

**TESTIMONY OF THE
DEPARTMENT OF INLAND FISHERIES AND WILDLIFE
BEFORE THE JOINT STANDING COMMITTEE ON JUDICIARY
IN OPPOSITION TO L.D. 748**

“An Act to Strengthen the Due Process Rights of Persons in Law Enforcement Custody”

SPONSORED BY: Senator HICKMAN of Kennebec.

Cosponsored by Representative BOYER of Poland and Senator: CARNEY of Cumberland, Representatives: ANDREWS of Paris, COLLINGS of Portland, FAULKINGHAM of Winter Harbor, HASENFUS of Readfield, MOONEN of Portland, RIELLY of Westbrook, Speaker TALBOT ROSS of Portland.

DATE OF HEARING: March 8, 2023

Good afternoon Senator Carney, Representative Moonen and members of the Judiciary Committee. I am Dan Scott, Colonel for Maine Warden Service at the Department of Inland Fisheries and Wildlife, speaking on behalf of the Department, in opposition to **L.D. 748.**

Currently, Miranda warnings are required when police are conducting a custodial interrogation and is current and standard police practice used to inform citizens of their constitutional rights. This bill would greatly expand when Miranda warnings are required to be administered and provides a State civil remedy for failing to provide Miranda warnings when required under the bill. This bill would require Miranda warnings to be given to persons placed under arrest, in custody, under interrogation or **temporarily detained.**

The phrase, “temporally detained” is overly broad, and could be applied to almost all police-citizens encounters. Currently the Maine Warden Service conducts over 75,000 regulatory inspections of licenses, permits, and watercraft safety checks. All of these could potentially be considered temporary detentions and our staff may be subject to providing Miranda warnings prior to inspecting a hunting or fishing license or checking life jackets and other safety equipment in a watercraft.

There is well established Federal and State Case Law which provides sufficient procedural safeguards and protections for the accused that adequately address the harms this bill is seeking to prevent. Our current system allows an impartial magistrate to make the decision when a reasonable person would feel they are subject to custodial interrogation, and that magistrate has the authority to then exclude evidence they feel

was not obtained legally. This is an important balance as we know every single law enforcement encounter is not the same and the totality of the circumstances is what is often used to determine if the government intrusion was out of balance with the protection of the safety of the public.

We feel the reading of Miranda at the onset of every temporary detainment would result in adversarial interactions of what would otherwise likely be cordial, inquisitive encounters. Circumstances which are unwanted by both law enforcement as well as the public we serve.

Finally, we fear that the possibility of potential civil action against law enforcement officials for every conversation with a member of the public will adversely change the proven effectiveness of the public safety community and relationship we have with the citizens of Maine.

I would be glad to answer any questions at this time or during the work session.