

TESTIMONY OF MEAGAN SWAY, ESQ

LD 1516 – Ought to Pass

An Act to Establish Alternative Sentencing for Primary Caregivers

Joint Standing Committee on Judiciary

May 2, 2023

Senator Carney, Representative Moonen and distinguished members of the Joint Standing Committee on Judiciary, greetings My name is Meagan Sway, and I am policy director of the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U S Constitutions On behalf of our members, we support LD 1516

This legislation came about as the result of the lived experience of people across the country—primarily women—who experienced the rupture of their family structure when a family caregiver was sentenced to prison This bill represents a recognition that we can administer justice in a different, and better, way

The bill aims to keep families together, lessening the instances where children are punished for the actions of their parents Once their parents are incarcerated, living far away from the jail or prison and the cost of phone calls are just two of the myriad barriers that children face to staying connected with their parents Having an incarcerated parent is associated with higher adverse childhood event scores, which is in turn correlated with negative outcomes later in life, including increased depression, problematic relationships with drugs, and unemployment

This bill is especially relevant here in Maine we have the highest percentage of children with currently or formerly incarcerated parents in New England ¹ Only 13 other states in the country have higher parental incarceration rates than Maine ² And, like elsewhere in the criminal legal system, Black and Indigenous children are disproportionately hurt ³

¹ Maine Children's Alliance, Parental Incarceration in Maine, available at <https://www.mekids.org/site/assets/files/1227/parentalincarcerationinmaine.pdf>

² *Id*

³ 11 percent of incarcerated parents are Black and 4 percent are Indigenous, despite making up only 1.6 and 0.6 percent of the population, respectively Jillian Foley, Erica King & Casey Brenner, Breaking the Cycle Interrupting Generational Incarceration in Maine, Fall 2020, p. 4, available at

If passed, this bill would allow primary caretakers to petition the court for consideration of a sentencing alternative to incarceration. The bill does not mandate a particular sentence, but gives judges better leeway to consider sentencing that is appropriate to each defendant, and look for alternatives that help families stay together.

We urge you to vote ought to pass.

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