The 128th Legislature of the State of Maine
State House
Augusta, Maine

Dear Honorable Members of the 128th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 1838, “An Act To Include in the Crime of Harassment by Telephone or by Electronic Communication Device the Distribution of Certain Photographic Images and Videos.”

First, section 2911 of Title 17 already prohibits the dissemination of obscene material to minors, making such conduct a Class C crime. LD 1838 is therefore redundant as it regards to protecting minors.

Further, LD 1838’s attempt to differentiate between conduct by adults and minors is flawed in that it sets a rolling age for criminal liability. A person is either an adult or they are not. This bill does not set definitive age boundaries.

Finally, LD 1838 would criminalize mutually consensual sharing of obscene materials where a recipient of those materials has a mental disability, regardless of the severity of that disability. Other statutes for the protection of people with mental disabilities specify that protection applies where the mental disability is severe enough that it, in fact, renders such individuals substantially incapable of appraising the nature of the conduct or of understanding their ability to deny or withdraw consent.

This bill presumes a person with a mental disability of any degree is incapable of giving consent and thereby denies those individuals the dignity of choice. It is discriminatory. While many people might find the conduct distasteful, an adult couple should not be made into criminals for texting one another intimate pictures in their mutual, private relationship simply because they have mild intellectual disabilities.

For these reasons, I return LD 1838 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

Paul R. LePage
Governor