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MAINE PROSECUTORS ASSOCIATION SHIRA BURNS, EXECUTIVE DIRECTOR

“An Act to Protect Children and Adults from Technology-facilitated Sexual Abuse”
Before the Joint Standing Committee on Judiciary
Public Hearing Date: May 12, 2025
Testimony in Support of LD 1944

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary. My name is Shira Buns, I represent the Maine Prosecutors Association and I am here to testify in support of LD 1944. We would like to thank Representative Kuhn, the Maine Coalition Against Sexual Assault, and the Computer Crimes Unit of the Maine State Police in collaborating to combat an issue that is facing our country.

Despite being a 9 page bill, the bill is very specific to be able to prosecute what we commonly refer to as AI when used in creating, possessing or disseminating child sexual abuse material (CSAM). There are a few broad concepts to understand in this bill.

There are three categories of images when discussing this bill:

- Image of an actual child (that is what we currently address in law);
- Image of an actual child that had been modified in some way (new in this bill); and
- Image that has been created by AI (new in this bill).

We have to deal with those group of images differently because of 1st Amendment protections. An image of an actual child or an image of an actual child that has been modified does not have 1st amendment protections.¹ In this bill we refer to those groups as an “identifiable child.”² If an image is created solely using AI, then the State must also prove the image is obscene.³

For the most part, this bill amends sexual exploitation of minor (17-A M.R.S. § 282), dissemination of sexually explicit material (17-A M.R.S. § 283), and possession of sexually explicit material (17-A M.R.S. § 284) in creating new subsections that will cover child sexual abuse material modified or

¹ “By prohibiting child pornography that does not depict an actual child, the statute goes beyond *New York v. Ferber*, 458 U.S. 747, 102 S.Ct. 3348, 73 L.Ed.2d 1113 (1982), which distinguished child pornography from other sexually explicit speech because of the State’s interest in protecting the children exploited by the production process. See *id.*, at 758, 102 S.Ct. 3348. As a general rule, pornography can be banned only if obscene, but under *Ferber*, pornography showing minors can be proscribed whether or not the images are obscene under the definition set forth in *Miller v. California*, 413 U.S. 15, 93 S.Ct. 2607, 37 L.Ed.2d 419 (1973).” *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 240 (2002).

² The definition of “Identifiable child” was mostly copied from Idaho’s definition.

³ *Miller v. California*, 413 U.S. 15 (1973)

generated by AI. In the subsections that discuss an image being created by AI, there is also language that the image has to be obscene.

The bill also amends unauthorized dissemination of certain private images that reflects the reality of images being modified using AI that still has the same harms to the victim.

Maine is not the first state to address this problem, but has been addressed and is being addressed in States all over the country. For all these reasons, the Maine Prosecutors Association in support of LD 1651.