

March 4, 2022

Madame Chair Senator Susan Deschambault
Madame Chair Representative Charlotte Warren
Members of the Criminal Justice and Public Safety Committee

Testimony in opposition to LD 756, Sections 1 and 2.

My name is Tanya Pierson, I am an Assistant District Attorney for York County Maine. I have spent approximately the past 20 years focused on handling the juvenile docket in York County and being actively involved in various groups committed to improving juvenile justice in the State of Maine.

I am specifically addressing Sections 1 and 2 of the bill. In addition, because we just learned of this bill late yesterday, I had limited opportunity to fashion these remarks or thoroughly review the other sections. I am speaking on behalf of myself as a juvenile prosecutor and for a consensus of the District Attorneys for the Maine Prosecutor's Association.

I have no doubt Representative Morales is presenting this bill with the best of intentions. However, it is critically important for this committee to hear from the players in the trenches, the boots on the ground. I am submitting this testimony, precisely because I, and many others, are passionate about the juvenile justice system in Maine and work daily with youth in our JJ system.

Section 1 of Proposed LD 676

Section 1 of LD 676, if passed, would eliminate one of the few remaining "purposes" of detention: to protect a juvenile from an immediate threat of bodily harm.

Most states have what is known as a CHINS or PINS system – Child/Persons In Need of Services. Essentially this system functions in between the Juvenile Justice System and the child protective system. In a CHINS system, youth (and their families) who are struggling with lower level offenses, are overseen by a magistrate or judge in a family court model. Services are provided in the community or in a residential program and a judge oversees the cases. Maine has no such system. Moreover, the Maine Department of Health and Human Services (DHHS) operates under a legal standard of "abuse and neglect" – an extremely high standard. The cold hard truth is that at-risk adolescents in Maine are rarely

served in the DHHS system primarily because of this high standard for DHHS' involvement. Since there is no "middle ground" in Maine, ***the juvenile justice system often functions as both a JJ system and quasi CHINS system.***

Quite recently, unbeknownst to many, this same section was amended to eliminate another purpose for detention – subsection 2 which permitted a juvenile to be detained to provide physical care for a youth who cannot return home because there is no parent or other suitable person **willing and able** to supervise and care for the juvenile adequately (emphasis added). This change stripped out an incredibly important tool Juvenile Community Corrections Officers (JCCOs), prosecutors and judges had to keep high-risk youth safe when their families were unable to do so.

Now LD 756, if passed, would eliminate section 5 of the purposes of detention, "To protect the juvenile from an immediate threat of bodily harm." Remember that a youth only ends up in the juvenile justice system *if they have been charged with an offense*. Remember that the criteria for detention is already incredibly limited and sparingly used. In order for a youth to be detained, they must have committed a felony or have previously been placed on a conditional release and failed to follow that conditional release or refused to abide by those conditions. Remember that once a youth is detained, a judge must review that detention within 48 hours; a district court judge oversees the youth's case from that point forward. The elimination of "purpose 5" strips JCCOs, prosecutors and judges with an extremely important tool to keep high-risk youth **safe**. Since the beginning of COVID, we have seen youth suicide and overdoses skyrocket. We are just beginning to grapple with the reality of exploitation of youth in Maine, with both drug and human trafficking. Juvenile Community Corrections Officers and prosecutors regularly deal with youth in Maine who are at elevated risk in their communities.

No one would suggest that detaining youth is ideal when public safety is not necessarily at risk. Nonetheless, it **is** necessary at times to actually *protect* youth from harm. DHHS very rarely becomes involved with these youth and their families. We do not have a CHINS system in Maine. However, we do have a robust juvenile justice system with conscientious JCCOs, prosecutors, defense attorneys and judges. The Department of Corrections Juvenile Services is filled with incredibly caring individuals who are committed to serving youth in Maine. Long Creek is not managed like an adult facility. My esteemed former colleague, Christine Thibeault a long-serving juvenile prosecutor, has taken on the position of Associate Commissioner with the Department of Corrections. We have judges who are

expressly committed to overseeing juvenile dockets. We are a State with an abundance of individuals who are committed to youth in our JJ system.

I believe it is laudable to work towards a system that supports youth in their communities without detention, but for the youth who are simply unsafe, we need this important tool because there is no other safety net in place. We who work directly in the JJ system are frequently witnesses to tragedy. I would go so far as to suggest it is irresponsible to eliminate purpose 5, *at this point in time*.

Section 2 of LD 756

Section 2 of LD 756 would eliminate the juvenile court's ability to impose a sentence to the Long Creek Youth Development Center when a juvenile is in need of correctional treatment that can be provided most effectively by the juvenile's commitment to an institution.

Primary purposes of Maine's Juvenile Code are "to secure for each juvenile such care and guidance, preferably in the juvenile's own home, as will best serve the juvenile's welfare and interests of society," and further, "to secure for any juvenile removed from the juvenile's parents the necessary treatment, care, guidance and discipline to assist that juvenile in becoming a responsible and productive member of society."

Section 2 of LD 756 would radically shift the court's ability to appropriately enforce Maine's Juvenile Code. This provision would prohibit judges from committing youth to Long Creek to ensure they receive *necessary treatment*. Through comprehensive, collaborative approaches, Maine has drastically reduced the number of youth who are committed to Long Creek. Any youth who is currently committed to Long Creek by the court has either repeatedly refused to participate in programming in the community or is considered to be a significant risk to public safety by the court. This proposal would gut the court's authority to ensure necessary treatment for our highest risk youth and to assist them in becoming productive members of society.

We may not always agree on how we get there, but we can certainly agree that we want to support youth and families with appropriate services, and insure public safety. We can work together to create a better system for youth. Maine is a unique state with many players committed to creating a fair, safe, appropriate and model juvenile justice system. Removing the limited tools left to insure the safety of youth, and the community, in a piecemeal fashion, without the opportunity to collaborate on best practices for youth is simply *wrong* and bad law.