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March 12, 2025

Senator Ingwersen, Chair
Representative Meyer, Chair
Members, Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 134 – *An Act to Require Certain Individuals Who Instruct Children Under 18 Years of Age in Dance or Creative Movement to Undergo a Criminal Background check*

Senator Ingwersen, Representative Meyer and members of the Joint Standing Committee on Health and Human Services, thank you for the opportunity to provide information neither for nor against LD 134, *An Act to Require Certain Individuals Who Instruct Children Under 18 Years of Age in Dance or Creative Movement to Undergo a Criminal Background Check*.

This bill would require a criminal background check that complies with 42 United States Code, Section 9858f(b) for anyone who teaches dance to those under the age of 18. The referenced portion of the U.S. Code refers to requirements for fingerprint-based background checks under the Child Care and Development Fund (CCDF).

OCFS would like to share some information regarding concerns about the implementation of this bill as written. OCFS implemented the fingerprint-based background checks for licensed child care providers a few years ago and is acutely aware of the challenges associated with implementation. Chief among these is the significant work that is required to ensure that both the enabling statutory language and the rules that follow comply with requirements set forth by the Federal Bureau of Investigation (FBI) in order to enable access to national fingerprint-based criminal history information.

OCFS has conferred with the State Bureau of Investigation (SBI), our partners in working with FBI, and they have indicated the language of this bill would not suffice to allow access to the FBI database. Additionally, each fingerprint-based background check comes at a cost. OCFS has funded these background checks for child care providers using CCDF funding to ensure no fiscal impact to providers, but that funding is not an option for these background checks and thus individuals who teach dance will be required to bear the cost of their background check.

OCFS would also ask the Committee to consider that as currently proposed there would be no mechanism by which OCFS could hold an individual who teaches dance accountable for ensuring completion of their background check. OCFS uses child care licensing as a mechanism to monitor and ensure background checks are completed for child care providers, but dance teachers are not a licensed group and thus there exists no mechanism to enforce the background

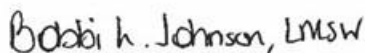
check requirement. Additionally, 22 MRSA §8301-A, specifically excludes programs offering instruction like dance, karate, basketball, etc. from the definition of licensed child care facilities and family child care providers. Background checks also present a regulatory hurdle that may discourage individuals from teaching dance, reducing the availability of these services for Maine children.

This bill is based on a desire to extend fingerprint-based background checks from child care providers to one group of adults who work with children in a limited capacity. OCFS believes this approach fails to recognize the significant distinctions between child care providers and dance teachers. Child care providers are entrusted with 100% of the responsibilities of caring for a child when that child is in their care. That includes feeding, rest, outdoor time, toileting/diapers, etc. This responsibility typically extends for hours and parents are almost never present to oversee or contribute to the care of their child during this time. In contrast, dance teachers are rarely ever entrusted with the same level of responsibility or for the same length/amount of time. Often parents are present for these classes, particularly when the children are younger and unable to meet all of their own needs independently. Music teachers, individuals who volunteer at schools, Sunday school teachers, youth sport coaches, and scout leaders are also adults who monitor and run activities for children but are not included in this bill. Dance teachers are just one category of what is likely hundreds of different types of adults that work with children in similarly limited capacities.

We urge you to consider this information as you move forward with LD 134.

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

Sincerely,

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

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