



**Joint Committee on Criminal Justice & Public Safety**  
**Testimony of GLAD, by Mary L. Bonauto**  
**LD 1721, An Act Regarding Dignity for Women in Correctional Facilities – OTP**  
**Feb. 18, 2022**

Senator Deschambault, Representative Warren, and Distinguished Members of the Criminal Justice and Public Safety Committee,

Good Morning. I apologize for being unable to attend this morning's hearing to deliver this testimony in person.

GLAD<sup>1</sup> strongly supports LD, 1721, An Act Regarding Dignity for Women in Correctional Facilities. While we support the bill in its entirety, including the detailed data provisions, we are focusing our comments on two particular elements.

First, section 7 of the bill is a long overdue change to give parents and children a chance to maintain, or rebuild, their relationship – a relationship of inestimable value to both parents and children – when a parent is incarcerated. With changes in law enforcement over the years, the population of incarcerated women continues to grow, and nationally, 60% of incarcerated women have a child under age 18.<sup>2</sup> In Maine, a 2020 study of the Cutler Institute reported that 3403 children, or 1.4% of all children under 18 in the State, had an incarcerated parent at that time.<sup>3</sup> With incarceration of a parent can come “a cycle of family instability” that places children at greater risk of homelessness, lower educational attainment, economic instability, and juvenile justice involvement.<sup>4</sup>

Parental incarceration poses a greater risk that the children will be taken into the child welfare system and potentially lose their relationship with one or both parents altogether. Section 7 of LD 1721 provides a lifeline to maintain, or even rebuild, the bonding, attachment and security that is essential for healthy child development. The bill provides for visitation akin to that of family

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<sup>1</sup> GLAD works in New England and nationally in all branches of state and federal government to end discrimination based on HIV, gender identity and sexual orientation.

<sup>2</sup> The Sentencing Project, *Incarcerated Women & Girls* (Nov. 24, 2020), at: <https://www.sentencingproject.org/publications/incarcerated-women-and-girls/>

<sup>3</sup> Foley, Jillian MPPM; King, Erica MSW; and Benner, Casey, "Breaking the Cycle: Interrupting Generational Incarceration in Maine" (2020). Justice Policy. 35, at: <https://digitalcommons.usm.maine.edu/justice/35/>.

<sup>4</sup> Id.

reunification visits managed by DHHS.<sup>5</sup> This is critical for maintaining the vital parent-child relationship as a general matter. Even what that relationship is frayed or damaged, there is no real doubt that the relationship is a defining one for both parents and children, and that our policies support keeping families intact when consistent with the child's need for safety and care.<sup>6</sup> This bill provides is a lifeline for both mothers and fathers who are doubly punished by removal from their children, and for their children who, under current law, are struck to the core when their parent or parents are removed from their lives.

According to the Cutler Institute report *Breaking the Cycle*, only 3.2% of incarcerated parents were subject to no contact orders from their children. The rest of the children depend on this Legislature to set the policy of maintaining contact between children and parents, and we are very hopeful that the leadership at the Maine Department of Corrections and the Department of Health and Human Services can effect this change promptly.

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<sup>5</sup> The bill references 22 MRS sec. 4041 (1-A)(A)(1)(c), which provides:

C. Unless excused for good cause shown, at any hearing held under section 4034, subsection 4 or within 10 days of the filing of the petition if a hearing under section 4034, subsection 4 is not held, the department shall present to the court for review a preliminary rehabilitation and reunification plan, a plan to avoid removal of the child from home or decision not to commence reunification.

(1) A preliminary plan must be developed with the custodial parent and the department caseworker if the parent is willing to engage in the development of the plan.

(2) The preliminary plan must include the following: a statement of the problems causing risk to the child identified by the department and by the parent; preliminary identification by the parent and by the department of services needed; a description of the visitation plan or explanation of why visits are not scheduled; the names, addresses and telephone numbers of any relatives or family friends known to the department and parent to be available as resources for rehabilitation and reunification; and the department's preliminary assessment of any kinship placements.

(3) Prior to review by the court, the department shall provide a copy of the preliminary plan to counsel for the parents, or to the parents if they do not have counsel, and to the guardian ad litem.

(4) The court may review the preliminary plan in a hearing that does not allow testimonial evidence with all parties and counsel present or may hold a summary hearing at which the court may limit testimony to the testimony of the caseworker, parent, guardian ad litem, person to whom trial placement was given, foster parents, preadoptive parents or relatives providing care and may admit evidence, including reports and records, that would otherwise be inadmissible as hearsay evidence.

(5) The preliminary plan remains in effect until the court enters a jeopardy order under section 4035. A party may file an amended plan at any time before the jeopardy order is entered with the written agreement of all parties. [PL 2001, c. 559, Pt. CC, §5 (NEW).]

<sup>6</sup> E.g. 22 MRS sec. 4003 (family integrity rights limited by parental abuse and neglect); (3) Rehabilitation and reunification. Require that reasonable efforts be made to rehabilitate and reunify families as a means for protecting the welfare of children, but prevent needless delay for permanent plans for children when rehabilitation and reunification is not possible); Tit. 19-A MRS sec. 1653 (1)(C) ("it is the public policy of this State to assure children of frequent and continuing contact" after their parents separate, except when doing so is not in the child's best interest); society seeks to support and nurture those relationships.

The psychological literature has long acknowledged the importance of a child's secure attachment to a parent as having enormous importance for a child development and well-being.<sup>7</sup> Secure attachment relationships implicate children's ability to modulate stress, explore the world around them, and form new attachment relationships with other people.<sup>8</sup> Studies have shown that loss of or separation from those who have nurtured them and met their needs can have a significant negative impact on children's development.<sup>9</sup> It can decrease children's ability to trust others, disrupt child development, and increase children's likelihood of developing behavioral health and substance abuse disorders as adults.<sup>10</sup>

Second, we support the important step represented in section 5 of the bill requiring the Governor to appoint a Board of visitors for women's services, with the right to inspect facilities and the obligation to perform the duties other such boards provide to facilities. Among other things, their duties also include ensuring that "the incarceration of and services provided to clients meet their gender identity needs and reflect best practices established for such incarceration and services." Since there are transgender women in the women's facilities from time to time, and as anticipated by MDOC policy<sup>11</sup>, it only makes sense for the Department to engage in best practices in incarceration and services for the safety and well-being of all residents and correctional staff.

Please vote ought to pass on LD 1721. Thank you for your consideration.

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<sup>7</sup> J. Bowlby, *Attachment and loss: Retrospect and prospect*, American Journal of Orthopsychiatry, 52(4), 664–678 (1982).

<sup>8</sup> R. C. Fraley, *A Brief Overview of Adult Attachment Theory and Research*, IL: University of Illinois (2010), at <https://internal.psychology.illinois.edu/~rcfraley/attachment.htm>.

<sup>9</sup> K. Kendler et al., *Childhood parental loss and alcoholism in women: A causal analysis using a twin-family design*, Psychological Medicine, 26(1), 79-95 (1996); T. Otowa et al., *The impact of childhood parental loss on risk for mood, anxiety and substance use disorders in a population-based sample of male twins*, Psychiatry Res. 220, 1-2 (2014).

<sup>10</sup> K. Kendler et al., *Childhood parental loss and alcoholism in women: A causal analysis using a twin-family design*, Psychological Medicine, 26(1), 79-95 (1996); T. Otowa et al., *The impact of childhood parental loss on risk for mood, anxiety and substance use disorders in a population-based sample of male twins*, Psychiatry Res. 220, 1-2 (2014).

<sup>11</sup> Maine Dep't of Corrections, Management of Transgender and Intersex Prisoners, Pol'y No. 13.8 (AF), Procedure D (last revised Nov. 30, 2015).