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Testimony of the Office of Behavioral Health
Maine Department of Health and Human Services

Before the Joint Standing Committee on Criminal Justice and Public Safety

In opposition to LD 740, *An Act to Establish a Comprehensive Program to Divert Youth from the Criminal Justice System and Address Their Needs*

Sponsor: Representative Lookner
Hearing Date: March 24, 2025

Senator Beebe-Center, Representative Hasenfus, and members of the Joint Standing Committee on Criminal Justice and Public Safety, my name is Dean Bugaj, and I serve as the Associate Director of Children's Behavioral Health Services for the Office of Behavioral Health in the Maine Department of Health and Human Services. I am here to testify in opposition of LD 740, *An Act to Establish a Comprehensive Program to Divert Youth from the Criminal Justice System and Address Their Needs*.

The Office of Behavioral Health would first like to thank the sponsor and cosponsors for their continued advocacy for youth with behavioral health needs. As drafted, this bill would establish a process for law enforcement officers to refer juveniles, presumed to have committed a crime to the Department of Health and Human Services (Department) for a juvenile needs assessment designed to identify supports and services needed to promote child and family well-being and actions to be taken to address the services and needs of the juvenile and their family. These assessments must be conducted by persons with comprehensive training and, if a recent one doesn't exist must be completed within 60 days following the juvenile's referral to the Department.

This bill would also require the Department to refer those youth with prior history of complex behavioral health needs, or who are currently involved in multiple service systems, to high-fidelity wraparound care coordination services. Finally, this legislation would also require the Department to establish an implementation stakeholder group to assist in the implementation of and training for the proposed needs assessment.

While recognizing this bill has been put forth with good intention, the Department shares several concerns regarding the language and associated implications as drafted.

This system of assessments would come at a significant cost and would create an entirely new program within the Department. The Department would need to contract with providers to administer these services and new staff would require specialized training to complete the nuanced forensic behavioral health assessments. Currently, the single level of care assessment

process for youth at the mid to high level of behavioral health needs is completed by a contracted entity at a rate of nearly \$400 per assessment. Court ordered forensic evaluations looking at complex behavioral health needs are typically \$2,000 per assessment.

The annual cost of the assessments alone could become significant, depending on the payor profile for those who an assessment is ordered for. Many youth service providers who receive MaineCare reimbursement and do not accept private insurance. There will likely be youth who are either uninsured or insured by private insurance which would create further need for funding. For reference, in 2024 there were 2,073 juvenile referrals to the Department of Corrections and likely far more juvenile cases that were not referred to Corrections that would be subject to the needs assessment requirement.

Moreover, this language obligates the Department to become part of the diversion portion of the juvenile justice system. There is no corresponding authority or mandate in any other statute that specifies the roles and responsibilities of the Department in this area. In contrast, there are several provisions in Title 34-A that specify the roles and responsibilities of the Department of Corrections, whom the Department is collaborating with under the United States v. State of Maine Settlement Agreement (Settlement Agreement) dated November 26, 2024 and approved on December 20, 2024. This may cause confusion about whether the Department of Corrections is fully responsible for diversion, as is current practice, or what, if any, responsibility and authority the Department of Health and Human Services would assume.

Finally, the intent of this legislation is duplicative with and potentially complicates a requirement of the Settlement Agreement between the State of Maine and the United States specific to Children's Behavioral Services (Settlement Agreement). The Settlement Agreement requires the availability of a "single assessment" to determine eligibility for medium or high intensity behavioral health services. A variety of partners, including families, healthcare and behavioral health providers, and the Department of Corrections, can refer a child to a single assessment under the Settlement Agreement. The single assessment is well under development within DHHS, including the assessment itself, how it can be accessed, and funding for such. Adding a new assessment introduces possible parallel processes that may result in different recommendations or outcomes. For example, the Settlement Agreement provides a process for a "single assessment," which is well defined, where "needs assessment" is not defined in this bill. For example, language describing what the needs assessment must be based on, who must complete the assessment, and what factors must be addressed in the assessment may contradict the process for obtaining a single assessment as required in the Settlement Agreement. The requirement for a needs assessment as broad as the one described in this bill to be completed within 60 days following the referral of a juvenile to the Department is also unrealistic.

OBH strongly suggests allowing the Department to stay the course with its existing work to accomplish similar goals, especially considering the binding, legal nature of the Settlement Agreement. Without more comprehensive consideration of the current Settlement Agreement work underway there is an increased risk of inadvertently creating additional burdens, complications, or conflict with that existing work at worst, and potential duplication and ineffective use of resources at best.

The Department's partners at the Department of Corrections will be submitting additional information and testimony more focused on the juvenile justice aspects of this legislation which OBH aligns with including, but not limited to, concerns with the proposed assessment and judicial processes and conflict with current juvenile justice system procedures.

OBH again understands that this legislation was brought forth with good intentions, however, there appears to be a need for more comprehensive consideration of the current Settlement Agreement work that is underway. Thank you for your time and attention. I would be happy to answer any questions you may have and to make myself available for questions at the work session.