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SPEAKER OF THE HOUSE

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*Testimony of Speaker Rachel Talbot Ross presenting
**LD 1865, An Act Establishing the Maine
Sentencing Guidelines Commission**
Before the Joint Select Committee on the Judiciary*

Senator Carney, Representative Moonen and esteemed members of the Joint Standing Committee on Judiciary, I am Rachel Talbot Ross. I represent House District 118 which is the Portland peninsula. I also have the distinct honor of serving as the Maine Speaker of the House. I am here today to present **LD 1865, An Act Establishing the Maine Sentencing Guidelines Commission.**

This bill establishes the Maine Sentencing Guidelines Commission to develop, adopt and modify sentencing guidelines for murder and Class A, B and C crimes. The commission would be housed in the Judicial Department. The purposes of the commission is to maintain uniformity, proportionality, rationality, and predictability in sentencing similarly situated persons for similar crimes. By making sentences more predictable and rational we better insure that persons who have committed similar offenses and have similar criminal histories are not treated differently because of actual or implicit biases. This will further enhance Mainer's confidence that justice is truly blind and that all persons who come before Maine courts after a criminal conviction are treated equally and fairly. That Mainer's receive sentences based on what they have done rather than personal characteristics that they possess such as race, gender, ethnicity, national origin, sexual orientation, socio-economic status, or educational level to name but a few.

The commission will be comprised of people with diverse professional backgrounds and lived experiences. The commission will have 19 members including the Chief Justice of the Supreme Judicial Court or the Chief Justice's designee and other members of the judiciary, the Commissioner of Corrections or the commissioner's designee, the Commissioner of Public Safety or the commissioner's designee, prosecuting and defense attorneys, a probation and parole officer, 3 members of the public, one of whom is a victim of a Class A, B or

District 118: Portland neighborhoods of Parkside, Bayside, East Bayside, Oakdale and the University of Southern Maine Campus

C crime, experts in mental health issues and substance use disorder, formerly incarcerated persons, and representatives of statewide organizations focusing on legal aid, restorative justice and civil rights. Significantly, when an appointing authority selects an individual for membership on the commission, the appointing authority shall make reasonable efforts to appoint members that reflect the diversity of the State's racial and gender demographics and seek out qualified members of protected classes as defined in the Maine Human Rights Act.

All sentencing guidelines developed by the commission will be advisory. Importantly, guidelines that are developed **do not** create a right for the defendant. The sentencing guidelines are procedural and reflect state public policy to maintain uniformity, proportionality, rationality, and predictability in sentencing similarly situated persons for similar crimes. When developing or subsequently modifying sentencing guidelines, the commission's primary considerations are public safety and equal application of sentences under the law. All sentencing guidelines adopted by the commission must establish:

- 1) The circumstances under which imprisonment of an offender is proper;
and
- 2) Appropriate sanctions for offenders for whom imprisonment is not proper, making specific reference to noninstitutional sanctions, including payment of fines, restitution, community service, work release programs, community based residential and nonresidential programs, incarceration in a local correctional facility, and probation.

The commission will be staffed by a research director and serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local sentencing practices, and conduct ongoing research regarding sentencing guidelines, use of imprisonment, and alternatives to imprisonment, plea bargaining and other matters relating to the improvement of the criminal justice system. After its initial implementation of sentencing guidelines, the commission shall study, at least every two years, the impact of the sentencing guidelines and review the powers and duties of the Commissioner of Corrections. The commission will be authorized to accept funds and grants from the federal government and other funding sources but is prohibited from receiving loans or taking on debt except as otherwise provided by law.

The commission will be authorized to meet as necessary but must meet at least two times per year for the purpose of modifying and improving the sentencing

guidelines. If the commission seeks to develop sentencing guidelines regarding severity levels and offender characteristics or that results in the reduction of any sentence or in the early release of any inmate, those proposed guidelines must be submitted to the Legislature by January 15th of the year in which the commission wishes to make the change. Additionally, the commission must submit an annual written report by January 15th to the joint standing committee of the Legislature having jurisdiction over judicial matters that identifies and explains all modifications made during the preceding year and all proposed modifications that are being submitted to the Legislature that year. Lastly, the commission must submit sentencing guidelines developed pursuant to this section to the joint standing committee having jurisdiction over judicial matters by November 6, 2024.

By enacting LD 1865, Maine will be following steps taken by 20 other states and the District of Columbia. Those states and the District of Columbia have established some form of commissions or other entities to study sentencing practices and propose sentencing guidelines. According to the Robina Institute of Criminal Law and Criminal Justice at the University of Minnesota, jurisdictions across the United States have taken varied approaches to develop systems that insure appropriate sentences in criminal cases. Some jurisdictions have sentencing commissions to help guide policy decisions. Some of those jurisdictions have created sentencing guidelines, which are standards put in place to establish rational and consistent sentencing practices with the goal of more uniformity and proportionality in sentencing¹. Those are the stated goals of the proposed legislation before you today.

As the Urban Institute reported in January of this year², disparities in sentencing in the criminal legal system, particularly racial disparities, have a profound and far-reaching impact on individuals, families, and communities. LD 1865 will study and address all disparities and inconsistencies in sentencing in Maine and create a set of guidelines that advances equal treatment under the law for all. By creating guidelines that promote rational and consistent sentencing practices thus producing more uniformity and proportionality, we can reduce those far-reaching negative impacts on all individuals, families, and communities while at the same time protecting public safety. Consistent examination and thoughtful

¹ “Sentencing Guidelines Resource Center: In-Depth Jurisdiction Profiles”, University of Minnesota Robina Institute of Criminal Law and Criminal Justice. <https://robinainstitute.umn.edu/publications/sentencing-guidelines-resource-center-depth-jurisdiction-profiles>

² “Looking Beyond the Sentence”, Urban Institute. Mari McGilton & Sabrina Rizk, January 12, 2023. <https://www.urban.org/research/publication/looking-beyond-sentence>

approaches like those contained in this bill are needed to combat sentencing disparities for all people.

I thank you very much for your time and attention this afternoon and ask you to please act favorably on this proposed legislation. I am happy to answer any questions that you might have.