



AMERICAN CIVIL LIBERTIES UNION

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TESTIMONY OF MICHAEL KEBEDE, ESQ.

**LD 1779 – Ought to Pass**

**An Act to Develop a Continuum of Care for Youth Involved in the Justice System and to Develop Alternatives for Juveniles Incarcerated in Long Creek Youth Development Center**

JOINT STANDING COMMITTEE ON  
CRIMINAL JUSTICE AND PUBLIC SAFETY

May 2, 2023

Senator Beebe-Center, Representative Salisbury and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Michael Kebede, and I am Policy Counsel of the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of the ACLU of Maine, we urge you to support this bill.

Last July, the U.S. Department of Justice (DOJ) issued a letter finding that the State of Maine is violating the Americans with Disabilities Act (ADA) by unnecessarily segregating children with mental health diagnoses and/or developmental disabilities in psychiatric hospitals, residential treatment facilities, and at Long Creek Youth Development Center.<sup>1</sup> The DOJ found that “Long Creek Youth Development Center, the State’s sole juvenile justice facility, currently fills a gap left by Maine’s community-based behavioral health system.”<sup>2</sup> This prison uses more than 150 staff and costs the state over \$12 million per year to house a handful of young people.

The DOJ’s letter re-iterates a conclusion that multiple studies have reached: Maine must replace Long Creek with a more integrated, community-based youth mental and behavioral health system.<sup>3</sup> To its credit, the Department of Corrections (DOC) has made tremendous progress in emptying Long Creek, bringing the prison’s population from 136 in 2010, to 39 in 2019, to 27 last year.<sup>4</sup> This bill would ensure

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<sup>1</sup> *United States’ Investigation of Maine’s Behavioral Health System for Children Under Title II of the Americans with Disabilities Act*, June 22, 2022, U.S. DOJ, [hereinafter “DOJ Letter”], available at <https://www.justice.gov/crt/case-document/file/1514441/download>.

<sup>2</sup> DOJ Letter at 6-7.

<sup>3</sup> *See, e.g., Maine Juvenile Justice System Assessment Final Report at 8*, Center for Children’s Law and Policy et al. (2020) (hereinafter CCLP Report), available at <https://irp-cdn.multiscreensite.com/de726780/files/uploaded/Maine%20Juvenile%20Justice%20System%20Assessment%20FINAL%20REPORT%202-25-20.pdf>

<sup>4</sup> Colette Marcellin, Constance Hull, and Samantha Harvell, *Data Snapshot of Youth Incarceration in Maine*, April 2020, at 2, available at [https://www.urban.org/sites/default/files/publication/102137/data-snapshot-of-youth-incarceration-in-maine\\_1.pdf](https://www.urban.org/sites/default/files/publication/102137/data-snapshot-of-youth-incarceration-in-maine_1.pdf) (showing graph of average daily population at Long Creek from 2010 to 2019)

that as the facility winds down, no one is left behind: staff, youth, and the facility itself are all provided for and can move forward together.

### *The Maine Juvenile Justice System Assessment Final Report*

The Center for Children’s Law and Policy’s (CCLP) 2020 study of Maine’s youth justice system remains the most thorough study of its kind in recent history. The report reveals that “[i]n 53% of cases, the reason for detention was to ‘provide care’ for youth.”<sup>5</sup> Perhaps more revealing, “72.7% of detention stays lasting longer than 30 days were for youth awaiting placement.”<sup>6</sup> The report showed that public safety is often not the primary reason for detention: “[i]n 47% of cases, youth were held in detention for 3 days or less, suggesting they were not significant public safety risks”<sup>7</sup> and “low risk youth staying substantially longer than high risk youth.”<sup>8</sup> The report found that 69% of youth currently committed to Long Creek received behavioral health services through MaineCare the year before they were committed, with 55% experiencing residential stays and 16% psychiatric hospital stays (some youth experienced both).<sup>9</sup> As a result, the juvenile justice system has become the default provider of behavioral and mental health services for Maine youth.

Still another concerning conclusion is that “youth who identified as Black or African American were detained at a rate of almost 8 times their rate in the population and were committed at a rate of more than 5 times their rate in the population.”<sup>10</sup> Relatedly, the report found that although Black or African American residents make up only 1.6% of Maine’s population, 23% of detained youth identified as Black/African American.<sup>11</sup> The report also found that “LGBTQ+ youth are at increased risk of substance use, homelessness, school dropout or suspension or expulsion, depression, and suicide as a result of social stigma, family rejection, and discrimination.”<sup>12</sup> Moreover, “LGBTQ+ youth are overrepresented in the juvenile justice system, and when confined in juvenile facilities are at least seven times as likely to be sexually assaulted by other youth as heterosexual youth who are confined.”<sup>13</sup> Similarly disturbing, “[y]outh with disabilities are often referred to law enforcement for behavior that is a manifestation of their

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<sup>5</sup> Maine Juvenile Justice System Assessment Final Report at 8, Center for Children’s Law and Policy et al. (2020) (hereinafter CCLP Report), available at <https://irp-cdn.multiscreensite.com/de726780/files/uploaded/Maine%20Juvenile%20Justice%20System%20Assessment%20FINAL%20REPORT%202-25-20.pdf>

<sup>6</sup> CCLP Report at 37.

<sup>7</sup> CCLP Report at 8.

<sup>8</sup> CCLP Report at 8.

<sup>9</sup> CCLP Report at 50, 105-106.

<sup>10</sup> CCLP Report at 117.

<sup>11</sup> CCLP Report at 33.

<sup>12</sup> CCLP Report at 68.

<sup>13</sup> *Id.* See also Wilber, S. (2015). Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System: A Guide to Juvenile Detention Reform. <http://www.aecf.org/m/resourcedoc/AECF-lesbiangaybisexualandtransgenderyouthinjj-2015.pdf>

disabilities, and often remain in secure custody for long periods because of a lack of less restrictive community or home-based programs and services.”<sup>14</sup> We urge the Committee, and the Legislature, to invest in community-based services.

***Why This Bill is the Legislature’s Best Option***

The CCLP report’s ultimate goal is to “[a]chieve removal of all youth from Long Creek.”<sup>15</sup> This bill would take a bold approach toward that goal. This bill would direct the Department of Corrections (“DOC”) to conduct individualized needs assessments of the handful of children currently incarcerated at Long Creek, so the state can know the exact array of services that are needed to make the facility obsolete. The bill would also require the DOC and the Children’s Cabinet to develop recommendations for reinvestment of the over \$12 million currently designated for youth incarceration into a continuum of community-based alternatives and report the recommendations to your committee by February 15, 2024. This bill would also require you to study and select an entity to manage the distribution of funds divested from Long Creek. The bill also calls for a workforce development plan for Long Creek staff developed in coordination with the Department of Labor, and require that the Long Creek facility be repurposed for use as a community center with supportive housing.

We urge you vote *ought to pass*.

Thank you for your time and attention.

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<sup>14</sup> CCLP Report at 68.

<sup>15</sup> CCLP Report at 136; see also *ACLU Of Maine Calls For Closure Of Long Creek Youth Prison*, Press Release, Dec. 14, 2017, [www.aclumaine.org/en/press-releases/aclu-maine-calls-closure-long-creek-youth-prison#:~:text=](http://www.aclumaine.org/en/press-releases/aclu-maine-calls-closure-long-creek-youth-prison#:~:text=)