

TESTIMONY IN OPPOSITION TO LD 648*An Act to Expand the Supervised Community Confinement Program*

Senate Chair Beebe-Center, House Chair Hasenfus, members of the Joint Standing Committee on Criminal Justice and Public Safety, 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 648; An Act to Expand the Supervised Community Confinement Program.

The Attorney General's Office is also opposed to LD 1113 – An Act Regarding Fairness In Sentencing for Persons under 26 Years of Age that is now pending before the Judiciary Committee, which is a similar bill.

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. A person convicted of the crime of murder faces a potential sentence of 25 years to life. Under Maine Law, a person sentenced for murder is not eligible for probation. As you also know, people of all ages commit the crimes of murder and manslaughter. When someone is convicted of the crime of murder or manslaughter, the law requires that the sentencing court engage in a thoughtful, legal analysis to determine the appropriate sentence, which includes consideration of the age of the defendant. The Court is also required to minimize correctional experiences upon sentencing. Current sentencing practices address the youthful offender.

When a person is sentenced for a serious crime such as murder or manslaughter or other assaultive behavior, there are victims and victims' families that rely on the sentence as set forth by the Court to begin healing and plan their future accordingly. Despite careful consideration by a Judge of the proper sentence and a representation to a victim's family of the appropriate sentence to be imposed, this bill would render the sentencing process highly unpredictable and, in some ways, meaningless for victims of crime.

This bill also treats people who commit crimes at the age of 24 differently than individuals who commit crimes at the age of 27 and disproportionately benefits people with longer sentences. Additionally, the language in the bill eliminates the normal requirements for eligibility for SCCP by: 1. no longer requiring the person to serve 2/3 of their term of imprisonment before becoming eligible. *See* 34-A MRSA section 3036-A(B); 2. No longer requiring that the person have only 2 years remaining on their prison term before being eligible. *See* 34-A MRSA section 3036-A(C) and 3. No longer requires that the person have a custody classification level of minimum. *See* 34-A MRSA section 3036-A(D).

For example, if a 24-year-old defendant commits a double murder and is sentenced to a 60-year sentence or life, under the proposed law, that person is eligible for supervised community confinement after serving 15 years of their 60 year sentence which means the person could be living and working in the community under supervised community confinement for longer than they served in prison. The minimum mandatory sentence for a murder conviction is 25 years but under this bill, someone could be on supervised community confinement after 15 years and serve the remaining 40 – 45 of the 60-year sentence in the community.

Unlike a person over the age of 26, this defendant does not have to have served 2/3 of their sentence and could be medium security and could be living in the community for what is tantamount to probation for decades. As explained in the Judiciary Committee, when a person is on Supervised Community Confinement, it is like being on probation in the community.

As currently set forth in the law, Supervised Community Confinement generates significant uncertainty for prosecutors, victim advocates and most importantly, victims of crime. It also places violent offenders in the community after 15 years when a Court determined the sentence should be far longer.

I would ask that you vote ONTP LD 648.

I am happy to answer any questions.