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March 17, 2023

Senator Anne Beebe-Center, Chair
Representative Suzanne Salisbury
Committee on Criminal Justice & Public Safety
100 State House Station Room 436
Augusta, ME 04330

Dear Senator Beebe-Center, Representative Salisbury, and Members of the Criminal Justice and Public Safety Committee:

RE: LD 761 -- An Act to Amend the Laws Governing the Crime of Endangering the Welfare of a Child and to Create the Crime of Aggravated Endangering the Welfare of a Child

Dear Senator Carney, Representative Moonen, and Members of the Committee on Judiciary,

MACDL opposes LD 761.

First of all, it is unclear why there needs to be a change with respect to the culpable state of mind. The statute as it stands now specifically indicates that there is a “reckless” standard as it is. Changing the statute does not provide anything more than what is already there.

Second, there is no reason to have the new enhanced penalties. As it stands now, the crimes can be felony crimes based on other statutes. Adding these specific, elevated provisions in this statute only causes more confusion and duplicates what already may be there.

To the extent that there is a suggestion that certain conduct does not yet rate a felony level offense under current law, there has been no reason advanced in this bill, or by really anyone, that suggests that there is a need to have a new felony crime. MACDL has long been opposed to the new felony crimes that are regularly and routinely proposed by legislators. It is a very easy thing to simply put in a bill like this and ask for certain conduct to become a felony because that sounds great; the reality, though, is that a felony conviction has disastrous consequences for a defendant, and these consequences are unnecessary when a misdemeanor level offense, and up to 364 days in jail for such a crime, would completely suffice to address whatever the conduct is at issue.

The Legislature pushed back for many years on establishing new felony crimes. Having testified before this Committee for the better part of two decades now, I am seeing a shift in the other direction, which is disturbing, unfair, and not based on any new information or evidence that cries out for the imposition of a new felony crime.

Thank you for the opportunity to address this issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Walter F. McKee". The signature is fluid and cursive, with a prominent initial "W" and "M".

Walter F. McKee
Chair, Legislative Committee