Maine
PRISONER ADVOCACY
Coalition

March 31, 2025

Senator Carney, Representative Kuhn and distinguished members of the Judiciary Committee:

My name is Jan Collins, I am Assistant Director of Maine Prisoner Advocacy Coalition (MPAC) an organization committed to ethical, positive, and humane changes in Maine's prison system.

I am here in support of LD 1113 An Act Regarding Fairness in Sentencing for Persons Under 26 Years of Age sponsored by Rep Warren.

In 2005, the Supreme Court ended the death penalty for youth in a majority ruling by Justice Kennedy in Roper v. Simmons, stating that it constituted cruel and unusual punishment and arguing that juveniles are less culpable than adults.[1]

They noted three key points -

- That children are more susceptible to peer pressure and have less control over their environment than adults.
- They also have a greater potential for rehabilitation.
- The Court found that there was a national consensus against executing juveniles, and that **the United States was the only country in the world that allowed it**.

In 2010, the court heard Graham v. Florida, and concluded
*"Sentencing a juvenile defendant who did not commit homicide to life imprisonment without the possibility of parole violates the Eighth Amendment because it is disproportionate to the crime. These juveniles should have an opportunity to show that they can mature and reform their behavior."*[2]
The court could not sentence youth to life without parole for non-homicide offenses.

In 2012, in Miller v Alabama, the court decided life without parole(LWOP) for children is unconstitutional in all but the rarest of cases.[3]

In 2016, Montgomery v Alabama, the court decided that its previous ruling in Miller v. Alabama should be applied retroactively. (Note: Maine never sentenced youth under the age of 18 to LWOP) In Justice Elena Kagan's opinion for the court, she outlined the age

related factors that could mitigate culpability. the so-called "Kagan factors" are now required.[4]

All of these rulings used 18 years as the cut off point for the courts consideration and applied only to life sentences. However, we know that brain development is not fulfilled at age 18. In keeping with the most up to date research, this bill is applied to youth under the age of 26. I will leave descriptions of brain research to the experts who are also testifying on this bill.

Since the 1800's[6] the United States has treated children differently, recognizing their lack of maturity and lack of appreciation of the consequences of their behavior. Courts have preferred to focus on rehabilitation and avoided the stigma of a criminal record.

We do not suddenly receive the gift of wisdom at our 18 birthday. Our treatment of young adults, should reflect our new knowledge of brain science and the increased potential for rehabilitation in people under the age of 26.

No child is born bad. Every child should have the opportunity for redemption.

Thank you for your consideration.
Jan

Jan M. Collins
*Assistant Director*
*Maine Prisoner Advocacy Coalition*
*PO Box 360, E. Wilton, ME 04234*
*207.578.8419*

---

1American Psychological Society. *Roper v. Simmons.* https://www.apa.org/about/offices/ogc/amicus/roper

2 Justia US Supreme Court. *Graham v. Florida.* https://supreme.justia.com/cases/federal/us/560/48/

3 Justia US Supreme Court. *Miller v Alabama.* https://supreme.justia.com/cases/federal/us/567/460/

4 Mauer, Marc and Nellis, Ashley. *The Meaning of Life: The Case for Abolishing Life Sentences.*The New Press. New York. 2018. p.65.
*"Kagan factors" which are now required include not only the child's age at the time of the offense, but an appreciation of adlescent's maturity level, tendencies towards impetuosity, and common failure to evaluate risks that go with young age. In addition, the court should consider the child's home and family environment; the circumstances of the offense, including the role taken and the pressure exerted by others; the child's lack of sophistication relative to an adult; and the possibility of rehabilitation."*

5 Harvard Law Review. *Mending the Federal Sentencing Guidelines Approach to Consideration of Juvenile Status.* VOLUME 130.ISSUE 3. JANUARY 2017

*"In 1950, Congress enacted a robust alternative sentencing system designed to treat and rehabilitate, rather than to punish, youth offenders.62 The Federal Youth Corrections Act63 (FYCA), which included provisions applicable to juveniles under eighteen years of age and for young adult offenders as old as twenty-six, expanded the universe of sentencing options64 and required rehabilitative treatment in facilities separate from adults when "practical."65 The FYCA also provided a route for youth offenders to have their convictions set aside.66*

*As part of a wave of shifts to a determinate sentencing regime, the FYCA was repealed in 1984 when Congress enacted the CCCA, which abolished federal parole and established the Commission.67 The CCCA also authorized federal prosecutions of juveniles when the Attorney General — or, in practice, an assistant U.S. Attorney — certifies that the case holds "a substantial Federal interest."68*

*The mid-1980s and 1990s ushered in even coarser treatment of youth due to the rise in popularity of the myth of the juvenile "superpredator," purported "radically impulsive, brutally remorseless youngsters, including ever more pre-teenage boys, who murder, assault, rape, rob, burglarize, deal deadly drugs, join gun-toting gangs and create serious communal disorders."69 Though the pundits who spun these theories turned out to be wrong about the future of crime,70 cultural lore around the superpredator claim contributed to Congress enacting and President Clinton signing the Violent Crime Control and Law Enforcement Act of 199471 (VCCLEA). Among other things, the VCCLEA authorized the federal prosecution of juveniles as adults for certain crimes of violence72 and increased penalties for juveniles in possession of a handgun or ammunition.73"*

6 Sanford J. Fox, *Juvenile Justice Reform: An Historical Perspective*, 22 Stan. L. Rev. 1187 (1970).

Early in American history, state law explicitly prescribed differential treatment for children under the age of seven, who were believed to lack the maturity to appreciate their potentially criminal behavior. *See* Charles Doyle, Cong. Research Serv., RL30822, Juvenile Delinquents and Federal Criminal Law: The Federal Juvenile Delinquency Act and Related Matters 1 (2004). From ages seven to thirteen, states presumed children innocent, but the presumption was rebuttable