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Maine State Legislature
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333

Senator, Anne Carney, Senate Chair
Representative Matt Moonen, House Chair

Remarks of
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Support of: LD 2171 – An Act Establishing Concurrent Jurisdiction with the Federal Courts in Certain Juvenile Matters

Senator Carney, Representative Moonen and honorable committee members, the Department of Defense is grateful for the opportunity to provide comment on the policies reflected in LD 2171, which support the Department's efforts in removing barriers to the proper investigation and adjudication of juvenile matters in areas of exclusive federal jurisdiction. This legislation utilizes a best practice approach recently enacted in other states to include New Hampshire and Connecticut, right here in New England.¹

Without concurrent jurisdiction, juvenile misconduct is adjudicated in the federal court system, which lacks appropriate juvenile-focused resources and often tries juveniles as adults. When concurrent jurisdiction is established, offenses could be adjudicated through the state juvenile court system, allowing for more appropriate case management outcomes.²

LD 2171 is key to appropriately addressing and reducing juvenile misconduct on military installations, particularly problematic sexual behavior in children and youth, or "PSB-CY."³ In 2018, Congress expressed its concern about the lack of state or local jurisdiction over juvenile offenses committed on those portions of military installations with exclusive federal legislative jurisdiction, particularly problematic sexual behavior.⁴ The federal framework for handling juvenile offenders has a limited scale, features limited wrap-around services and offers limited alternative disposition options.⁵

Historically, the federal government either obtained exclusive federal legislative jurisdiction over land by agreement with the owning state or maintained exclusive federal legislative jurisdiction over certain land

¹ See generally North Carolina Session Law 2022-73, Connecticut Public Act 22-63 of 2022, and New Hampshire Chapter 77 of 2022.

² Mark E. Sullivan, "On Base and Beyond: Negotiating the Military/State Agreement," <https://www.ncjfcj.org/wp-content/uploads/2019/12/Negotiating-the-Juv-Justice-Agt.pdf>, 26, Appendix 2A — Authority of U.S. Magistrate.

³ Public Law 115-232, Section 1089 required the Department to establish a policy on its response to allegations of juvenile-on-juvenile problematic sexual behavior on military installations. A key component of the Department's policy must be to, within the limits of the Department's authority, aid civilian officials in their efforts to appropriately dispose of incidents of PSB-CY that rise to the level of a criminal offense.

⁴ House Report 115-874, the Conference Report accompanying H.R. 5515, the John S. McCain National Defense Authorization Act.

⁵ Federal Juvenile Delinquency Act 18 U.S.C. Sec 5031 *et seq.*

after the formation of a new state. When land use and the circumstances surrounding that use changes, such as when military bases experience an increased civilian population, or when space within a federal military installation is partially leased to non-federal entities, a change in federal jurisdiction may be appropriate.

As many installations house more civilians, the federal government can retrocede jurisdiction to a state and thus alter its jurisdiction from exclusive to concurrent, which enables state law authorities to enforce state laws on the base with respect to civilian family members.

As previously mentioned, juvenile misconduct on military installations subject to exclusive federal legislative jurisdiction can only be adjudicated in the federal court system, which is designed for adults. States' juvenile courts can adjudicate juvenile offenses when concurrent jurisdiction is established between state and federal authorities, which could occur with the passage of LD 2171.

In January 2018, the Wyoming Law review published an article by George Levine, an Army Officer, on the need to establish concurrent jurisdiction on military installations to protect children. The Wyoming Law review article references an egregious case which had occurred at Fort Lewis, Washington—where a 7-year-old boy was raped by a 13-year old in a wooded ravine near his home on base.

Because the State of Washington ceded exclusive legislative jurisdiction to the federal government over the lands that would become Fort Lewis back in 1917, the state could not subject the juvenile offender to its laws. And the Federal system had no process for handling juvenile offenses.

Without concurrent jurisdiction there is a black hole for juvenile justice on federal installations—federal prosecutors routinely decline to prosecute juvenile-on-juvenile sexual assault cases and local prosecutors lack legal authority to apply state laws to juvenile criminal conduct on federal lands. To be clear, these cases are rare, but they do occur. LD 2171 is critical to preventing adverse impacts to the health, safety, and welfare of juveniles, and the military community.

In closing, let me say that we are grateful for the tremendous effort that Maine has historically given in supporting our service members and their families. On behalf of the Department of Defense, we respectfully request your consideration of the policies reflected in LD 2171, and are grateful to the bill sponsor, Senator Stewart for his advocacy on behalf of military families, and his dedicated service to our nation as a member of the Armed Forces.

Respectfully Submitted,

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