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MAINE PROSECUTORS ASSOCIATION ADA TANYA PIERSON, JUVENILE PROSECUTOR

“An Act to Authorize Judicial Disposition of a Juvenile Adjudicated of Murder or a Class A Crime to a Term of Commitment Extending Beyond the Juvenile’s 21st Birthday” Testimony in Opposition of LD 535

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary. My name is Tanya Pierson, I am an Assistant District Attorney in York County and I represent the Maine Prosecutors Association. I am here to testify in opposition of LD 535

I have spent the vast majority of my 35 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.

LD 535 proposes to create a mechanism under which a Judge could sentence a youth in Juvenile Court to a term of incarceration that extends beyond the juvenile’s 21st birthday, for Murder and Class A offenses. Currently under the Maine Juvenile Code, the maximum period of incarceration any individual in the juvenile system can receive is an indeterminate commitment to a Department of Corrections juvenile facility to age 21.¹

If the purpose of LD 535 is to provide an option for a lengthier sentence beyond age 21 for the most serious juvenile offenders charged with Murder or a class A offense, this process already exists under the Maine Juvenile Code. The Juvenile Code clearly outlines the procedure for binding over a juvenile into adult court.² It is notable that the criteria a court must consider in deciding whether to bind-over a juvenile, is strikingly similar to the factors outlined in the proposed LD 535, Section 3316(2-A). If a court has conducted a bind-over hearing pursuant to 15 M.R.S. § 3101(4) and determines that a youth should not be bound over to adult court, it seems highly unlikely that any court would then consider a sentence that would transfer the custody of a youth into an adult facility. LD 535 would essentially override our existing procedure through which a court weighs and evaluates the criteria under which a youth should be transferred to adult court. The ability to expand a sentence beyond a youth’s 21st birthday is already available under Maine’s Juvenile Code, through this bind-over process.

¹ 15 M.R.S. § 3316.

² 15 M.R.S. § 3101(4)

Moreover, LD 535 references a “*determinate*” [emphasis added] disposition extending beyond a juvenile’s 21st birthday. The juvenile code currently expressly authorizes the court to impose an *indeterminate* period of commitment to a juvenile correctional facility. Although the Juvenile Court may review a previously imposed sentence, the specific time period a youth serves at a juvenile facility is determined by the Department of Corrections. Creating a “*determinate*” disposition would conflict with the existing statute and the legislative intent of granting the Department of Corrections the authority to determine the actual length of any sentence a youth serves at a juvenile facility.³ This language in LD 535 would create conflict with the existing sentencing provisions of our Juvenile Code and the authorization expressly granted to the Department of Corrections to determine the term of any commitment to a juvenile facility.

In addition, pursuant to 15 M.R.S. §§ 3315 & 3317, any youth sentenced by a juvenile court is permitted to petition the court for review of the sentence imposed as frequently as every 6 months. The re-litigation of sentences, as often as every 6 months, would further tax the already short-staffed DAs’ offices and the courts’ over-crowded dockets. This would require more resources.

Finally, the research is quite clear that positive outcomes are reduced and recidivism is increased when youth are transferred to adult facilities, which lack the rehabilitative and therapeutic focus of a juvenile correctional program, along with exposure to more criminogenically minded and older defendants.

For the reasons, the Maine Prosecutors Association is in opposition to LD 535.

Respectfully submitted,

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³ 15 M.R.S. § 3316