STATE OF MAINE

MAINE PROSECUTORS ASSOCIATION
ADA TANYA PIERSON, JUVENILE PROSECUTOR

LD 1779
"An Act to Develop a Continuum of Care for Youth Involved in the Justice System and to Develop Alternatives for Juveniles Incarcerated in Long Creek Youth Development Center."

Testimony in Opposition

Senator Anne Beebe-Center, Chair
Representative Suzanne Salisbury, Chair
Members of the Joint Standing Committee on Criminal Justice and Public Safety

My name is Tanya Pierson and I am an Assistant District Attorney for York County Maine. I have spent the vast majority of my 34 year career helping to create and administer a juvenile docket in York County. I am one of approximately eight prosecutors statewide who primarily handle a juvenile caseload, *by choice*. I am submitting this testimony on behalf of the Maine Prosecutors Association, specifically the District Attorneys, to record our opposition to LD 1779.

There is no question that juvenile prosecutors support and embrace comprehensive evaluations of youth to identify specific needs and help guide the development of an appropriate disposition of an individual juvenile's case. Prosecutors, defense attorneys and judges all embrace this type of assessment. Section 3 was originally drafted to lay out a process for ensuring that the Department of Corrections ("DOC") engages in a needs assessment and transition plan for every youth *committed* to its custody. Overall LD 1779 looks to shift the focus from incarceration to community based-alternatives.* The newly proposed Section 3 now pertains to any youth who *comes in contact with law enforcement*, rather than youth who are committed to the custody of DOC. Although it is not clear from the language, presumably the intent is to capture any youth who could be charged with a criminal offense.

While 34-A pertains to the Department of Corrections, the newly amended Section 3 brings obligations upon the Department of Health and Human Services ("DHHS") *into* the Corrections statute. Any such requirement is more properly placed within the statutes pertaining to DHHS. The creation of such a multi-disciplinary team to provide assessments and recommendations for our vulnerable adolescent youth would likely be welcomed by everyone connected to the juvenile justice system. Such a team for evaluating the needs of adolescent youth and their families could certainly be placed with DHHS, the Department already has procedures in place to conduct assessments and provide recommendations. Currently the critical issue is a lack of providers who

can conduct this type of evaluation and the availability of subsequent services recommended by such an evaluation. We have a dire lack of options for youth who are in crisis and need in-patient or intensive out-patient mental health services, wait-lists for community-based and residential services are extensive.

Presumably, the goal of Subsection 3 is to provide and mandate further diversionary options from Court. This process and authority already exists under current law, through the Maine Juvenile Code, Title 15. Juvenile Community Corrections Officers ("JCCOs") can divert any youth from court after conducting a preliminary investigation, through what is called an "Informal Adjustment." Title 15, Section 3301 clearly lays out *several* diversionary options, including the option for *no further action*. Moreover, JCCOs can make referrals for comprehensive evaluations and services as part of any diversion. Although the MPA does not have access to the Department of Corrections' data, it is estimated that between 80-90% of all juvenile cases are already diverted from court by JCCOs. JCCOs are often the only available help for youth and their families; the Juvenile Court hears regularly from families who are immensely grateful for the support received from a JCCO. Furthermore, Section 3301 outlines the precise steps that must be followed by a JCCO for any diversion, lays out the process and expectations, provides protections for an accused youth and an alleged victim of any offense, and details what must occur if a diversion is unsuccessful. The newly proposed Section 3 provides no such framework or oversite. Moreover, it is unclear which authority will be responsible for implementation of any assessment recommendations.

From our perspective, one of the biggest issues we face in the State of Maine for providing best outcomes for youth charged with criminal offenses is the lack of services available to youth and families. This includes a lack of sufficient evaluators to guide decision-makers and the follow-up services necessary to support those identified needs. Additionally, *and critically important to emphasize,* DHHS' lack of involvement with our juvenile justice-involved youth and their families has reached crisis proportions. JCCOs and Juvenile ADAs regularly make reports/referrals to DHHS and this *rarely* results in any action taken on the part of DHHS; it is a source of constant frustration for JCCOs and prosecutors. I have spoken for several years before this Committee and the Joint Standing Committee for the Judiciary on DHHS' lack of involvement with our juvenile-justice involved youth and their families who clearly need DHHS to provide oversite, services, care and guidance.

Finally, we would suggest that the requirements laid out in sub-sections i-j, usurp and conflict with powers provided for prosecutors under Titles 15 and 30-A.

We appreciate and share the concerns that Section 3 of this bill attempts to address, however we do not support the bill as drafted. We remain open and anxious to discuss other ways to accomplish these goals.

Respectfully submitted,

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*The MPA supports and applauds the primary goals of diversion from the court system, whenever possible, and to provide rehabilitative community-based services for youth charged with criminal offenses. The MPA opposes the elimination of all secure confinement in the State of Maine.