

TESTIMONY OF MEAGAN SWAY, ESQ

in support of

LD 535, An Act to Increase Access to Necessary Medical Care for Certain Minors

JOINT STANDING COMMITTEE ON JUDICIARY

May 12, 2023

Senator Carney, Representative Moonen, and distinguished members of the Joint Standing Committee on Judiciary, good afternoon. My name is Meagan Sway, and I am the Policy Director at the ACLU of Maine, a statewide organization committed to advancing and preserving civil rights and civil liberties guaranteed by the Maine and U S Constitutions. On behalf of our members, we support this legislation, which would strengthen bodily autonomy for 16 and 17 year old transgender Mainers.

“Liberty presumes an autonomy of self.” *Lawrence v Texas*, 539 U S 558, 562 (2003). Bodily autonomy is a fundamental right guaranteed to Mainers through the 14th Amendment to the United States Constitution as well as international human rights law. This fundamental right – the right to control one’s own body – includes the right to make our own medical decisions about our bodies, so long as those decisions do not endanger others.

Access to health care, including gender-affirming health care, is crucial to gender equity and bodily autonomy. LD 535 would afford older teenagers, those who are 16 and 17 years old, a measure of bodily autonomy by allowing them access to gender-affirming and reversible hormone therapy when either their parent or guardian gives consent, or, in the absence of that parental consent, the person meets statutory criteria for receiving care.

Maine law provides strongly recognizes that young people should have access to the health care they need. The law recognizes that health care decisions for minors typically involve the consent of a parent or guardian, but that some forms of life-affirming and life-preserving care are so important that minors should be able

to receive it even in the absence of parental support ¹ An example of this is our abortion laws, which have provided ways for minors to obtain abortion care since 1989 under a statute similar to LD 535 ² Like the bill before you, our abortion statute includes robust guardrails in the absence of parental consent a minor must give informed, written consent to the health care provider, and the minor must receive information and counseling by a health professional before the health care may commence These guardrails ensure that older teens are fully informed and not being coerced before making their health care decisions

Eighteen states have laws or policies banning gender-affirming health care for minors Maine can reject this trend and instead continue its long history of protecting the bodily autonomy of young people by passing LD 535 We urge you to vote ought to pass

¹ Laws that allow minors to access care without parental consent include 22 M R S §§1502 (treatment for emotional or psychological problems), §1823 (treatment for sexually transmitted diseases, substance use disorder treatment), §1908 (family planning services)

² 22 MRS §1597-A