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Testimony of Representative Melanie Sachs, sponsor of
LD 1863, An Act to Facilitate the Provision of Medically Appropriate Levels of Care for Clients of Correctional Facilities
Before the Joint Standing Committee on Criminal Justice and Public Safety

Senator Beebe-Center, Representative Salisbury and esteemed members of the Joint Standing Committee on Criminal Justice and Public Safety. My name is Melanie Sachs and I am honored represent the community of Freeport in the Maine Legislature. I am before you today as the sponsor of **LD 1863, An Act to Facilitate the Provision of Medically Appropriate Levels of Care for Clients of Correctional Facilities.**

I am a licensed clinical social worker with over two decades of experience in healthcare, policy and community-based services. This includes my work as a homecare and hospice supervisor for five rural counties in Northern and Downeast Maine. I have also provided palliative care services as a hospital social worker and have extensive experience with both dementia screenings and nursing home placements that required clinical level of care assessments.

On March 2, 2022, I attended a seminar sponsored by the Co-Occurring Collaborative Serving Maine (CCSME) entitled "Health, Healthcare, and Aging in Prison" which featured staff from Maine's Department of Corrections detailing the growing issues and challenges of Maine's aging correctional resident population.

Aging in prison has been the subject of extensive study in recent years. Adults age 55 years (often called "prison boomers") and older grew from 3% to 10% of the total state prison population between 1993 and 2013, representing a 400% increase in number, while the median age of incarcerated adults grew from 30 to 36 years old. It is increasingly costly for correctional systems to respond to the needs of their older populations, including their need for medical and mental health care.

A study funded by the National Institute of Health and published in the International Journal of Prison Health, noted "These increased medical risks (associated with aging) are often particularly difficult to manage in the prison setting. They often go undetected and undertreated in correctional facilities, or may be unnecessarily exacerbated by conditions of confinement like shackling for transport or long-term isolation. Incarcerated elders have

difficulty independently performing daily activities like eating, bathing, toileting, dressing, continence, and walking and often have higher rates of depression "

Aging inmates experience chronic illness and disability at younger ages than the general population, beginning around age 55 The estimate for the additional costs of keeping aging inmates in prison varies One study estimated for federal inmates that cost is doubled A study of Louisiana's costs estimated a fivefold increase from $20,000/inmate/year to over $100,000 per year in 2012 Using the cost per inmate provided by Maine's DOC in hearings last session, the cost to maintain aging inmates would be $148,000/year or if multiplied by five $370,000/year By contrast, the average cost of nursing care in Maine is $5,865/month ($70,380 for assisted living) and $9,642/month ($115,704) for nursing home care

But, we have an alternative The MDOC policy 27 2, on Supervised Community Confinement was just revised in January 2022 and contained many positive reporting and notification changes, particularly around those eligible for early release Procedure N in this policy, Supervised Community Confinement for a Terminally Ill or Severely Incapacitated Resident, was not part of these modifications This section allows for the confinement of terminally ill inmates or inmates with a severely incapacitating medical condition in a community setting like a nursing home or long-term care facility or a private home, at the discretion of the Commissioner or Medical Director While this provision was widely used in the past, it has rarely been used in the last four years, even though aging is strongly correlated with desistance from criminal behavior as seen in MDOC's recidivism rates by age This bill proposes statutory changes to Title 34-A to give clear direction to help guide policy and utilization for this section using best practices

This bill proposes to:

A Direct the commissioner to develop procedures to provide information to staff, clients and clients' friends and family regarding services available under this subsection, including, but not limited to, assisted living, nursing care, hospice and home health care services New systems are being developed to help residents become aware of their eligibility for early release This bill strengthens communication to residents, families and staff about this option

B Require utilization of the objective standard used by MaineCare and licensed long term care facilities, both here in Maine and nationally, to determine whether a person qualifies for long term care Currently, medical necessity is determined only by the Department's Director of Medical Care LD 1863 requires that residents have the standard Long-term Care Advisory Assessment which all Maine people need in order to assess clinical eligibility for nursing home placement The assessment clinically determines "if the person is eligible for possible facility admission, or in-home services funded through MaineCare or state funded home-based care programs Individuals choosing to enter a nursing facility must have this type of assessment to comply with the State statutes unless entering under skilled care " Every resident and/or their family member should have the ability to request the required Long-term Care Advisory Assessment to determine clinical eligibility

C Require that if this clinical necessity is met, the commissioner shall ensure that each client receives the services determined to be needed and is placed in a facility appropriate for the level

of care required within 30 working days of a request This can mean transfer within the correctional facility or in the community, but the facility should be licensed to meet that level of care Volunteers providing supportive care and visitation is not true hospice care, for example, nor is a nurse just checking in on a resident weekly who actually needs and meets clinical necessity for a nursing home Programs and facilities should be licensed to assure an adequate level of care

D Require the Department to collect data and report weekly on the number of clients using services under this subsection including applications for medical evaluations and applications for placement, acceptance or denial for services, type and number of placements, and associated demographic data, including, but not limited to race, gender and age The data must be annualized and must be included in the department's full annual report to the Legislature This data requirement would not only align with many of the statistics already gathered by the Department, but also provide evidence to what the Department has acknowledged is a growing trend of aging inmates

There can be savings to the state to facilitate the appropriate level of care for residents, as I indicated earlier Nursing home care is covered by MaineCare (see MaineCare Benefits Manual 10-144 C M R ch 101) That same care provided in a MDOC facility is not covered by MaineCare The Department and state would reduce transport costs Older residents or those with significant medical conditions require transport to medical appointments outside the facility for specialized care including cancer treatment, dialysis, surgery, cardiac and endocrine problems, etc Each transport also means at least two officers must accompany the inmate, significantly contributing to staff shortages and overtime costs Under this policy, the patient remains in the custody of the Maine Department of Corrections and can be returned to prison either at the request of the healthcare facility or the Department of Corrections

I ask you to support LD 1863 as a means of supporting both the Department and the residents who qualify for release under DOC guidelines by providing the clinically indicated level of care and access to essential services, while more efficiently utilizing state resources Thank you for your consideration