



LEAGUE OF WOMEN VOTERS OF MAINE

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TO: The Honorable Senator Garrett P. Mason
The Honorable Representative Louis J. Luchini, Co-chairs
Members of the Joint Standing Committee on Veterans and Legal Affairs

DATE: April 21, 2017

RE: LD 1204 -An Act Regarding Absentee Voting by Residents of Nursing Homes
and Other Residential Care Facilities.

The League of Women Voters of Maine opposes LD 1204.

We believe LD 1204 impinges upon the basic voting rights of citizens. Cognitive impairment can exist in a variety of conditions and among different ages and stages of an illness. Impairment can be the result of medications, pain, or traumatic brain injury, as well as dementia or Alzheimer's. Residents of facilities may be there for short or long term rehabilitation, and/or hospice.

Individuals under guardianship may vote (*Doe v. Rowe*, 156 F. Supp.2d 35 (D. ME.2001)) and only a court can find that a person is not capable of voting. It would present constitutional concerns for anyone to make such a determination based on generalizations without the procedural safeguards of a court proceeding.

Furthermore, people with disabilities have the right to get help with voting and choose who will help them vote.

LD1204 may present Constitutional issues. Removal of a person's right to vote based on factors such as mental disability, guardianship status, or hospitalization may violate due process as well as the equal protection provisions of our constitution. In addition, provisions of the Americans with Disabilities Act apply to all aspects of voting, including voter registration, site selection, and the casting of ballots, whether on Election Day or during the early voting process.

We share the sponsor's concern that vulnerable citizens not be taken advantage of. Those assisting residents in certain facilities should be the focus, rather than sliding down the slippery slope of limiting the Constitutional right to vote of others.

Strategies to address this potential abuse have been developed by a variety of organizations. Providing education to care givers, family, civic organizations, and facilities about appropriate actions in helping and respecting the individual's right to privacy to make their own choice may be the best approach. The American Bar

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Association Commission on Law and Aging, the American Medical Association, the National Disability Rights Network, and the Bazelon Center for Mental Health Law have developed guidelines, as well.

For these reasons the League of Women Voters of Maine requests the Veterans and Legal Affairs Vote Ought Not to Pass on LD 1204.

Sincerely,

Helen Hanlon

Winthrop