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**Testimony Neither For Nor Against L.D. 1788, *An Act to Establish  
the Office of the Inspector General of Child Protection***

Senator Baldacci, Representative Meyer, and distinguished members of the Joint Standing Committee on Health and Human Services, I am Lisa Marchese, and I am Deputy Attorney General and the Chief of the Criminal Division. Thank you for allowing me this opportunity to provide comments on L.D. 1788, *An Act to Establish the Office of the Inspector General of Child Protection*.

This bill would establish the Office of the Inspector General ("OIG") to investigate cases of injury and abuse or neglect to children who are in state custody or who are receiving child welfare or juvenile justice services. While I have no position on the creation of such a position, I am concerned that investigations conducted by the OIG will interfere with law enforcement investigations and undermine the integrity of subsequent criminal prosecutions.

Under LD 1788, the OIG would have jurisdiction to investigate suspicious child deaths and serious injuries. Such cases would also be the subject of law enforcement investigations and, depending on the results of the investigations, criminal prosecutions by either my office or District Attorneys. As you may know, in the State of Maine, homicide cases are prosecuted by my office and other injuries to children would be prosecuted by the District Attorney's office in the county in which the crime occurred. Although the OIG is to receive "input" from the prosecutor's office in selecting which matters to investigate, the OIG would not need to defer to that input. Similarly, although the OIG may suspend an investigation at the request of my office or a District Attorney, the OIG would not be required to do so. This could result in the OIG conducting investigations over the valid objections of prosecutors.

The bill confers on the OIG broad authority to obtain documents from law enforcement agencies and prosecutors. Upon request, law enforcement agencies and prosecutors "shall provide the inspector general with copies of all records or reports relevant to the inspector general's investigation." My office must provide the OIG with whatever information the OIG requests within five days. The bill imposes extensive cooperation requirements on state agencies, presumably including my office and DAs, including answering any questions that the OIG may put to them. The OIG has subpoena authority and can compel the production of documents and witness testimony.

There is a very real possibility that investigations carried out by the OIG will interfere with criminal investigations and by extension, prosecution of the person responsible for inflicting the injuries or death. For example, the timing and sequencing of interviews is often important, and the OIG may jeopardize an investigation by interviewing a witness before law enforcement officers or prosecutors have done so. Contact from the OIG could prematurely alert a witness to the existence of the investigation and make it more challenging for criminal investigators to locate the witness, collect documents, and obtain truthful information.

Further, the bill contemplates that upon completion of an investigation, the OIG may publicly distribute information about the investigation. A premature disclosure of this information could prejudice a defendant prior to trial (thereby making a successful prosecution more difficult), interfere with witnesses' memory of events, impact the ability of prosecutors to select a jury, and make witnesses less willing to testify truthfully.

For these reasons, if this bill is to move forward, I urge the Committee to make appropriate amendments to prohibit the OIG from conducting investigations into matters that are the subject of investigations by law enforcement agencies and prosecutors. It is critical that persons who inflict harm on children be brought to justice, and care should be given to ensure that OIG investigations do not become an impediment.

I hope these comments are helpful and aid in your consideration of this bill.