



LD 1779 – *An Act to Develop a Continuum of Care for Youth Involved in the Justice System and to Develop Alternatives for Juveniles Incarcerated in Long Creek Youth Development Center - Ought To Pass*

Testimony of GLBTQ Legal Advocates & Defenders, EqualityMaine, OUT Maine
By Mary L. Bonauto, GLAD Attorney
Joint Standing Committee on Criminal Justice & Public Safety
May 2, 2023

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

My name is Mary Bonauto and I am the Senior Director of Civil Rights at GLBTQ Legal Advocates & Defenders, a litigation and policy organization addressing issues affecting the LGBTQ people across communities in Maine, New England and nationally.

Thank you for the opportunity to provide testimony in support of Representative Lookner’s important bill, LD 1779. This bill builds on and formalizes the vital progress made by the Department of Corrections (“DOC”) in diverting youth from the justice system, reducing youth incarceration, creating staff-secure alternatives to Long Creek, investing in community organizations to provide necessary services to support young people and their families in their communities, and supporting workforce development.

GLAD’s work has long supported young people and families, while also recognizing that some people will need support in order to their lives and contribute to their communities. Both Equality Maine and OUT Maine join GLAD in this testimony – and they are among the organizations that have long recognized the need to support young people, including LGBTQ young people who have been committed to or detained at Long Creek.

Looking to this bill, we believe there is already a high degree of agreement – although unanimity is always difficult – about embracing “positive reforms” and attaining “a more equitable and justice system for youth,” as the Commissioner put it in the Department’s testimony on LD 140.¹

¹ The young people in DOC custody – whether at Long Creek or on community supervision -are disproportionately Black, Latino, and of other racial and ethnic minorities. We believe these young people and justice-involved youth also include many LGBTQ young people. LGBTQ involvement in the justice system is driven by multiple factors, including family rejection, disproportionate physical and sexual abuse, dual involvement with state child welfare systems, heightened scrutiny and school discipline for expressing same-sex attraction, transgressing gender norms, or defending themselves against harassment. See e.g. Bianca D.M. Wilson et al., *Disproportionality and Disparities Among Sexual Minority Youth in Custody* (Springer 2017), [available at: https://link.springer.com/article/10.1007/s10964-017-0632-5](https://link.springer.com/article/10.1007/s10964-017-0632-5) ; Center for American Progress, *Movement Advancement Project, Youth First, Unjust: LGBTQ Youth Incarcerated in the Juvenile Justice System*,

First and foremost, many have recognized that confinement should be used extremely rarely and that, despite the good will of the Department, is consequential for those held, as you will hear from young people today. This is not a neutral intervention in a person’s life. Many experts in many fields— in health and health care, child welfare, corrections - see adolescence as a precious time in life when, in the words of the National Academies of Sciences, young people can “redirect and remediate maladaptation in brain structures and behavior from earlier developmental periods” – even with the burdens of Adverse Childhood Experiences – into “resilience.”²

Maine has its own significant body of research and study, including the Maine Juvenile Justice Reinvestment Task Force Report of 2020. Among many other things, the final report found, relying on DOC staff and administrators, that most committed youth who spent the most time at Long Creek were there “because they had family, behavior, mental health, substance use disorders, or other problems and there was no place for them to go” and not because of “a high risk of recidivism or danger to the community.” To avoid the harms of incarceration, it recommends developing options to support youth and families, and increasing investment for a continuum of services as proposed by this bill.³

We appreciate the DOC’s deepening commitment to supporting young people and their families in community as outlined in the Commissioner’s Report to this Committee on March 15, 2023, regarding Section KKKK—4 of of LD 221 (2021), including steps toward community programs, housing for youth, collaborations with other departments on Regional Care Teams and other bodies, diversion, and other work.

At the same, time, we strongly urge passage of this bill to formalize the proposed process for evaluating and analyzing youth and community needs with attention to ensuring that all affected voices are heard, including those of justice-involved youth and their families, and the places most affected by justice-involvement. Such an analysis can then “reverse engineer” the

at 5 (June 2017), <https://www.lgbtmap.org/file/lgbtq-incarcerated-youth.pdf>; Caitlin Ryan, Family Acceptance Project, *Supportive Families, Healthy Children: Helping Families with Lesbian, Gay, Bisexual, & Transgender Children* (2009), http://familyproject.sfsu.edu/sites/default/files/FAP_English%20Booklet_pst.pdf; Caitlyn Ryan, David Huebner, Rafael Diaz, Jorge Sanchez, *Family Rejection as a Predictor of Negative Health Outcomes in White and Latino Lesbian, Gay and Bisexual Young Adults*, *Pediatrics* 123 (1), 346-52 (2009). Angela Irvine, Aisha Canfield, *The Overrepresentation of Lesbian, Gay, Bisexual, Queer, Gender Nonconforming, and Transgender Youth in the Child Welfare to Juvenile Justice Crossover Population*, *Journal of Gender, Social Policy & the Law*, 24(2) 243-61 (2016).

² National Academies of Sciences, Engineering, and Medicine. (2019). *The Promise of Adolescence: Realizing Opportunity for All Youth*. Washington, DC: The National Academies Press. doi: <https://doi.org/10.17226/25388>, at 32, at <https://www.nap.edu/download/25388> (hereafter, National Academies, *The Promise of Adolescence*).

³ Center for Children’s Law and Policy et al. (2020), Maine Juvenile Justice System Assessment, at 55-56, 11-12, available at: <https://irp-cdn.multiscreensite.com/de726780/files/uploaded/Maine%20Juvenile%20Justice%20System%20Assessment%20FINAL%20REPORT%202-25-20.pdf> This report also supports the assertion

issues by asking how young people came to be justice involved and what is most likely to be helpful and impactful for those people and places. The DOC and Children’s Cabinet can then make recommendations, including any adjustments to its existing plans or assumptions, and work with a new entity – selected by this Committee – to assist in distributing funds accordingly to those targeted interventions and supports. Taken together, this proposal (at sections 4 & 5) would direct the State’s resources to the most effective care, support and responses needed for Maine’s true treasure, our people.

In our view, this examination and planning is further necessitated by the “findings letter” of the US Department of Justice that the State is violating the Americans With Disabilities Act, including by confining young people at Long Creek for mental and behavioral health care treatment that is legally required to be provided in the least restrictive setting.⁴

We also support the bill’s other planning mechanisms.

The bill (at sec. 6) tasks the Departments of Corrections and Labor to provide and facilitate retraining and professional certification options to ensure continuity in employment, whether in state, local, or other positions involved in supporting youth and families.

It requires the DOC to prepare a transition plan for all young people in its custody, initiated right away, and completed promptly (including when they are returned to the community), about how to support them in living in the community, whether with respect to permanency planning, housing, educational, mental and behavioral health, or otherwise (section 3).

The bill also recognizes (sec. 7) that it is important to plan for the use of the land and building at Long Creek Youth Development Center. The current situation far exceeds what the State needs in terms of secure confinement for detention or commitment. To those ends, the bill seeks to repurpose that land and building for housing, community services, and the kinds of supports already identified.

We urge you to vote “ought to pass” on LD 1779. Thank you for your time.

Truly yours,
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For GLAD, EQME, OUT Maine

⁴ United States Dep’t of Justice: Civil Rights Division 2022). *United States’ Investigation of Maine’s Behavioral Health System for Children Under Title II of the Americans With Disabilities Act*. Available at: <https://www.justice.gov/crt/case-document/file/1514441/download>