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Commissioner



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February 27, 2024

Senator Anne Carney, Chair
Representative Matthew Moonen, Chair
Members, Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333-0100

Re: LD 2219 – *“An Act to Implement the Recommendations of the Maine Commission on Indigent Legal Services.”*

Senator Carney, Representative Moonen, members of the Joint Standing Committee on Judiciary:

Thank you for the opportunity to provide information in opposition to portions of LD 2219, *“An Act to Implement the Recommendations of the Maine Commission on Indigent Legal Services.”*

This bill would make a number of changes proposed by MCILS, but the Office of Child and Family Services (OCFS) is specifically in opposition to portions of Sections 16-24, which is the portion of the bill directly impacting child welfare operations. These provisions would automatically provide new counsel for an appeal from a termination of parental rights order, allow the Commission’s executive director or their designee to observe confidential child protection proceedings in court, and give MCILS access to child protective records. The bill would also change mandated reporting to disqualify a mandated reporter from making a report if the information that forms the basis for the report would qualify as a confidence or a secret of a covered client of an attorney and the information was gathered while working for or at the request of the attorney.

OCFS has concerns about modifying the mandated reporter statute to limit information sharing with the Department since information disallowed by this change could be critical to child safety. OCFS needs information from professionals working with families in order to assess safety and determine whether a child can or cannot safely remain with their caregivers. OCFS is concerned that harm could befall a child or children due to this new provision and information that could have helped protect the child was known to a professional but not reported to the Department.

OCFS also objects to the provision of this bill which would make disclosure of child protective records to MCILS a mandatory disclosure provision under 22 MRSA §4008(3). OCFS’ child protective records are full of sensitive information about children and families, including medical, mental health, substance use, and education-related information. The families have not consented to sharing this information beyond the Department and OCFS is unclear on what MCILS stands to gain by obtaining this information. OCFS has concerns about any expansion of information sharing to protect the privacy of children and families, comply with federal policy,

and also ensure that to the greatest extent possible children and families are willing to fully engage with the Department. The information gathered and compiled in these records is critical to ensuring child safety and family well-being and if a family withholds information due to concerns about further dissemination it limits OCFS' ability to meet its statutory mandate to protect children. OCFS would not object to sharing records with MCILS if MCILS obtains informed consent from the person whose records are to be shared.

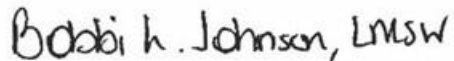
OCFS does not object to the provision of this bill allowing MCILS access to court proceedings. This provision seems to make sense given MCILS' role in evaluating and supervising the attorneys that MCILS assigns, and we believe that this type of direct oversight will benefit the families served through the protective custody system.

OCFS is not aware of any concerns about MCILS' ability to meet its mandate without unfettered access to child protective records. We understand there may be circumstances where the information contained in records would be helpful and believe that in those cases MCILS should obtain informed written consent of the client whose records are at issue and then the Department could share those records with MCILS.

OCFS is opposed to limitations on mandated reporting proposed by this bill and expansion of mandatory information sharing with MCILS.

Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,

A handwritten signature in black ink that reads "Bobbi H. Johnson, LMSW". The signature is written in a cursive, slightly slanted style.

Bobbi Johnson, LMSW
Director
Office of Child and Family Services
Maine Department of Health and Human Services