

Senator Anne Carney
Representative Amy Kuhn
Joint Standing Committee on Judiciary
100 State House Station, Room 438
Augusta, ME 04333

RE: LD 535, 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

Dear Senator Carney, Representative Kuhn, and members of the Joint Standing Committee on Judiciary,

My name is Margaret MacLellan and I am a resident of Portland, Maine. I am a second-year law student at the University of Maine School of Law who is currently enrolled in the Youth Justice Clinic as a Policy Fellow with the Center for Youth Policy and Law. My testimony in opposition to LD 535 represents my personal views only and not the position of the University of Maine School of Law or the University of Maine System. By authorizing longer sentences than permitted in the juvenile justice system and directing the subsequent automatic transfer of young adults to adult prisons, LD 535 holds children and young adults to an adult standard before their brains have fully developed which: **contradicts the purposes of the Maine Juvenile Code, would be harmful and ineffective, and is procedurally unnecessary. For these reasons, I urge Committee members to reject this bill.**

(1) LD 535 Contradicts the Purposes of the Maine Juvenile Code

By sentencing children and young adults to adult prison while they are still in the juvenile justice system, LD 535 contradicts key elements of the Maine Juvenile Code¹ which include securing for each child and young adult “such care and guidance, preferably in the juvenile’s own home, as will best serve the juvenile’s welfare and the interests of society,” preserving and strengthening “family ties whenever possible,” and securing “for any juvenile removed from the custody of the juvenile’s parents the necessary treatment, care, guidance and discipline to assist that juvenile in becoming a responsible and productive member of society.” These purposes of the Maine juvenile code reflect the rehabilitative purpose of the juvenile justice system, which is based upon the recognition that, due to their continued brain development, children and young adults should be treated differently than adults.

¹ See 15 M.R.S. § 3002(1).

The Supreme Court has recognized that children are different from adults and should be treated as such.² Adolescent brain research has consistently established that young brains continue to develop until the age of twenty-five, making young people more impulsive, susceptible to peer pressure, and uniquely able to be rehabilitated.³ This established understanding about adolescent brain development has been translated to treating young individuals in the juvenile justice system with the goal of rehabilitation.⁴

(2) LD 535 would be Harmful and Ineffective

LD 535 would open the door to more incarceration which is proven to be harmful and does not improve public safety. Incarceration of children and young adults causes detrimental and long-term harm to young people's physical and mental health, impedes their educational and career success, and exposes them to physical and psychological abuse.⁵ It breaks up and emotionally, psychologically, and financially burdens families;⁶ it undermines public safety;⁷ and it results in sicker adults.⁸ Incarceration in either the adult or juvenile system is expensive, unsafe, and unfair with disproportionate impacts on young people of color⁹ and members of the LGBTQ+ community.¹⁰ Additionally, longer sentences, especially in adult prisons, can increase recidivism rates.¹¹ Ultimately, by subjecting children and young adults to the harms of incarceration for longer, LD 535 is ineffective as a sentencing alternative intended to improve public safety because longer sentences do not result in greater public safety.

(3) LD 535 is Procedurally Unnecessary

Under the current bind-over procedure,¹² judges in Maine already have the discretion to determine the appropriate venue and related dispositions for youth who commit serious crimes.¹³

² *In re Gault*, 387 U.S. 1, 55 (1967).

³ See e.g. Bigler, E. (2021). *Charting brain development in graphs, diagrams, and figures from childhood, adolescence, to early adulthood: Neuroimaging implications for neuropsychology*. *Journal of Pediatric Neuropsychology*, 7(1-2), 27–54. <https://doi.org/10.1007/s40817-021-00099-6>.

⁴ See e.g. *Miller v. Alabama*, 567 U.S. 460 (2012); *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010).

⁵ Mendel, R. (2023). *Why Youth Incarceration Fails: An Updated Review of the Evidence*. The Sentencing Project. <https://www.sentencingproject.org/reports/why-youth-incarceration-fails-an-updated-review-of-the-evidence/>.

⁶ Nichols, L. et al. (2020). *Forgotten families: Detention causes emotional, psychological and financial burdens*. <https://kidsimprisoned.news21.com/family-impact-incarcerated-kids/>.

⁷ *How Youth Incarceration Undermines Public Safety: Reviewing the Evidence*. (2023). Annie E. Casey Foundation. <https://www.aecf.org/blog/reviewing-the-evidence-how-youth-incarceration-undermines-public-safety/>.

⁸ Barnert, E. et al. (2017). *How Does Incarcerating Young People Affect Their Adult Health Outcomes?* *Pediatrics: Official Journal of the American Academy of Pediatrics*. [10.1542/peds.2016-2624](https://doi.org/10.1542/peds.2016-2624).

⁹ Leonard, N. (2023). *Racial and Ethnic Disparities in the Youth Justice System*. Coalition for Juvenile Justice. <https://www.juvjustice.org/blog/1436>.

¹⁰ Wilson, B. et al. (2018). *Disproportionality and Disparities among Sexual Minority Youth in Custody*. *Journal of Youth and Adolescence*. [10.1007/s10964-017-0632-5](https://doi.org/10.1007/s10964-017-0632-5).

¹¹ See Turner, N. (2023). *Research shows that long prison sentences don't actually improve public safety*. Vera Institute. <https://www.vera.org/news/research-shows-that-long-prison-sentences-dont-actually-improve-safety>.

¹² See 15 M.R.S. § 3101(4)(E).

¹³ See 15 M.R.S. § 3314.

LD 535 would create additional unnecessary procedures that would be costly and risk exposing young adults to harms of incarceration in the adult system. Additionally, LD 535 could raise state¹⁴ and federal constitutional concerns around the proportionality of sentencing¹⁵ and the standards of decency which prohibit cruel and unusual punishment.

LD 535 contradicts the purposes of the Maine Juvenile Code, has the potential to do more harm than good, and is unnecessary given Maine's current bind-over law. For these reasons, I ask the committee to oppose LD 535. Thank you for your time and consideration.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Margaret MacLellan".

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¹⁴ Me. Const. Art. I, Sec. 9.

¹⁵ See generally Nellis, A. (2024). *Still cruel and unusual: Extreme sentences for youth and emerging adults*. The Sentencing Project.