TESTIMONY OF MICHAEL KEBEDE, ESQ.

LD 2046 – Ought Not to Pass

An Act to Continue Allowing the Department of Corrections to Accept Placement of Certain Defendants Found Incompetent to Stand Trial

Joint Standing Committee on Criminal Justice and Public Safety

January 17, 2024

Senator Beebe-Center, Representative Salisbury and members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede and I am Policy Counsel 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. On behalf of our members, we oppose LD 2046, a bill that would further erode the bedrock principle of our criminal legal system that we are all innocent until proven guilty.

In 2013, this committee supported a change in the law that would require the Department of Corrections Commissioner to transfer defendants who otherwise would be admitted to Riverview Psychiatric Facility to the Department of Corrections instead. The reasoning behind this was that Riverview lacked the beds and personnel to manage people accused of crimes, and as a temporary measure, the Department of Corrections would take over care of these defendants. The legislature included a sunset clause in that bill, August 1, 2017, in recognition that this change in law should be temporary. Now, in 2024, after several extensions, the state removes the pretense of temporariness and seeks to permanently allow people found incompetent to stand trial—but not convicted of a crime—to be sent to prison.

This permanent change would further erode the legal principle that we are all presumed innocent unless, with sufficient due process, we are found guilty. The proper place for a person found incompetent to stand trial is not in prison, with others who have been found guilty, but instead, in a hospital. Prisons are not hospitals, and they ought not imprison people who have not been convicted. For these reasons, we urge you vote *ought not to pass*.