



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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April 23, 2025

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Senator Anne Beebe-Center, Chair
Representative Tavis Hasenfus, Chair
Committee on Criminal Justice and Public Safety
5 State House Station, Room 436
Augusta, ME 04333

RE: LD 648: An Act to Expand the Supervised Community Confinement Program

Dear Senator Beebe-Center, Representative Hasenfus, and Members of the Committee on Criminal Justice and Public Safety:

The Maine Association of Criminal Defense Lawyers is a non-profit organization that has nearly 300 member attorneys who practice criminal defense across the state. Since 1992, MACDL has advocated for its members and the people we are fortunate to represent in courtrooms throughout Maine and at the State House.

MACDL presents this testimony in **support** of LD 648.

The goals of this bill are admirable. Showing mercy to people convicted of serious crimes—particularly for crimes committed by very young people—is the true meaning of justice.

When talking about extreme sentencing with regular non-lawyer people, I often refer to one of my favorite movies—*The Shawshank Redemption*. I am sure everyone here has seen that nearly perfect film at least once.

People uniformly agree that Andy Dufresne did not deserve to die in prison because he was truly an innocent man—the injustice of his incarceration is apparent. He was wrongfully convicted of killing his wife and her lover. His incarceration—even after evidence of his innocence became known—was both inhumane and intolerable.

The character of Ellis Boyd “Red” Redding is similarly beloved. No one believes it would be justice for Red to remain in prison for the rest of his life, only to die behind prison walls, buried in an unmarked grave—forgotten, damned, alone. Our hearts ache when his attempts at parole are thwarted for decades—they soar when he is granted parole and finally allowed to leave Shawshank. We are even elated when he skips parole and heads down to Mexico—to live the rest of his life as a free man.

We all feel this even though we know, without any doubt, that Red was not an innocent man. He gunned someone down during a robbery when he was very young, just 18 years old. He committed the ultimate criminal act in Maine—murder. And yet—and yet—to a person, no one believes that Red was unworthy of redemption, that he was “unrehabilitated,” that he was a danger to society. He, too, deserved to be free.

Hope. As Andy says to Red in the prison yard, “[T]here’s a small place inside of us they can never lock away, and that place is called hope.” Red thus responds, bitterly, “Hope is a dangerous thing. Drive a man insane.

It's got no place here." In his letter to Red, years later, encouraging him to join him in Mexico, Andy doubles down: "Hope is a good thing, maybe even the best of things. And good things never die."

This bill recognizes both human beings' enormous capacity to grow and change as well as the immense power of our criminal legal system to exercise mercy and restraint. This is a hopeful bill.

If we can extend empathy and understanding to a fictional character, who as a young man, did such a horrible thing—if we can see the humanity and capacity for change in one who has never existed—surely, we can extend such decency to those we have locked in our prisons here in Maine today.

A decades' long or actual life sentence—whether "life" or a severe term of years—kills hope. It takes away from those who are sentenced to die in prison any belief in a better place, a more comfortable place, a place to leave this earth outside of prison walls. Without any possible hope for release—no matter how many years served, no matter how much rehabilitation has occurred, no matter how changed a person is—we are authorizing the killing of a person's soul. This is insupportable.

I represented a young man convicted of a murder when he was 18 years old. He received a 65-year sentence—a "de facto" (in reality) life sentence—as he would be well into his 70s before even being eligible for release. When I met him in Maine State Prison, for a second, a picture of him as an elderly, stooped, broken man flashed before my eyes. It was as if I could picture him in his 70s, still incarcerated, waiting to die. That vision terrified me; it chilled me to the bone.

I represented a not-so young man recently, now almost 60 years old, who received a life sentence for crimes he allegedly committed in his 20s. He continues to fight to prove his innocence, but, in the meantime, the reality and the finality of that life sentence presses on him every day at Maine State Prison. He has done incredible work while incarcerated, but, because of his life sentence, none of that matters to anyone who can do anything to help him.

We are throwing human beings away in the name of public safety, not stopping to analyze what this says about us and the limits of our own humanity. We do not need to incapacitate elderly, infirm people. We do not need to incapacitate those who have shown they have changed in ways that could only enrich our society—particularly those who were still very much immature and reckless due to their youth at the time of their offenses. But we do it—we do it all too often. A merciful society would not require a *hospice* unit in its prisons. It is a gruesome reality to contemplate, but I encourage you all to do so.

LD 648 would allow those convicted of crimes committed when they were less than 26 years old to be *eligible* for supervised community confinement after a term of imprisonment of 15 years—provided that they have maintained a custody classification of minimum security. This proposal would not guarantee that the incarcerated person would be released into the wind.

Emerging adults, those aged 18 to 25, have adolescent brains. The law treats these young people as adults, but their intellectual and emotional capacity is still that of teenagers. Because of this, this particular group of defendants has an enormous capacity for growth and change. Allowing them an opportunity to be reintroduced gradually back to the community while supervised as adults would go a long way in recognizing that capacity. Maine can do this.

Some facts on life sentences, provided by the [Sentencing Project](#), for this Committee to consider in its deliberations:

- One in six people in U.S. prisons is serving a life sentence (16% of the prison population, or **194,803 people**)—a proportion that has reached an all-time high even as crime rates are near record lows.
- The United States makes up roughly 4% of the world population but holds an estimated **40%** of the world's life-sentenced population, including **83%** of persons serving life sentences without the possibility of parole.

- More people are serving life without parole in 2024 than ever: **56,245 people**, a 68% increase since 2003.
- Nearly half of people serving life sentences are Black, and racial disparities are the greatest with respect to people sentenced to life without parole.
- A total of **97,160 people** are serving sentences of life with parole.
- Life sentences reaching 50 years or more, referred to as “virtual life sentences,” account for **41,398 people** in prison.
- Persons aged 55 and older account for nearly **two-fifths** of people serving life.
- Almost 70,000 individuals serving life were under 25—youth and “emerging adults”—at the time of their offense. **Among these, nearly one-third have no opportunity for parole.**
- Racial disparities in life imprisonment are higher among those who were under 25 at the time of their offense compared to those who were 25 and older.

In 2024, nearly 200,000 people in the United States are serving life sentences: life sentences with the possibility of parole (97,000); life sentences without the possibility of parole (which include all of Maine’s life sentenced people—**65** as of last year): 56,000; and virtual life sentences (a term of 50 years or more—**60** here in Maine as of last year): 41,000. (Note: To break the numbers down by gender, here in Maine, two women are serving life sentences and two more are serving virtual life sentences.)

Aging is a universal experience that carries additional significant challenges for those who are incarcerated. Aging occurs more rapidly in prison, with health and longevity negatively impacted. Many incarcerated individuals entered prison with poor health, and the conditions of imprisonment worsen chronic and age-related ailments. Studies show that compared to nonincarcerated individuals, incarcerated people experience worse health outcomes, including higher rates of chronic illness, infectious diseases, and psychological disorders.

In Maine, 32 out of our 65 people serving life sentences are aged 55 and older; 28 out of our 60 people serving “de facto” life sentences are 55 and older. This is much higher than the national average of 35 percent.

In Maine, 15 out of our 65 people serving life sentences were incarcerated for crimes committed when they were under the age of 25. As of last year, 19 of the 60 people serving “de facto” life sentences committed their crimes under the age of 25.

We are punishing young people extremely harshly—and by so doing, we end up incarcerating a significant number of elderly people, damned to die in prison for the behaviors and transgressions of their youth. This population is aging—we are warehousing people in their 60s, 70s, and 80s for crimes they were convicted of in their teens and 20s. When imprisonment serves no other purpose but to punish, it is both cruel and unnecessary. This is where we find ourselves.

We encourage you all to vote “ought to pass” on this important bill and to recommit Maine to the mantras of mercy and reason and hope.

Thank you for your consideration, for your attention to this important matter, and for allowing me to present this testimony to you all today.

Sincerely,



Tina H. Nadeau, Esq.
MACDL Executive Director