



# Administrative Office of the Courts

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## **Judicial Branch testimony neither for nor against LD 1516, An Act to Establish Alternative Sentencing for Primary Caregivers:**

Senator Carney, Representative Moonen, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch I would like to provide some brief testimony regarding this bill

The Judicial Branch does not take a position on the merits of this bill but would like to comment on the sentencing process contained in subsection 3 of the proposed new statute This subsection requires that (1) findings supporting the sentence be made in writing, and (2) written findings be issued prior to issuing the sentence These requirements are problematic in light of current practices in sentencing

The existing practice is to hold the sentencing in open court, with interested persons including the victim present if they choose to attend, and the judge hearing arguments from both the defense attorney and the prosecutor before imposing the sentence The proceeding is recorded and thus a written record is available upon request

Due process requires that a judge hear from both parties before deciding on a sentence yet the proposed legislation seems to require the court to make findings prior to issuing the sentence In addition, it seems unnecessary and inefficient to require the issuance of written findings when a transcript of the proceeding is available

Thank you for your consideration