



ACLU OF MAINE  
121 MIDDLE STREET  
SUITE 301  
PORTLAND, ME 04101  
(207) 774-5444  
WWW.ACLUMAINE.ORG

TESTIMONY OF OAMSHRI AMARASINGHAM, ESQ.

**LD 1014 – Ought Not To Pass**

**An Act to Require a Person to Notify Law Enforcement Officers of the Possession of a Hypodermic Needle**

Joint Standing Committee on Criminal Justice and Public Safety

April 4, 2017

Senator Rosen, Representative Warren and members of the Committee on Criminal Justice, greetings. My name is Oamshri Amarasingham, and I am the Advocacy 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 through advocacy, education, and litigation. On behalf of our members we oppose LD 1014, which raises multiple constitutional and privacy concerns.

First, LD 1014 violates the Fifth Amendment right against self-incrimination by requiring anyone stopped by the police to disclose whether she is in possession of a hypodermic apparatus.

Second, LD 1014 undermines the Fourth Amendment's protection against unwarranted search and seizure. All persons have a right to privacy in relationship to the state in their bodies and personal effects, unless the person has affirmatively waived that right by freely, knowingly, and voluntarily either consenting to state intrusion or abandoning the area or item. Generally, searches of bodies may not be conducted without a search warrant unless explicit and unequivocal consent is given. LD 1014 undermines these principles by requiring a person to disclose possession of a needle, which may be interpreted by police as a waiver of Fourth Amendment rights.

Third, LD 1014 raises medical privacy concerns. Many Mainers carry hypodermic needles to treat medical conditions. Under this bill, anyone with a needle on her person would be required to inform a law enforcement officer of that fact. We can assume that the next question from the officer will be "why," forcing the person to disclose sensitive medical information.

Fourth, this bill is likely to have a disparate impact on communities of color. Racial minorities, especially black and Hispanic people, are disproportionately arrested, detained, and stopped by police. Racial minorities are also overrepresented in the criminal justice system. These disparities are not explained by differing levels of criminal activity.

Finally, LD 1014 unnecessarily creates a new crime. Carrying a hypodermic apparatus is not illegal activity unless the person carries more than 10 without a valid medical reason. The bill applies to a sweeping set of circumstances, including routine traffic stops that have nothing to do with drug-related activity. A person who is stopped with a taillight out should not be forced to disclose medical conditions.

For these reasons we urge you to reject LD 1014.