



Administrative Office of the Courts

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Judicial Branch testimony neither for nor against LD 2283, An Act to Enact the Crisis Intervention Order Act to Protect the Safety of the Public:

Senator Carney, Representative Moonen, and members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide some comments regarding this bill.

While the Judicial Branch does not take a position on this bill, LD 2283 impacts court operations quite significantly resulting in questions and comments which are listed below.

- *Section 4803(2). Jurisdiction and venue.* The first sentence states that proceedings “must be commenced in the judicial division where the respondent resides, the judicial division where the petitioner resides or the judicial division where the law enforcement agency has jurisdiction.” Having three options for filing would be likely to cause confusion; it may be simpler to have one choice.

- *Same section as above.* If it is anticipated that emergency crisis intervention orders will be requested outside of regular business hours, the process would be expedited by the addition of justices of the peace to the list of those authorized to hear these matters.

- *Section 4804(1)(E). Crisis intervention orders.* This section indicates that the court “shall provide forms and clerical assistance to either party.” While the court routinely develops forms for public use, we do not provide clerical assistance to parties who will appear before the court. We do not have the staffing to do this; and we are concerned that court staff could be perceived as providing legal advice to one party. Additionally, the Court must be impartial, and assisting one party and not the other in preparing a filing gives the perception of partiality. There are no court forms with which a clerk presently assists a filer in completing.

- *Section 4804(2)(B). Hearing.* This section requires the court to appoint an attorney to represent the respondent at the hearing. While the court currently appoints attorneys in child protection and mental health matters, the crisis intervention proceedings would require a new category of non-criminal attorneys, presumably to be recruited and rostered by the newly named Maine Commission on Public Defense Services. It may be difficult to find attorneys to add to this new roster; and, distinct from the “Yellow Flag” statute, this is not a proceeding where a currently existing roster (i.e. mental health roster) could be used because of a similarity in process. This statute is more akin to protection from abuse or protection from harassment proceedings, and there is no court-appointed roster for those cases.

- *Section 4805(1). Emergency crisis intervention orders.* This section contemplates the filing of petitions for emergency crisis intervention orders during hours when the court is not open. This would be difficult to accomplish without the assistance of a law enforcement officer. There is no procedure currently for a member of the public to contact a court or a judge during non-business hours (i.e., nights, weekends and holidays). As stated above, the assistance of justices of the peace would be helpful if a way to contact them were developed.

- *Section 4805(1)(B). Emergency crisis intervention orders.* This subsection includes some specific language regarding means of communication such as telephone or email. First, we would ask that the Judicial Branch be authorized, but not required, to use electronic methods of communication. Language such as “reliable and secure electronic means” without specific reference to phone and email would be more accurate. Email is not always a secure way to transmit information, and while a judge could speak to a person or take an oath by phone in some circumstances, it would not be appropriate for a judge to give an order over the phone, as there is no recording or documenting of what transpired. Documentation is necessary to memorialize the order and to create a file for future proceedings.

- *Section 4807(1). Service.* This section requires the transmission of the court’s order to law enforcement in a manner similar to the transmission of protection from abuse (PFA) orders over the Metro switch. This part of the bill would require significant programming and time. An extension of the regular effective date would be necessary.

- *Section 4812. Data and reporting.* This section requires that certain data be collected and analyzed by the Judicial Branch, including demographic data. This can be accomplished by programming our two case management systems, MEJIS and Odyssey, to accommodate these proceedings. Please note that we do not usually collect demographic data in civil matters, except in protection from harassment (PFH) cases. The PFH orders are transmitted through the Metro Switch to law enforcement who use demographic descriptors such as hair color, eye color, height and weight, for identification purposes only.

Thank you for your consideration. A representative of the Judicial Branch plans to attend your work session on this bill to assist with answering any questions.