



## MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

P.O. Box 17642  
Portland, ME 04112-8642  
(207) 523-9869  
mainemacdl@gmail.com

May 5, 2025

### 2024-2025 OFFICERS

*President*  
Jeremy Pratt

*President-Elect*  
Matthew D. Morgan

*Vice President*  
Sarah E. Branch

*Secretary*  
Luke Rioux

*Treasurer*  
Justin Andrus

### 2024-2025 DIRECTORS

Jesse James Archer  
Randall Bates  
Dylan R. Boyd  
Daniel Dubé  
Andrew Edwards  
Benjamin T. Everett  
Kristine C. Hanly  
James Mason  
Joseph Mekonis  
Jennifer Rohde  
Robert J. Ruffner  
John Steed  
Caitlyn Smith  
Lisa Whittier

### EXECUTIVE DIRECTOR

Tina Heather Nadeau

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 1849: An Act to Establish a Minimum Age at Which a Juvenile May Be Adjudicated**

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 **neither for nor against** LD 1849.

We believe the overall goal of this bill is admirable: currently, Maine is an outlier in that we have no minimum age to prosecute a child as a juvenile offender for any level crime whatsoever. This means that children as young as 7, 8, 9, etc., could be processed through the juvenile criminal system—unnecessarily harmed and traumatized all in the name of “public safety.”

The majority of the Legislature as recently as 2019 has in the past rejected pleas to create a minimum age for prosecution—any age. It is baffling to us how we continue to be so behind the times in recognizing how young children and young teens are not at a developmental stage where culpability and criminal penalties should attach.

We completely support the portions of the bill that would require that children under the age of 18 be prosecuted as juveniles—rather than adults—for violations of law under Title 12 (fishing, wildlife, ATV, snowmobile, etc.) and Title 29-A (motor vehicle violations). Too many juveniles have entered adulthood with adult criminal convictions for these types of crimes even though they were legally minors at the time of their commission. This is an easy fix and one this Committee should adopt without haste—the purposes of the Juvenile Code, namely rehabilitation, support folding in these types of crimes within its purview.

The current bill proposes that the minimum age for prosecution for most crimes be set at 11 years old. It proposes no minimum age for the alleged juvenile offenses of murder, felony murder, manslaughter, and criminal attempt of murder or felony murder. This bill is problematic on both fronts.

Setting the minimum age of prosecution to 11 years old is just simply too young. Middle-school aged children do not have the intellectual or developmental capacity to be held accountable for their actions in the way older teenagers do. Maine's own juvenile competency statute, 15 M.R.S. § 3318-A, presumes incompetency for any child under the age of 14—meaning that the State has to establish that it is more likely than not that any child under the age of 14 is competent to even stand trial. Youth itself can equal incompetence.

The United Nations Committee on the Rights of the Child has set forth that 12 years old is the absolute minimum age for any criminal responsibility whatsoever. Further, the UN Committee recommended the age of 14 or even 16 as the minimum age for any criminal system involvement. Young children do not belong in the criminal system—period.

Any substantive proposal that advocates for real change in the juvenile system has been met over the years with enormous resistance, even in the face of overwhelming evidence about the harms of system involvement for children and the incarceration of children. The response has always played on people's fears about "out of control, dangerous super predators." This is a complete illusion. Serious violent crime rates for juveniles between the ages of 12 and 17 have fallen steadily over the past 30 years according to the FBI—they have fallen more than 80 percent from their all-time high in 1993.

If the bill's opponents—DOC, prosecutors, etc.—cannot find fault with the substance of this bill, they are going to yet again encourage this Committee to wait, hold up, talk more, discuss more, research more, convene more stakeholders' groups yet again, etc. This is smoke screen. This Committee and this Legislature can do the right thing now—time is of the essence. We need Maine to catch up and stop prosecuting young children—this government needs to do right by the children it purports to serve and support.

As far as the second major part of this bill—which would not have any minimum age for children accused of murder, manslaughter, or felony murder—this is an extremely misguided proposal that fundamentally misunderstands why age matters at all when prosecuting children. The immaturity of a say, 10-year-old, makes it so that child should not be criminally responsible for any alleged criminal misconduct—no matter what the charge. A 10-year-old needs intervention, support, and services—criminal prosecution is wholly inappropriate, particularly for children who commit even the most serious acts.

We cannot set sound, measured policy only for the worst case scenarios. As compelling as the Netflix fictional series *Adolescence* was, I fear that it will do more harm than good for young people accused of the most serious crimes—with the ripple effects hitting up against young children facing even less serious crimes.

We urge this Committee to consider raising the minimum age for a juvenile to be prosecuted to 14 years old and to not allow any “carve outs” or exceptions for particular crimes. If this Committee were to strengthen this bill, we would wholeheartedly support it as a long-overdue and welcome amendment to our current practice of prosecuting young children. Setting a minimum age of 11 helps so few children. Eliminating the most serious crimes from any minimum age requirements is an unnecessary and potentially harmful misstep.

We cannot and should not set up our system for the one or two outliers who appear once a decade. We need to commit ourselves to a system of justice that recognizes the inherent fallibility of youth—and the inherent capacity of young people to mature and change. When a child engages in behavior we deem criminal, our communities all have a vested interest in ensuring that child gets the help they need to make better, healthier choices as they grow into adults. All children deserve a chance to thrive: prosecuting young children—especially young children accused of serious crimes—denies them that chance for the rest of their lives.

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,

A handwritten signature in blue ink, appearing to read "Tina H. Nadeau", with a stylized, flowing script.

Tina H. Nadeau, Esq.  
MACDL Executive Director