

TESTIMONY OF ZACHARY L. HEIDEN, ESQ.

Ought to Pass - LD 375

An Act To Create Greater Accountability in the Office of County Sheriff

Submitted to the

JOINT STANDING COMMITTEE ON
STATE AND LOCAL GOVERNMENT

March 8, 2021

Senator Baldacci, Representative Matlack, and distinguished members of the Joint Standing Committee on State and Local Government, greetings. My name is Zach Heiden, and I am the Chief Counsel at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties in Maine. On behalf of our members, I write to support LD 375.

Nobody should be above the law – least of all those charged with the responsibility of enforcing the law. Yet, our current system puts County Sheriffs, some of our most powerful law enforcement officers, beyond adequate accountability. This is a serious problem, and we thank the bill sponsor for trying to create a much-needed process for holding our county sheriffs accountable.

Right now, Maine's constitution gives the Governor the exclusive authority to remove sheriffs from office. Me. Const. Pt. Second, Art. IX, § 10. This bill would create another avenue for county commissioners, judges, and the Attorney General to avail themselves of this constitutional provision.

If passed, LD 375 would give a majority of a county's commissioners the right to file a complaint in the Superior Court seeking to remove that county's sheriff for improper, unethical, or criminal behavior. A complaint under the rule this bill would establish would result in a judicial hearing where both sides are heard. If the judge finds sufficient cause, they could place the sheriff on paid administrative leave and forward the matter to the Governor for further consideration. This bill would also give the court the power to forward the matter to the Attorney General with instructions to further investigate the matter. While some of the details of this court process may need to be ironed out, it is a good first step to ensure accountability and due process for public officials who wield enormous power.

These new procedures are modest and entirely necessary. In an extensive investigation, the Bangor Daily News exposed widespread abuses of power by sheriffs and their deputies and the difficulty of holding these wrongdoers accountable. In just one example: the Bangor Daily News detailed a far-reaching pattern of sexual harassment by the sheriff for Oxford County.¹ The sheriff's misconduct was an open secret among law enforcement officers in Oxford county before he resigned in 2017. But few came forward quickly or publicly because they feared retribution, and because the sheriff had too much unchecked power. Instead, many quietly suffered. The sheriff continued his harmful behavior even after the initiation of two investigations against him. He continued working as sheriff even during these investigations, in part because there was no mechanism to place him on administrative leave during the investigation.

In another case, three jail guards let a person die in their custody despite his cries for help.² The guards faced only minor repercussions, and the county settled a lawsuit with the family for an undisclosed amount.

Individuals who have sworn to uphold the law and protect the public must be held accountable when they abuse the public trust.

This bill would mark an important step toward accountable government. We urge you to vote *ought to pass*.

¹ Erin Rhoda, *A Maine sheriff resigned after sexting his officers. The full story is even darker.*, Bangor Daily News, Nov. 30, 2020, <https://bangordailynews.com/2020/11/30/mainefocus/a-maine-sheriff-resigned-after-sexting-his-officers-the-full-story-is-even-darker/>

² Josh Keefe, *In trove of officer misconduct records, Maine sheriffs hide the worst offenses*, Dec. 2, 2020, Bangor Daily News, <https://bangordailynews.com/2020/12/02/mainefocus/in-trove-of-officer-misconduct-records-maine-sheriffs-hide-the-worst-offenses/>