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Testimony of the Maine Municipal Association

In Opposition to

LD 1056 - *An Act Restricting State Assistance in Federal Collection of Personal Electronic Data and Metadata*

September 25, 2023

Sen. Carney, Rep. Moonen and distinguished members of the Judiciary Committee, my name is Rebecca Graham, and I am submitting testimony in opposition to LD 1056, *An Act Restricting State Assistance in Federal Collection of Personal Electronic Data and Metadata* on behalf of the Maine Municipal Association, which represents the interests of municipal government before the Legislature. The positions of the Association are established by our 70 member Legislative Policy Committee (LPC), who are elected by the councils and selectboards of municipalities in each of Maine's 35 Senate districts.

As drafted, the law would prohibit municipalities and the local law enforcement from sharing important information with federal partners to build a criminal case against attacks on municipal systems, quasi municipal utilities, threats to municipal officials and employees, and threats against our school systems. These threats are increasingly interstate and international in origin and the sharing of this data is vital not only to find the perpetrators of these attacks, but also to ensure that such incidents in Maine are party to future prosecutions against the responsible parties. Information received and communicated between municipal officials and the public is deemed public information.

Additionally, the bill changes the ownership of any communication received by municipal systems from the recipient to the sender. As a matter of practical application, this would require a municipal systems analyst to find the source of potentially criminal communications and ask permission from that individual to share information with federal agencies involved in the investigation. Sec. 2 of the proposed bill assumes ownership of electronic attacks or communication remains with the sender and not the system received. Once an individual has sent a communication to a municipal system, or interacted with a municipal website, they are voluntarily providing "metadata" associated with that interaction which belongs to the recipient server. This is like saying a piece of postal mail that is delivered to your mailbox is still owned by the sender and not by the recipient.

The exceptions in Sec. 2 (A-C) and provide no functional path to an investigation involving interstate threats against municipal systems and individuals as such information is required to establish a probable cause argument for either federal or local authorities to obtain a warrant.

The threats against municipal officials, employees and systems from individuals and organizations have only increased in recent years. Municipal officials need to work closely with all government partners to stem threats against our public processes, shared public duties and systems that serve all Maine residents. For these reasons, municipal officials ask that you not restrict the cooperation

with vital government partners. There are already copious controls already in place to protect individual privacy when and where it is appropriate.