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Judicial Branch testimony neither for nor against LD 1113, An Act Regarding Fairness in Sentencing for Persons Under 26 Years of Age:

Senator Carney, Representative Kuhn, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide some brief testimony regarding this bill.

This bill seeks to modify how sentencing is conducted in some of our most serious cases when the defendant is “under 26 years of age at the time that the conduct forming the basis for the conviction occurred.” There would be cases in which it would be difficult to determine what the “time that the conduct... occurred” was. For example, in some sexual assault cases, the conduct has occurred more than once over a period of time and there is no single date on which to make the measurement required by the bill.

Moreover, even though the bill cites “fairness” as a reason for enacting this change, using a date certain, such as a date of birth, as a basis on which to treat similarly situated defendants very differently, seems unfair, or at least, arbitrary. Situations would arise where a defendant’s birthday is a few days prior to, or subsequent to, when the criminal conduct occurred.

In addition, if the intention here is to ensure a consideration for supervised community confinement, we would offer that this should be in the purview of the Department of Corrections, with clear standards and policies.

Thank you for your consideration.