



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF CORRECTIONS  
111 STATE HOUSE STATION  
AUGUSTA MAINE  
04333-0111

RANDALL A. LIBERTY  
COMMISSIONER

### TESTIMONY OF

**RANDALL A. LIBERTY, COMMISSIONER  
DEPARTMENT OF CORRECTIONS**

#### **Neither for nor against:**

#### **LD 2171, An Act Establishing Concurrent Jurisdiction with the Federal Courts in Certain Juvenile Matters**

Senator Carney, Representative Moonen and distinguished members of the Joint Standing Committee on Judiciary, I am Randall Liberty, Commissioner of the Maine Department of Corrections (DOC) providing testimony neither for nor against LD 2171, An Act Establishing Concurrent Jurisdiction with the Federal Courts in Certain Juvenile Matters.

This bill creates a process through which Maine's juvenile court can hold concurrent jurisdiction with a federal court in Maine over proceedings that involve a violation of federal law committed by a juvenile on a military installation of the United States Department of Defense. In order to create concurrent jurisdiction, two conditions would have to be met, as follows:

- "(1) The United States Attorney for the District of Maine or the federal court waives exclusive jurisdiction; and
- (2) The violation of federal law is also a crime, juvenile crime or infraction under the laws of the State."

Once concurrent jurisdiction has been established, the state court will have exclusive original jurisdiction over a case involving a juvenile who is alleged to have committed the offense in question, meaning that the juvenile will be subject to the State of Maine's adjudicatory process under the Maine Juvenile Code.

This bill does nothing to change the Maine Juvenile Code or processes for the adjudication of juvenile offenses in Maine, nor does it limit or change the options for diversion of juveniles in Maine. Additionally, the department does not anticipate any meaningful increase in the number of juveniles it would be responsible for due to the enactment of this provision, because the circumstances where a juvenile might commit a relevant offense on a United States Department of Defense military installation in Maine are rare. For these reasons, the department is neither for nor against this proposal. However, if the committee is inclined to pass this bill, we would like to offer a couple drafting recommendations:

- In both **Section 2** and **Section 3** of the bill the following language is used: "a crime, juvenile crime or infraction under the laws of the State." This language does not align with Maine's statutory provisions related to the jurisdiction of the juvenile court (which has jurisdiction over only juvenile crimes). A better way to draft this would be to delete the references to "crime" and "infraction" and provide a direct cross reference to the definition of "juvenile crime" in statute by saying, in section 2, "a juvenile crime as defined in section 3103, subsection 1" and, in section 3, "a juvenile crime as defined in Title 15, section 3103, subsection 1."
- **Section 3** of the bill places the provision regarding the juvenile court's jurisdiction in concurrent jurisdiction matters under Title 17-A §10-A, which is a section that explains the circumstances in which adult courts have jurisdiction over juveniles. In order to be more clear, we'd recommend that provision read as follows:



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“Except as provided in this section, when concurrent jurisdiction has been established pursuant to Title 15, section 3101, subsection 2, paragraph F, the juvenile court has exclusive original jurisdiction over a case involving a juvenile who is alleged to have committed a juvenile crime as the result of an act committed within the boundaries of a military installation that is a juvenile crime as defined in Title 15, section 3103, subsection 1.”

- It is unclear whether this bill is intended to include concurrent jurisdiction for “bind overs” (the term used to describe when juveniles are prosecuted as adults). If that is the intent, additional language would have to be included to make that clear, as the juvenile court loses its jurisdiction to the adult criminal court once it has made the bind over decision.
- Finally, it is worth noting that the definition of “juvenile crime” in the Maine Revised Statutes does not include some offenses listed under Titles 12 and 29-A. If it is intended to include concurrent jurisdiction for these offenses, additional language would have to be added to make that clear, as these are handled in the adult criminal court.

This concludes my testimony.

I am happy to answer questions.

Randall A. Liberty  
Commissioner  
Maine Department of Corrections