

TESTIMONY OF MICHAEL KEBEDE, ESQ.

**LD 1187 – Ought Not To Pass**

**RESOLUTION, Proposing an Amendment to the Constitution  
of Maine Amending the Pardon Powers of the Governor**

JOINT STANDING COMMITTEE ON  
STATE AND LOCAL GOVERNMENT

January 19, 2022

Senator Baldacci, Representative Matlack and distinguished members of the Joint Standing Committee on State and Local Government, greetings. My name is Michael Kebede, and I am Policy Counsel of 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, I am here to testify in opposition to LD 1187 because it is unnecessary and because it would curtail freedom for people convicted of crimes in Maine.

The Maine constitution gives the Governor the power to “to grant reprieves, commutations and pardons” to people who have been convicted of a crime. Me. Const. art. V, pt. 1, § 11. This power to pardon is “subject to such regulations as may be provided by law, relative to the manner of applying for pardons.” *Id.* Applications for a pardon are made to the Pardon Board, a body of three appointees who forward their recommendations to the Governor. In order to even be heard before receiving a pardon, a petitioner must face a long list of does and don’ts: They must wait five years after they have completed their sentence. The crime they are trying to get pardoned has to be the most serious conviction on their record.<sup>1</sup> They cannot get a pardon for Operating Under the Influence. The applicant must enclose a letter from the warden or superintendent of the prison where they are incarcerated. This list is non-exhaustive. Especially for a state that does not offer the chance at parole, these onerous requirements put freedom out of the reach of all but the most exceptional of people convicted of crimes in Maine.

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<sup>1</sup> Pardon Board, State of Maine Department of Corrections, available at <https://www.maine.gov/corrections/adult-community-corrections/pardon-board>.

LD 1187 would add still more barriers to this system. It would turn the Pardon Board into a constitutional requirement of the pardon process. It would also prohibit pardons in a Governor's last six months in office. Both these reforms would mean less mercy and justice for the people in our state.

Pardons are not politically popular. They often occur only at the end of a governor or president's tenure precisely because of the fear of political backlash.<sup>2</sup> Although the aim of this bill may be to prevent political cronyism by ending the Governor's powers right at a point when she is most likely to consider mercy, the bill will likely hurt those farthest from political power.

It is already extremely difficult and extremely rare to obtain a pardon in Maine.<sup>3</sup> This is to our detriment. Indeed, research shows that longer sentences do not equate to better outcomes and are costly to society. Taxpayers foot the bill for lengthy sentences, which do little to rehabilitate the incarcerated person or improve public safety. Families lose income and spending power, and their risk of falling into poverty increases by roughly 40 percent.<sup>4</sup> The longer a person remains incarcerated, the harder it is for them to return to their community and find stable housing and employment.<sup>5</sup> They also suffer increased long-lasting physical and psychological harms.<sup>6</sup> Longer sentences and higher levels of incarceration do not decrease crime rates; in fact, each additional year of a sentence leads to a four to seven percent increase in recidivism.<sup>7</sup>

Maine needs laws that expand the freedom and well-being of its residents. This bill would instead push freedom farther out of reach for people who deserve another chance at life outside prison walls. We urge you to vote *ought not to pass*.

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<sup>2</sup> See, e.g., Carol J. Williams, *End-of-term clemency is a centuries-old, often vilified tradition*, Los Angeles Times (Jan. 10, 2011), <https://www.latimes.com/archives/la-xpm-2011-jan-10-la-me-pardon-power-20110111-story.html>.

<sup>3</sup> 50-State Comparison: Pardon Policy & Practice, Restoration of Rights Project, available at <https://ccresourcecenter.org/state-restoration-profiles/50-state-comparisoncharacteristics-of-pardon-authorities-2/> (listing Maine at "infrequent" in a national comparison of frequency of granting pardons).

<sup>4</sup> Emily Weisburst and Sandra Black, *The Economic Case for Sentencing Reform*, Econofact (May 19, 2017), <https://econofact.org/the-economic-case-for-sentencing-reform>.

<sup>5</sup> Daniel M. Leeds, et. al., *Incarcerated Adults with Dependent Children*, (Feb. 2020), [https://static1.squarespace.com/static/51bb74b8e4b0139570ddf020/t/5e41932d16c3c736370cd9c2/1581355822385/2020\\_CNA\\_Incarcerated\\_Adults\\_Dependent\\_Children.pdf](https://static1.squarespace.com/static/51bb74b8e4b0139570ddf020/t/5e41932d16c3c736370cd9c2/1581355822385/2020_CNA_Incarcerated_Adults_Dependent_Children.pdf).

<sup>6</sup> *Supra*, Weisburst and Black.

<sup>7</sup> *Id.*