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**“An Act to Establish a Comprehensive Program to Divert Youth
from the Criminal Justice System and Address Their Needs”
Before the Joint Standing Committee on Criminal Justice and Public Safety
Public Hearing Date: March 24, 2025
Testimony in Opposition of LD 740**

Senator Beebe-Center, Representative Hasenfus and 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 submitting this testimony on behalf of the Maine Prosecutors Association, specifically the District Attorneys, to record our opposition to LD 740. Except for a few changes, LD 740 is almost the exact same bill as LD 1779 that was submitted by Representative Lookner during the 131st Legislature. As before, the MPA is unable to support LD 740.

To be clear, the MPA overwhelmingly supports comprehensive evaluations of youth to identify specific needs and help guide the development of an appropriate disposition for an individual juvenile’s case. Prosecutors, defense attorneys and judges all embrace this type of assessment. The MPA supports and applauds the primary goals of diversion from the court system, whenever possible, as well as providing rehabilitative community-based services for youth charged with criminal offenses.

Seemingly the primary goal of LD 740 is to provide and mandate further diversionary options from Court. However, this process and authority already exists under current law, through Title 15, the Maine juvenile code. 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. LD 740 provides no such framework or oversight; currently under the juvenile code, victims must be contacted if any diversionary process is being contemplated, there is no similar provision under LD 740. Moreover, it is unclear which authority will be responsible for the implementation of any of the assessment recommendations. Finally, there is no procedure outlined in LD 740 that is to be followed if a diversion is unsuccessful.

LD 740 proposes a mechanism through which prosecutors are specifically excluded from receiving any reports generated through the diversionary process, prohibits the admission of otherwise legally obtained evidence in the form of any statements made by a juvenile or their family as part of the diversionary process (Section 1), and mandates “the department” to make specific recommendations regarding *whether a petition should be filed* (Section 5, “Report and Recommendations,” emphasis added)), which conflicts directly with prosecutorial authority otherwise granted under Title 15. We further suggest that many of the requirements laid out in LD 740 usurp and conflict with powers provided for prosecutors under Titles 15 and 30-A. Moreover, although Section 1 (“Diversion; juvenile needs assessment”) provides an option for a law enforcement officer to take a juvenile who is violating the law into custody, if the juvenile is endangering their person or welfare, public safety is not listed as one of the factors. Under Section 8 (“Petition prior to assessment”), a prosecutor must identify the reasons for filing a petition prior to completion of any assessment, however once again, no process is laid out by which a court would evaluate the appropriateness of such a filing or any the remedy the court would have at its disposal.

Title 34-A, together with Title 15, outlines the responsibilities of the Department of Corrections regarding youth involved in the juvenile justice system. As proposed, LD 740 would bring obligations upon the Department of Health and Human Services (“DHHS”) into Maine’s juvenile code. 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. From our perspective, one of the biggest challenges we face in the State of Maine for providing the best outcomes for youth charged with criminal offenses is the lack of sufficient evaluators to guide decision-makers and the follow-up services necessary to support those identified needs. We have a scarcity of options for young people 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. “High-fidelity wraparound care” is specifically listed by LD 740 as the required model of services, raising the question as to why the bill is the proponent of a precise type of treatment services rather than a more generalized recommendation. Additionally, and critically important to emphasize, DHHS’ inability to address the needs of our juvenile justice-involved youth and their families is already a major concern. A significant increase in funding would be necessary to create assessment teams and to ensure an expansion of services, at a time when our higher risk juvenile justice youth are often unable to receive necessary services in a timely manner.

We appreciate and share the concerns that LD 740 attempts to address, however we do not support the bill as drafted. We remain open and committed to discussing other methods to accomplish these shared goals.

Respectfully submitted,

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