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Testimony of Representative Sophie Warren Presenting
L.D. 1113, An Act Regarding Fairness in Sentencing
for Persons Under 26 Years of Age
Before the Joint Standing Committee on Judiciary

Good afternoon, Senator Carney, Representative Kuhn, and respected colleagues of the Joint Standing Committee on Judiciary. I appreciate the opportunity to present **L.D. 1113, An Act Regarding Fairness in Sentencing for Persons Under 26 Years of Age**.

The bill before you would prohibit life sentences for individuals under the age of 26 with no option for Supervised Community Confinement after 15 years and requires that no sentence for individuals under the age of 26 shall be imposed for any period without an option for Supervised Community Confinement¹ after 15 years.

Starting at age 18, individuals in Maine who are charged with a crime are typically tried in criminal court, where the penalties tend to be more severe than in juvenile court. This distinction between adult and juvenile court is rooted in the understanding that adults and minors have different levels of maturity and decision-making abilities. Criminal court, with its harsher penalties, is designed for individuals who are legally considered adults, and it reflects the idea that adults should be held fully accountable for their actions. However, this legal distinction also assumes that adults have fully developed cognitive and emotional abilities, a premise that is not entirely accurate, particularly when considering the complexities of brain development during the late teens and early twenties.

There is growing recognition that young adults and children are more alike than different in their capacity for long-term planning, emotional regulation, impulse control, and assessing risks and rewards. While adults are generally better equipped to make informed decisions based on these factors, emerging research suggests that even those over 18 and under 26 are still developing these abilities well into their twenties. This developmental gap has implications for how young adults should be treated in the criminal justice system. It raises important questions about whether the same penalties should be applied to someone at 18 as to someone older, given that their cognitive and emotional faculties may still be evolving. Understanding these differences can lead to more nuanced approaches to justice, especially when it comes to rehabilitation and second chances for young adults who may not yet fully meet the maturity expectations set for those in criminal court.

¹ See §3036-A. Supervised community confinement program. <https://legislature.maine.gov/statutes/34-a/title34-Asec3036-A.html>.

In bringing this bill forward, I mean in no way to minimize what are legitimate concerns for public safety, as well as the rights of survivors and victims' families. What this bill intends to suggest is that criminal justice must balance both sides to achieve public safety through a combination of punishment, rehabilitation, and restorative justice. Age-appropriate sentencing does not contradict a commitment to victims or public safety. Rather, restoratively minded sentencing demands we consider further consideration to what the role of incarceration is, how some perpetrators are themselves victims contributing to a larger cycle, and evidence to suggest tremendous success by those who have been afforded a second chance.

The Problem and its Scientific Basis

It is well-established that the adolescent brain isn't fully developed until the mid-20s.² Numerous empirical studies show that individuals are at the highest risk of committing crimes during their late teenage years through their mid-twenties, a pattern that aligns with findings from neurodevelopmental brain science about the capacity the brain has within these years to make sound decisions.³ As a result, young people, including children and emerging adults, are less capable than adults.⁴ As summarized by Ashley Nellis, the Sentencing Project's co-director, "The legal demarcation of 18 as adulthood rests on outdated notions of adolescence. Based on the best scientific understanding of human development, ages 18 to 25 mark a unique stage of life between childhood and adulthood which is recognized within the fields of neuroscience, sociology, and psychology."⁵

Coupled with this understanding that their brains are still maturing, there is the reality that young people also possess a unique capacity for positive change. This means that when they cause harm, they should be held accountable in age-appropriate ways that recognize their significant potential for rehabilitation. Just as the tenants of the *Montgomery v. Louisiana* (2016) ruled mandatory life sentences without parole for juveniles not only be banned but applied retroactively, emerging adults, too, deserve a meaningful opportunity for a second look because their developmental similarities with younger people reduces their culpability in criminal conduct. As it stands today, nearly two in five people sentenced to life without parole were 25 or younger at the time of their crime nationwide. Here in Maine, our prisons and jails are housed within the Department of Corrections. Either we see the criminal justice system as a cite for rehabilitation or we don't. If we do, we must consider legislative interventions like this very bill; in line with the

² 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>; Tabashneck, S., Shen, F. X, Edershim, J. G., & Kinscherff, R. T. (2022). The science of late adolescence: A guide for judges, attorneys and policy makers. Center for Law, Brain & Behavior at Massachusetts General Hospital. <https://clbb.mgh.harvard.edu/wp-content/uploads/CLBB-White-Paper-on-the-Science-of-Late-Adolescence-3.pdf>; Aamodt, S., & Wang, S. (2011). Welcome to your child's brain: how the mind grows from conception to college. American Psychological Association.

³ Nellis, A. (2021). No end in sight: America's enduring reliance on life imprisonment. The Sentencing Project. <https://www.jstor.org/stable/resrep30877.12>.

⁴ More Support, Less Punishment: Getting Young People on a Better Path. January 14, 2025. <https://www.ncsl.org/state-legislatures-news/details/more-support-less-punishment-getting-young-people-on-a-better-path>.

⁵ Nellis, A. (2023). Left to Die in Prison: Emerging Adults 25 and Younger Sentenced to Life without Parole. The Sentencing Project. <https://www.sentencingproject.org/reports/left-to-die-in-prison-emerging-adults-25-and-younger-sentenced-to-life-without-parole/>.

best available evidence, rooted in the successful efforts begun in other states, and supported by the legal frameworks of our state.

Positive Outcomes in Other States

In jurisdictions where laws have been changed and where states that have enacted similar legislation to LD 1113, formerly incarcerated individuals who were sentenced to lengthy prison terms as juveniles, such as life without the possibility of parole, research has shown low recidivism rates⁶⁷ and positive outcomes for communities.⁸ Criminological evidence supports the fact that many individuals in prison, especially those serving extreme sentences, have “aged out” of criminal behavior and pose little risk of reoffending.⁹ These individuals could be safely released without compromising public safety.¹⁰

In California, individuals who commit crimes between the ages of 18 and 26 are considered “youthful offenders” and are eligible for specialized parole review after 15-25 years, except in certain circumstances. Twelve states and the District of Columbia have enacted “second look” policies¹¹ enabling people who have served a minimum number of years in prison to ask the court to reconsider sentences that may have been deemed appropriate for the time but no longer serve the interests of public safety.¹² In 2024, Washington's highest court ruled in *State v. Monschke* that life without parole is not appropriate for individuals under 20, as their youthfulness requires consideration for a new sentence. Similarly, in 2022, a Michigan appellate court ruled in *People v. Parks* that sentencing 18-year-olds convicted of first-degree murder to life without parole is unconstitutional, citing neurological research showing that their brain development is comparable to that of juveniles.

“Second Look” Legislation and Maine’s Unique Constitutional Implications

⁶ Sbeglia C, Simmons C, Icenogle G, Levick M, Peniche M, Beardslee J, Cauffman E. Life after life: Recidivism among individuals formerly sentenced to mandatory juvenile life without parole. *J Res Adolesc.* 2025 Mar;35(1):e12989. doi: 10.1111/jora.12989. Epub 2024 Jun 6. PMID: 38845089; PMCID: PMC11758475. <https://pmc.ncbi.nlm.nih.gov/articles/PMC11758475/>.

⁷ “New Study Finds 1% Recidivism Rate Among Released Philly Juvenile Lifers,” Montclair State University, April 30, 2020, <https://www.montclair.edu/newscenter/2020/04/30/new-study-finds-1-recidivism-rate-among-released-philly-juvenile-lifers/>. Full Report, “Resentencing of Juvenile Lifers: The Philadelphia Experience:” <https://www.msuddecisionmakinglab.com/philadelphia-juvenile-lifers>.

⁸ Henggeler, S. W., & Schoenwald, S. K. (2011). Evidence-Based Interventions for Juvenile Offenders and Juvenile Justice Policies that Support Them. *Social Policy Report*, 25(1). Society for Research in Child Development.

⁹ Mendel, R.A. (2011). No Place for Kids: The Case for Reducing Juvenile Incarceration. The Annie E. Casey Foundation. <https://www.aecf.org/resources/no-place-for-kids-full-report>.

¹⁰ Komar, L., Nellis, A., & Budd, K. (2023). Counting Down: Paths to a 20-year Maximum Prison Sentence. The Sentencing Project. <https://www.sentencingproject.org/reports/counting-down-paths-to-a-20-year-maximum-prison-sentence/>.

¹¹ Love, M. C., & Klingele, C. (2011). First Thoughts About “Second Look” and Other Sentence Reduction Provisions of the Model Penal Code: Sentencing Revision, 42 *U. Tol. L. Rev.* 859, 868–69 (2011).

¹² American Law Institute. (2017). Model Penal Code: Sentencing §305.6 – Modification of Long-Term Prison Sentences; Principles for Legislation, comment d.; See also Murray, J., Hecker, S., Skocpol, M., & Elkins, M. (2021). Second Look = Second Chance: Turning the Tide Through NACDL’s Model Second Look Legislation, Section III. National Association of Criminal Defense Lawyers.

Despite many years of efforts to progress on issues of juvenile justice, the last 20 years in particular have signaled some remarkable shifts in juvenile justice from the Supreme Court to the states. One of these key decisions is *Roper v. Simmons* (2005), in which the Court ruled that it is unconstitutional to impose the death penalty on individuals who were under 18 at the time of their crimes. The Court based its decision on the recognition that juveniles are less culpable than adults due to their lack of maturity, susceptibility to outside influences, and greater capacity for change. A few years later, in *Graham v. Florida* (2010), the Court extended this reasoning by ruling that life sentences without the possibility of parole for juveniles convicted of non-homicide offenses are unconstitutional. The decision was grounded in the idea that juveniles, due to their developmental stage, should be given a chance for rehabilitation. Finally, there is *Miller v. Alabama* (2012), where the Court further clarified that mandatory life sentences without the possibility of parole for juveniles convicted of murder were unconstitutional, as these sentences do not allow for consideration of the juvenile's age, circumstances, and potential for reform.

Though there has been great variance in the impact of these decisions on the action of different states, the impact has been overwhelmingly positive.¹³ 87% of individuals who were sentenced to life without parole for crimes committed as juveniles have had their sentences reduced following the *Montgomery* (2016) and *Miller* (2012) decisions.¹⁴ By January 2024, 1,070 individuals had been released nationwide as a consequence of that resentencing decision.

Here, I want to acknowledge this issue is a complex and nuanced one for Maine, because of the unique factors of our state's Constitution for providing remedies in the space of juvenile justice sentencing. Currently in Maine, life sentences are only applicable for the crimes of murder and aggravated attempted murder, but only if the sentencing court identifies specific factors.¹⁵ Currently, there are several ways¹⁶ to challenge convictions and sentences, including direct appeals (on legality of the sentence), sentence appeals (on propriety of the sentence), post-conviction reviews, and Maine Rule of Unified Criminal Procedure 35 (on motion to correct a sentence within one year).

You might ask why this bill? Why must the considerations for rehabilitation through a 15-year length to Supervised Community Confinement happen at the point of sentencing? Why not through re-sentencing at some future date if the conditions of rehabilitation warrant such consideration, such as offered by the *Montgomery* (2016) and *Miller* (2012) decisions, taken up by 12 states across the country?

¹³ Bennett, J. Z., Brydon, D. M., Ward, J. T., Jackson, D. B., Ouellet, L., Turner, R., & Abrams, L. S. (2024). In the wake of Miller and Montgomery: A national view of people sentenced to juvenile life without parole. *Journal of Criminal Justice*, 93, Article 102199. <https://doi.org/10.1016/j.jcrimjus.2024.102199>.

¹⁴ A 2024 study led by researchers at the University of California, Los Angeles: Bennett, J.Z., Brydon, D.M., Jeffrey T. Ward, J.T., Jackson, D.B., Ouellet, L., Turner, R., & Abrams, L. (2024). In the wake of Miller and Montgomery: A national view of people sentenced to juvenile life without parole. *Journal of Criminal Justice*, 93, <https://doi.org/10.1016/j.jcrimjus.2024.102199>.

¹⁵ This is outlined in 17-A M.R.S. §§ 152-A, 201, 1603, 1604(2) and the case *State v. Waterman*, 2010 ME 45. Additionally, the crimes of aggravated attempted murder and gross sexual assault (under specific conditions such as being a "repeat sexual assault offender" or committing GSA against a child under 12) may result in a sentence of "any term of years." Relevant statutes include 17-A M.R.S. §§ 152-A, 253, 253-A, and 1604(2).

¹⁶ As summarized by The Criminal Law Advisory Council (CLAC), in testimony submitted on LD 1359, LD 1359, "An Act to Provide an Opportunity for Resentencing for Individuals Who Were Sentenced for Crimes Committed as Juveniles," May 18, 2023, <https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=10023841>.

While other states can address these issues through the option of resentencing, Maine does not allow for similar proposals. To the extent that a bill would allow for resentencing, it is likely unconstitutional due to a potential violation of the separation of powers clause in the Maine Constitution. The Law Court's ruling in *State v. Hunter*, 447 A2d 797 (Me. 1982),¹⁷ is likely to govern the constitutional concerns raised by this proposal. The process as conceived through such a proposal is one CLAC has argued closely resembles a commutation, which falls under the Governor's exclusive clemency authority.¹⁸¹⁹

Conclusion

For justice to be truly served, those who have rehabilitated themselves, particularly individuals sentenced as juveniles, should be given a meaningful opportunity to demonstrate their readiness for release. The transformative potential of young people is undeniable. Given that their brains are still developing, they are capable of profound positive change and can overcome their past actions to lead healthy, productive lives.

There is no justification, from a criminal justice perspective, for maintaining extremely long sentences. In fact, extensive research has shown that lengthy prison terms have not deterred crime or enhanced public safety. I would argue there is no reason to uphold long sentences when those serving them show a clear capacity for rehabilitation, and that their capacity was previously limited by the scientific realities of their very brain development. That is all this bill offers, an opportunity. Supervised Community Confinement after 15 years is not a guarantee. It is a possibility.

Other states have led the way in this area of law, reflecting the understanding that children and young adults have a greater potential for rehabilitation and that their brains are not fully developed, which affects their decision-making abilities. These decisions collectively highlight a shift toward recognizing the importance of age and developmental factors in sentencing, emphasizing rehabilitation over harsh, irreversible penalties for minors. We should follow their lead and join the consensus of scientifically rooted understanding that rehabilitation, not punishment, must ground our considerations for this demographic.

Thank you for your time and consideration of this bill. I would be happy to answer any questions you may have.

¹⁷ *State v. Hunter*, 447 A.2d 797 (1982):

<https://legislature.maine.gov/testimony/resources/JUD20220209@OPLA132895236740255681.pdf>.

¹⁸ As summarized by The Criminal Law Advisory Council (CLAC), in testimony submitted on LD 1359, LD 1359, "An Act to Provide an Opportunity for Resentencing for Individuals Who Were Sentenced for Crimes Committed as Juveniles," May 18, 2023, <https://www.mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=10023841>.

¹⁹ As one other example of how unique Maine is in the context of juvenile justice reforms, in 2023, the American Bar Association passed a resolution recommending that all states and the federal government implement prosecutor-initiated resentencing legislation. This would allow courts to recall and resentence individuals to a lesser sentence at any time, upon the recommendation of the prosecutor in the jurisdiction where the person was sentenced. Such a remedy rooted in resentencing is not possible in the same way here in Maine.

Sponsor Proposed Amendment to

An Act Regarding Fairness in Sentencing for Persons Under 26 Years of Age

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §1603, sub-§1-A is enacted to read:

1-A. Limit on sentence. Notwithstanding any provision of law to the contrary, a person may not be sentenced to imprisonment for life without the possibility of supervised community confinement under Title 34-A, section 3036-A after a period of 15 years if the person was under 26 years of age at the time that the conduct forming the basis for the conviction occurred.

Sec. 2. 17-A MRSA §1604, sub-§2, ¶A, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

A. In the case of the Class A crime of aggravated attempted murder, the court shall set a term of imprisonment under section 152-A, subsection 2 of life or a definite period of any term of years, except a person may not be sentenced to imprisonment for life without the possibility of supervised community confinement under Title 34-A, section 3036-A after a period of 15 years if the person was under 26 years of age at the time that the conduct forming the basis for the conviction occurred;

Sec. 3. 34-A MRSA §3036-A, sub-§2, ¶E is enacted to read:

E. Notwithstanding paragraphs A to D, a prisoner may be transferred to supervised community confinement if the prisoner was sentenced to a term of imprisonment for longer than 15 years imprisonment for life, served at least 15 years of that sentence and was under 26 years of age at the time that the conduct forming the basis for the conviction occurred.

SUMMARY

This bill prohibits a person from being sentenced to for any class of crime and any period of time imprisonment for life without the possibility of supervised community confinement after a period of 15 years for a conviction in which the person was under 26 years of age at the time that the conduct forming the basis for the conviction occurred.