city therefore "must comport with the requirements of the Fourteenth Amendment's due

¹² *Id.*

¹³ Matthew Desmond et al, *supra* note 9, at 320.

¹⁴ Ericka Petersen, *Building a House for Gideon: The Right to Counsel in Evictions*, 16 STAN. J. C.R. & C.L. 63, 69 (2020).

¹⁵ https://mainehousing.org/docs/default-source/policy-research/research-reports/homeless-reports/2024-point-in-time-report.pdf?sfvrsn=85d69e15_3

¹⁶ <https://www.census.gov/quickfacts/fact/table/ME/PST045224>

¹⁷ *Lavan v. City of Los Angeles*, 693 F.3d 1022, 1032-33 (9th Cir. 2012); *Sanchez v. City of Fresno*, 914 F. Supp. 2d 1079, 1103 (E.D. Cal. 2012); *Kincaid v. City of Fresno*, No. 1:06-cv-1445 OWW SMS, 2006 WL 3542732, at *37, ¶¶ 16-17 (E.D. Cal. Dec. 8, 2006) (statement of decision and findings re: plaintiffs' application for a preliminary injunction).

¹⁸ *Hooper v. City of Seattle*, No. C17-0077RSM, 2017 WL 591112, at *3 (W.D. Wash. Feb. 14, 2017) (order denying plaintiffs' motion for temporary restraining order) (quoting U.S. CONST. amend. XIV, § 1).

¹⁹ 693 F.3d at 1027-33.

²⁰ *Id.* at 1031-33.

process clause if it wishes to take and destroy them.”²¹ The court held that the same rules apply when the government takes a Cadillac or a homeless person’s cart.²² It wrote that a city could no more seize and destroy unattended personal property left on sidewalks by homeless persons in violation of a city ordinance than it could “seize and destroy cars parked in no-parking zones left momentarily unattended.”²³

The court in *Lavan* did not elaborate upon the extent of the procedural protection required by the Fourteenth Amendment, because the city in that case admitted “that it failed to provide any notice or opportunity to be heard” before it seized and destroyed property belonging to homeless persons.²⁴ Supreme Court “precedents establish the general rule that individuals must receive notice and an opportunity to be heard before the Government deprives them of property.”²⁵

Conclusion

No one in Maine may be deprived their personal property without due process of law. This fundamental constitutional right applies whether someone is housed or homeless, regardless of the monetary value of their belongings.

This right is especially critical for people experiencing homelessness for whom their personal possession are the only property they have left.

Maine Equal Justice strongly requests that this Committee enact LD 1410.

²¹ *Id.* at 1032.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *United States v. James Daniel Good Real Prop.*, 510 U.S. 43, 48 (1993) (commenting upon Fifth Amendment due process requirements); see also *Kincaid v. City of Fresno*, No. 1:06-cv-1445 OWW SMS, 2006 WL 3542732, at *37, ¶ 18 (E.D. Cal. Dec. 8, 2006) (statement of decision and findings re: plaintiffs’ application for a preliminary injunction).