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Testimony in Opposition to LD 1335, *An Act to Prohibit Life Sentences*

Senate Chair Carney, House Chair Kuhn, members of the Joint Standing Committee on Judiciary, my name is Lisa Marchese, I serve as a Deputy Attorney General and Chief of the Criminal Division for the Maine Office of the Attorney General. I am here on behalf of the Attorney General's Office to testify in opposition to LD 1335, *An Act to Prohibit Life Sentences*.

As you are no doubt aware, the Criminal Division of the Attorney General's Office is responsible for the prosecution of murder cases in the State of Maine. I will be speaking strictly from the perspective of murder cases. A person convicted of the crime of murder faces a potential sentence of 25 years to life. Life in the State of Maine is life without the possibility of probation or parole. This has been the law since 1977. While a life sentence is the harshest penalty under Maine Law, the Maine Supreme Judicial Court has set limitations and guidelines that sentencing Courts and prosecutors must adhere to when considering a life sentence.

In order to sentence a person to life, a Court must find that the murder is accompanied by aggravating circumstances. Such aggravating circumstances include: 1. Premeditation-in-fact. By this I mean a planned, deliberate killing including a killing for hire. 2. Multiple deaths, including situations in which the offender in committing the murder knowingly created a substantial risk of death to several individuals. 3. Murder committed by a person who has previously been convicted of homicide or any other crime involving the use of deadly force against a person. 4. Murder accompanied by torture, sexual abuse or other extreme cruelty inflicted upon the victim. 5. Murder committed in a penal institution by an inmate of that institution. This includes the murder of another inmate as well as prison personnel. 6. Murder of a law enforcement officer while in the performance of his duties. 7. Murder of a hostage.

In setting forth this criteria, the Law Court was clear that life imprisonment is not a mandatory sentence in the types of cases I just described but rather it is a discretionary decision for the Court. The above criteria known as 'Shortsleeves' factors, is based on the case of *State v. Shortsleeves* decided in 1990. The Law Court has further stated that the *Shortsleeves* factors may also include murder for pecuniary gain or murder in the presence children. The imposition of a life sentence is certainly not required when *Shortsleeves factors* are present, but if one or more factors are present, a life sentence can be considered by a Court. A Court must also consider whether mitigating factors require a lesser sentence. In other words, there may be several Shortsleeve factors in a given case but if the mitigating factors outweigh the aggravating

factors, a life sentence cannot be imposed. Life sentences are reserved for the most heinous crimes committed in Maine.

For example, Joseph Eaton was sentenced to life in 2024 when he shot and killed his parents, as well as another couple who were allowing Mr. Eaton and his parents to stay with them in Bowdoin. After killing these four people, he drove on I-295 and started shooting at cars resulting in injury to other people. This all occurred within days of Mr. Eaton being released from a prison sentence for assaultive behavior.

John Williams was sentenced to life because he executed Somerset County Cpl. Eugene Cole because Cpl. Cole was about to arrest Williams and he didn't want to return to jail.

James Pak walked into his tenants' apartment and shot and killed two teenagers and critically injured an adult woman in the apartment and was sentenced to life.

David Marble, who was in Maine for the sole purpose of trafficking drugs, shot and killed two people on Christmas Day. One of the victims was a pregnant woman. Mr. Marble was sentenced to life.

Life sentences are only permitted where the Court has made a careful determination that "Shortsleeve" factors exist and a life sentence is warranted. An individual who is sentenced to life can appeal that sentence to the Maine Supreme Judicial Court for review. The discretion to impose a life sentence in a murder case is necessary to keep the most dangerous members of society from reoffending and gives family members of murdered victims some sense of justice.

I would also like to point out language in the bill that eliminates what I refer to as a de facto life sentence – which is the language referencing eliminating "any terms of years equivalent to imprisonment for life." This would set up a situation where a person charged with murder in their 60s, 70s or 80's and under the law must be sentenced to at least 25 years, the minimum mandatory sentence for murder, however even the lowest sentence of 25 years could be argued to be a term of years equivalent to a life sentence. While the majority of people convicted of murder fall outside the category of people I am referring to, there are older people who are convicted of murder and even a minimum mandatory sentence is equivalent to a life sentence. This sets up an impossible situation for the Sentencing Court. As the Courts have recognized, ensuring fair and proportionate sentences would be undermined if the courts were to discount sentences based solely on the age of the offender: "If a 'de facto' life sentence renders a sentence under a term of years statute illegal, then the same forty-year sentence that is legal for a twenty-year-old would be illegal for a fifty-year-old."

The language eliminating a term of years equivalent to a life sentence is inconsistent with eliminating inequality in sentencing and is sure to cause confusion for all involved.

For all of the reasons I have mentioned, I would encourage you to vote ONTP on LD 1335.

I am happy to answer any questions.