

March 4, 2022

Senator Susan Deschambault
Representative Charlotte Warren
Joint Standing Committee on Criminal Justice and Public Safety
100 State House Station, Augusta, ME 04333

Re: LD 756, An Act Regarding Criminal Services for Juveniles

Dear Senator Deschambault, Representative Warren, and Members of the Joint Standing Committee on Criminal Justice and Public Safety:

My name is Jill Ward. I live in South Portland and am providing testimony in support of LD 756. I currently direct the Center for Juvenile Policy and Law at Maine Law and recently served as one of the three co-chairs of the Maine Juvenile Justice System Assessment and Reinvestment Task Force that worked in collaboration with Children’s Center on Law and Policy (CCLP) from 2019 to 2020 to inform its work on a comprehensive system assessment.¹ My testimony in support of LD 756 represents my personal views only and does not represent the position of the University of Maine School of Law, the University of Maine System, or the Task Force.

One of the main areas of my work has been educating policy makers, stakeholders and the public about the harmful effects of justice system involvement, particularly incarceration, on children and youth and the ineffectiveness of the youth prison model to reduce recidivism and produce positive outcomes for young people and their communities. In testimony submitted to this Committee last session and in the 129th Legislature, I have summarized the research documenting the negative impacts on youth from both formal juvenile justice system processing and subsequent confinement, including the increased risk of abuse and violence,² educational disruption,³ poor health outcomes as adults,⁴ and harmful family and community separation. We also know that these harms fall disproportionately on youth of color, girls, LGBTQ GNC youth, and youth with disabilities. And, Maine’s system is no exception.

Research has repeatedly confirmed what common sense tells us. Removing youth from their homes and communities and placing them in correctional settings causes harm. It disrupts healthy psychological development by disconnecting youth from their parents or parent figures, from peers who model and value academic success and positive social behavior, and from participation in activities that require critical thinking and independent decision-making.⁵

And, it doesn’t make us safer. In fact, formal system processing often has the opposite result: youth who have had some justice-system involvement are more likely to reoffend than those who were effectively

¹ For more information see, www.mainejtaskforce.org.

² See, *Maltreatment in Youth in U.S. Correctional Facilities*. (2015). Baltimore, MD: The Annie E. Casey Foundation. Available at: <https://www.aecf.org/resources/maltreatment-of-youth-in-us-juvenile-corrections-facilities>. *Conditions of Confinement: Findings from the survey of youth in residential placement*. (2010). Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. Available at: <https://www.ncjrs.gov/pdffiles1/ojjdp/227729.pdf>.

³ See, *Just Learning*. (2014). Atlanta, GA: Southern Education Fund. See also, *Juvenile Reentry*. (2014) Washington, D.C.: Federal Interagency Reentry Council which found that “approximately two-thirds of young people do not return to school after release from secure custody.” Available at: <http://csgjusticecenter.org/wp-content/uploads/2014/06/Juveniles.pdf>.

⁴ Barnett, E. et al. (April 2019). *What Is the Relationship Between Incarceration of Children and Adult Health Outcomes?* American Pediatrics. Volume 19, Issue 3, Pages 342–350, which found, “child incarceration independently predicted adult mobility limitations, adult depression and adult suicidal thoughts.”

⁵ *Reforming Juvenile Justice: A Developmental Approach*. (2012) Washington, D.C.: National Academy of Sciences.

diverted from the system.⁶ Re-offense rates are similarly higher for those youth who are confined as compared to those who are diverted or managed in the community.⁷

To avoid these negative impacts, the focus should be on child well-being and on meeting the needs of children and youth and their families as they arise. Unfortunately, too often our systems have failed youth and families along the way and vulnerable youth who have not had their needs met frequently end up in the deep end of the justice system. The CCLP report on the system assessment found that **more than two-thirds of the youth committed to Long Creek Youth Development Center had received behavioral health services through MaineCare in the year prior to their commitment and 65 percent of these youth had a history of child welfare involvement with 20 percent having had at least one removal from their home.**⁸

Based on this data and additional qualitative interviews and information, the CCLP report reaffirmed that one of the biggest needs in the state is a robust continuum of community-based programs and services for youth and their families. Recognizing that many Maine children and youth touch more than one system also suggests we should be looking ways to foster greater collaboration between agencies to strengthen families and address unmet needs.

LD 756 includes several provisions to address this recommendation as follows:

1) **Increases Investment in a Continuum of Care for Maine Youth**

More must be done to ensure all young people have access to a continuum of appropriate, effective community-based alternatives to incarceration; alternatives that have been shown to more effectively serve youth and at substantially less cost.⁹ LD 756 includes critical investments designed to support youth in community, including funding for housing, peer-supports, restorative justice, healing and treatment, economic and vocational support, family-focused support and other reintegration supports. A one-year review of the Department of Correction's cross-systems Regional Care Team initiative designed to support individual system-involved youth in community and to help inform broader system change, identified housing as the top need with more than half of referred youth requiring some type of housing assistance. Other needs included mobile crisis services, substance use treatment, technology supports, and access to case management, counseling and health care.¹⁰ The resources included in LD 756 could address these gaps, especially in rural areas.

2) **Establishes Pilot Project to Strengthen Grassroots Community-Based Solutions**

The bill also includes investment in a pilot project that would give resources directly to a community-based organization or collaborative of organizations to establish a fund to support community needs that is directed by the community. This is consistent with prior recommendations that the state adopt

⁶ Juvenile Justice Resource Hub, "Community-Based Alternatives: Key Issues," retrieved at: http://jjie.org/hub/community-based-alternatives/key-issues/#_edn6; citing Anthony Petrosino, Carolyn Turpin-Petrosino, and Sarah Guckenburg, "Formal System Processing of Juveniles: Effects on Delinquency," Campbell Systematic Reviews (January 29, 2010), 38. Available at <https://bit.ly/30md72U>. See also National Juvenile Justice Network, "Emerging Findings and Policy Implications from the Pathways to Desistance Study," (Washington, DC: 2012). <http://bit.ly/14jXkQI>.

⁷ Richard A. Mendel, "No Place for Kids: The Case for Reducing Juvenile Incarceration" (Baltimore: The Annie E. Casey Foundation, 2011), 10. Available at: <http://www.aecf.org/noplaceforkids>. Also see Richard A. Mendel, "Less Cost, More Safety: Guiding Lights for Reform in Juvenile Justice," (Washington, DC: American Youth Policy Forum, 2001), 8, available at <http://bit.ly/1DtNfjz>, which states that studies of youth sent to large juvenile correctional institutions in the past 30 years have found a 50-70 percent recidivism rate within one to two years of release; James Austin, Kelly Dedel Johnson, and Ronald Weitzer, "Alternatives to the Secure Detention and Confinement of Juvenile Offenders" (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, September 2005).

⁸ Center for Children's Law and Policy et al. (February 2020). Maine Juvenile justice System Assessment.

⁹ *Safely Home: Reducing youth incarceration and achieving positive outcomes for high and complex need youth through effective community-based programs.* (June 2014). Youth Advocate Programs, Inc. Available at: <https://bit.ly/3vPOhYW>.

¹⁰ Sanchez, M., King, E., Ward, J. and Foley, J. *Regional Care Teams First Year Review: Cross Systems Collaboration to Improve Positive Youth Outcomes*, November 2021, p. 18.

and resource flexible, innovative approaches that center the experience of youth and families and give more decision-making capability to those closest to the youth, family and their related needs.¹¹ Ultimately, an effective continuum of care puts communities at the center of the process, so those closest to a family or young person can drive the outcome. Courts, attorneys, corrections officers, and other system stakeholders are not best positioned to enable their success. Young people are individuals, and our solutions should address them individually and involve the people that care about them the most. To shape this effort, Maine can look to community-run models in California, Colorado, Texas, Oregon, New York and Washington, D.C.¹²

3) **Requires Needs Assessment of Incarcerated Youth to Inform Responsible Investment**

Medium-term recommendation #10 of the CCLP report calls for the state to “plan for and begin to develop options that could better address the needs of the small number of youth requiring a secure out-of-home placement because of a risk of public safety.”¹³

Last session, through the Legislature’s enactment of section KKKK-5 of the Governor’s budget¹⁴ and release of the DOC Division of Juvenile Services 2021-2022 Action Plan¹⁵, the Department of Corrections made it a priority to further reduce institutional secure confinement. Conducting an individualized needs assessment is a necessary step to inform the most appropriate and effective plan to serve youth in community. Other jurisdictions that have closed facilities, reduced the use of secure detention, or shifted away from the youth prison model, have used case expeditors or multi-disciplinary teams¹⁶ to review each child’s case and make appropriate recommendations for alternative programs and services for that youth.

The data collected through these assessments will also provide the DOC with a clearer, more accurate understanding of the types of services and programs that most needed to promote child-wellbeing and mitigate risk. This can help guide the allocation of its community services budget and can also help inform what type of residential care is actually needed. It makes little sense create more capacity for placements absent this information. And, this requirement couldn’t come at a better time. The Department is currently seeking input and technical assistance from agency and community partners to help shape the small, therapeutic residential placements called for in last year’s budget bill and to recommend how additional funds made available for community programs through the liquidation of unfilled staff positions at Long Creek might be effectively spent. Requiring a needs assessment of detained and committed youth will provide critical data to ensure public dollars are not wasted.

¹¹ *Id.* See also, Sanchez, M., King, E. and Ward, J. [Aligning Investments in a Community-Based Continuum of Care for Maine Youth Transitioning to Adulthood](#), March 2019; Sanchez, M., King, E. and Ward, J. [Youth Justice in Maine: Imagine a New Future Summit, Summary & Recommendations](#), January 2018.

¹² Sakala, L., Harvell, S. and Thomson, C. [Public Investment in Community-Driven Safety Initiatives Landscape Study and Key Considerations](#). The Urban Institute (November 2018). See also: Colorado Criminal Justice Reform Coalition, [Community Reinvestment in Colorado](#) (April 2021) and California Board of State and Community Corrections, [Youth Reinvestment Grant Program](#).

¹³ Center for Children’s Law and Policy et al. (February 2020). *Maine Juvenile justice System Assessment*. Recommendation #10, p. 135.

¹⁴ P.L. 2021, ch. 398 § Sec. KKKK-5. Reporting on possible sites and locations for secure, therapeutic residences for detained and committed youths. By January 1, 2022, the Department of Corrections shall report to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters on possible sites and locations for 2 to 4 small, secure, therapeutic residences for youths for the purposes of providing confinement and detention in a therapeutic setting for a maximum occupancy of a total of 20 youths across all sites and locations. The identified possible sites and locations must consist of one site or location in Cumberland County and one site or location in Penobscot County. Two other sites and locations may be identified depending on need. The identified possible sites and locations must include existing structures for renovation as small, secure, therapeutic residences. The report must include information regarding staffing options and options and cost estimates at each possible site and location for the provision of therapeutic services and programs, including educational services, for youths living in the residences.

¹⁵ Maine Department of Corrections, Division of Juvenile Services Action 2021-2022 Action Plan at: https://www.maine.gov/corrections/sites/maine.gov.corrections/files/inline-files/DJS%20Plan%20Action%20_3.pdf

¹⁶ See Council of Juvenile Correctional Administrators Toolkit: Facility Closure and Strategic Downsizing of Juvenile Justice Systems, July 2018 (p.19).

4) **Reduces Reliance on Incarceration for Protection and Treatment**

LD 756 bill also contains provisions that seek to further limit use of incarceration for protection or treatment. Another finding of the CCLP report is that “Maine lacks a strong presumption of keeping youth in the community in state law, and it also lacks the limits on the use of confinement as a disposition that are common in other state codes.”¹⁷ Other states restrict use of incarceration for minor offenses and/or for youth who present a low risk or moderate risk to public safety. Some states establish conditions that must be met before a youth can be committed, including a determination that there are no viable alternatives available or that commitment is the least restrictive option.

Last year, in accordance with best practice that dictates that detention be used for only two purposes: 1) to prevent the commission of another offense and 2) to ensure the youth will appear in court after release,¹⁸ the Legislature removed the ability to detain youth to “provide care.” Following a similar rationale, LD 756 would impose additional limits on the use of incarceration by ending the practice of detaining youth for their own protection and by prohibiting the use of incarceration to access treatment. Incarceration is not an evidence-based practice in the rehabilitation and treatment of youth. If a youth is in need of treatment, the state will need to develop a more appropriate, proven response.

5) **Authorizes a Process to Establish Independent Oversight**

Currently, there is no independent oversight of Maine’s juvenile justice system or of the Department of Corrections, which oversees the care of youth in its custody. A common feature and best practice of states engaged in system reform is the establishment of an entity with the statutory authority to guide implementation of reforms, to monitor reform progress, and to ensure system integration and accountability. This was one of the first recommendations of the CCLP report, which included examples of various oversight committees and councils from other states, including Kentucky, Utah, Kansas, and Connecticut.¹⁹

In addition to committees or councils, a majority of states provide oversight of child-serving systems through an independent ombudsman or an Office of the Child Advocate.²⁰ New Hampshire, Massachusetts, and Connecticut have Child Advocates who oversee youth in all youth-serving agencies, including juvenile justice. Maine has an ombudsman, but that office only has authority over the child protection system. This provision would ensure that all children under state care in Maine are protected and the agencies who have authority over them are held accountable.

Part of this analysis should include an exploration of which agency is best suited to have authority over youth in the juvenile system. Maine is one of only seven states that continue to house juvenile services with an adult corrections authority.²¹ Both the CCLP report and a separate assessment of the Children’s Behavioral Health System conducted in 2018 have recommended that Maine transition juvenile services to a new agency or a different child-serving agency, like the Office of Child and Family Services in DHHS.²² Both reports determined that such a move would result in more effective coordination between agencies, improved client relationships, greater access to services, reduced inefficiency, long-term cost savings, and better outcomes for children and youth.

¹⁷ Center for Children’s Law and Policy et al. (February 2020). Maine Juvenile justice System Assessment. p. 108-109.

¹⁸ *Id.* p. 81.

¹⁹ *Id.* p. 131-132.

²⁰ See National Council of State Legislatures at <https://www.ncsl.org/research/human-services/childrens-ombudsman-offices.aspx#mi>

²¹ See, Juvenile Justice Services, JJGPS - Juvenile Justice, Geography, Policy, Practice & Statistics at: <http://www.jigps.org/juvenile-justice-services>.

²² See, Children’s Behavioral Health Services Assessment: Final Report (December 2018) p. 106-107 and Center for Children’s Law and Policy et al. (February 2020). Maine Juvenile justice System Assessment. p. 114.

The needs of youth and young adults involved in the justice system are the same needs of vulnerable youth involved in the child welfare, children’s behavioral health, or education systems: stable housing, supportive adults, positive peer supports, education, mental health services, substance use treatment, life skills and job training. An overreliance on incarceration and other costly places of care like emergency rooms and residential treatment that are intended to help can concurrently cause harm while diverting resources from community-based services. Research suggests that aligned action to invest in a broad range of alternatives that strengthen communities and respond to the needs of all children, youth, and families will improve outcomes and, ultimately, cost less in the long run.²³

LD 756 focuses on promoting child wellbeing by addressing gaps in and strengthening the continuum of care for youth. It appropriately limits the use of incarceration, and creates a mechanism to establish permanent oversight and accountability for justice-involved youth under state care. I encourage the Committee’s support and I would be happy to answer any further questions or provide additional information.

Respectfully submitted,



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²³ Sanchez, M. King, E., & Ward, J. (March 2019). *Place Matters: Aligning Investments in a Community-based Continuum of Care for Maine Youth Transitioning to Adulthood*. University of Southern Maine and Maine Center for Juvenile Policy and Law.