

Stocco, Janet

From: Robert Bennett <rbennett@andreasen-bennett.com>
Sent: Wednesday, September 7, 2022 3:46 AM
To: Senft, Samuel; Stocco, Janet
Subject: RE: [child.ps-ip] Public comment invitation for the Commission to Develop a Pilot Program to Provide Legal Representation to Families in the Child Protection System

Follow Up Flag: Follow up
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This message originates from outside the Maine Legislature.

As a parent's attorney I would like to provide feedback to the commission.

- #1 – I believe this is a worthwhile program as I cannot even begin to count the number of cases I have had over the past 22 years where either parents have told me “Had I known . . .” or I have said “If only I could have spoken to the parents during the investigation”. Too often parents will say “I know that I am not in the best position to parent my children right now, so why can I not just give custody to (a certain relative or friend) – but at that point a court-case has begun and it is too late to institute a guardianship.
- #2 – I have been fortunate to having been contacted by either a DHHS caseworker, a DHHS supervisor or an AAG a handful of times asking if I would be willing to speak to a parent in the middle of an investigation. I am glad to report that in everyone of those situations, a court-case was not instituted.
- #3 – it is probably not a surprise to the Commission that there is a lot of bad information out there about DHHS and their investigations. Most of the bad info comes from neighbors, friends, parents, etc. – but there is also bad information coming from attorneys who do not do Child Protective work – generally criminal defense attorneys who give the advice “do not engage”.
- #4 – I believe that the focus of the pilot program should be giving legal advice to custodians and parents who are being investigated by DHHS. As stated previously, I have had very good luck by just speaking to parents to explain their legal rights as well as likely steps that DHHS will take moving forward. I have also had luck “translating” for parents when dealing with DHHS and vice versa. Most parents believe that if DHHS is investigating then DHHS wants to remove custody of their children. While few assessment workers realize this perspective, and approach the parents with an authoritative manner that just feeds into the belief.
- #5 – Giving other advice (i.e. DV, Substance abuse, mental health, housing, etc.) is part-and-parcel of Child Protective cases – but I do not believe that it should be the focus of the pilot program.
- #6 – I believe that it would be very difficult to limit the pilot program to just one type of situation such as the examples given in this email. It is extremely rare to find a family with just one “issue”. I understand that the examples given were not necessarily “real world”, but please be aware that DHHS does not and cannot get involved with a pregnant mother until the baby is born – which is obviously very frustrating for particularly the families of women with know substance abuse issues . . .
- #7 – I think it likely best to focus on a geographic area of the State for this pilot program – but I am not aware enough of the differences between the different areas of the State to give an opinion on where that should happen. My knee-jerk suggestion would be to provide legal assistance to those families that the assessment workers identify as being most likely to benefit from legal advice (i.e. a court-case can be avoided if only the parents would sign releases to allow the worker to access substance treatment records for the parent) – but of course taking a referral from a DHHS caseworker is fraught with issues from the perspective of the caretaker to the opportunity for abuse by the caseworker.
- #8 – I believe that simple engagement with a Child Protective attorney could make a big difference with the number of Child Protective cases filed. A simple telephone conversation or attendance at a Family Team Meeting could pay big dividends – without the need to spend multiple hours with these people under investigation.

Thank you for reading this.

Bob Bennett

Law Office of Robert Bennett
P.O. Box 66836
Falmouth, Maine 04105
Telephone: (207) 878-3933
Fax: (207) 878-2226

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From: child.ps-ip-request@lists.legislature.maine.gov <child.ps-ip-request@lists.legislature.maine.gov> **On Behalf Of** Senft, Samuel
Sent: Tuesday, September 6, 2022 4:49 PM
To: child.ps-ip@lists.legislature.maine.gov
Subject: [child.ps-ip] Public comment invitation for the Commission to Develop a Pilot Program to Provide Legal Representation to Families in the Child Protection System

Good afternoon,

The Maine Legislature's *Commission to Develop a Pilot Program to Provide Legal Representation to Families in the Child Protection System* is seeking public comment. The Commission was established by legislation, known as Resolve 2021, c. 181 (or LD 1824), which you can read online at the following link:
<http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP1357&item=3&snum=130>.

Background

In Maine, an indigent parent has a statutory and constitutional right to a state-funded attorney if the Department of Health and Human Services has begun court proceedings to remove a child (or children) from the parent's home based on its investigation of an allegation of abuse or neglect. This Commission was created to design a pilot program to provide free legal assistance to low-income parents or custodians earlier in the process: possibly as soon as when the department opens an investigation or safety assessment in response to a report of suspected abuse or neglect.

When it has finished its work, the Commission will send its recommendations for designing the pilot project to the Legislature. The Legislature will then decide whether to proceed with the pilot project.

Public Comments requested for Meeting on Monday, October 3, 2022:

The Commission is seeking public comments on the following questions:

1. *What type of legal assistance would be most useful to parents when the department is investigating a report of potential abuse or neglect?*
 - a. Should the legal assistance focus on helping parents understand their rights during the investigation and in negotiating with the department to try to reach a solution that prevents the need to remove the child?
 - b. **And/or**, should the free legal advice focus on other legal issues, such as: housing issues; DV issues; custody/guardianship issues; or other legal problems?

2. *Because this is a pilot project, we have to decide how to focus the assistance: What population would most benefit from this type of legal support? For example,*
 - a. Is there a particular type of situation the pilot project should focus on?
 - i. For example, pregnant mothers who have a substance use disorder, situations of domestic violence, housing instability, immigration etc.?
 - b. Or, do you think it is better for the pilot project to focus on helping all low-income parents who are subject to an investigation in a single geographic area of the State? If so, what area of the State do you suggest, and why?
3. *What other ideas do you have related to this pilot project? How can this project best be designed for success?*

How to provide public comments:

You may submit your comments orally at the Commission meeting scheduled to take place on October 3, 2022 or you may submit written comments or you may choose both to speak during the meeting and to submit written comments.

1. **Public comments during the October 3, 2022 meeting:** If you would like to speak during the meeting, you may attend the meeting in person in Room 228 of the State House (the AFA Committee Room) or you may attend the meeting remotely using Zoom. If you prefer to attend by Zoom, you must register in advance through the following link: https://legislature-maine.gov.zoom.us/webinar/register/WN_owpTDW7OTRmTrA8rYAqrEg.

Depending on the number of people who want to speak at the meeting, the chairs may limit the time each person has to speak. Please remember that the commission meeting will be publicly livestreamed on the Legislature's website and a recording of the meeting will also be publicly available on the Legislature's website. For that reason, you may wish to avoid discussing any private or sensitive information that you do not want shared with the public.

2. **Written comments:** If you wish to send a written comment to the commission, please email your comment to both samuel.senft@legislature.maine.gov and janet.stocco@legislature.maine.gov **by 5:00 p.m. on Sunday, October 2nd**. Comments received after that date may not be distributed to the commission members until after the meeting.

Please remember that all comments, documents and information you send to the commission or to commission staff are considered "public records" under Maine's Freedom of Access Act. Materials will be posted online with other materials used by the commission and will be viewable and searchable by the public.

If you have questions or require additional information, please contact the Commission's staff, Janet Stocco and Samuel Senft at janet.stocco@legislature.maine.gov and samuel.senft@legislature.maine.gov or by phone at (207) 287-1670.

Samuel Senft, Esq., MPH
Legislative Analyst
Office of Policy and Legal Analysis
Maine State Legislature

samuel.senft@legislature.maine.gov

207-287-1670