TESTIMONY OF GLBTQ LEGAL ADVOCATES & DEFENDERS
NEITHER FOR NOR AGAINST
LD 505, AN ACT TO UPDATE PROCESSES AND FEES IN THE PROBATE COURT
SYSTEM
Committee on Judiciary
March 13, 2025

Dear Senator Carney, Representative Kuhn, and Distinguished Members of the Joint Committee on Judiciary,

GLBTQ Legal Advocates & Defenders (GLAD Law) is a nonprofit legal organization that works in New England and nationally to create a just society free of discrimination based on gender identity and expression, HIV status, and sexual orientation. We appreciate the opportunity to submit this testimony regarding LD 505, An Act to Update Processes and Fees in the Probate Court System.

First, the increase in filing fees and costs proposed by LD 505 creates an opportunity for the Legislature to clarify that probate courts are obligated to offer fee waivers for litigants who are unable to pay the required fees or costs. Fee waivers are required by Rule 91 of the Maine Rules of Probate Procedure and Rule 91 of the Maine Rules of Civil Procedure. But in recent months, GLAD Law has received reports from the community that several probate courts throughout the state are refusing to offer fee waivers for certain filings, including name change petitions and, in at least one instance, a guardianship petition.

GLAD Law offers for the Committee's consideration the following language to be added to each section of LD 505 that mentions filing fees, costs, or charges: "For all filing fees, costs, or charges set forth in this section, fee waiver applications shall be made available to persons seeking to proceed without payment. Courts shall process fee waiver applications as set forth in Rule 91 of the Maine Rules of Probate Procedure and Rule 91 of the Maine Rules of Civil Procedure."

Second, the verification requirement and sanctions proposed by Section 3 are controversial among legal experts. Some critics argue that such requirements are confusing, burdensome for parties, and unnecessary given existing procedural and ethical rules regulating the practice of law by attorneys.[1] Others highlight special considerations weighing against regulation of artificial intelligence usage by parties who are not represented by an attorney.[2]

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[1] Jonathan Lent & Kyu Young Paek, *Common Issues That Arise in AI Sanction Jurisprudence and How the Federal Judiciary Has Responded to Prevent Them*, Am. Bar Ass'n (Sep. 17, 2024), http://americanbar.org/groups/business_law/resources/business-law-today/2024-september/common-issues-arise-ai-sanction-jurisprudence/.

[2] Gary E. Marchant, *Artificial Intelligence, Judges, and Legal Ethics*, National Civil Justice Institute 1, 19-20 (July 20, 2024); Maria E. Berkenkotter & Lino S. Lipinsky de Orlov, *Can Robot Lawyers Close the Access to Justice*

There is a major gap in access to justice in Maine and the United States.[3] An increasing number of litigants must represent themselves because they cannot afford an attorney.[4] AI can help these self-represented litigants navigate the legal system and prepare higher quality filings.[5] In this way, AI could significantly expand access to the legal system. But Section 3 could leave self-represented litigants vulnerable to court sanctions for relying on AI if they are not aware of new AI verification requirements or if they lack the skills to verify the accuracy of legal information accessed through AI tools.

While the use of AI by self-represented parties raises some concerns, those can be managed by judges through existing court processes.[6] At a minimum, further study is warranted to balance access to justice against the risks posed by AI, especially given our rapidly evolving technological landscape.[7] For these reasons, GLAD Law suggests at a minimum that the Committee consider limiting Section 3's verification and sanctions language to apply only to attorneys.

GLAD Law thanks the Committee for considering these suggestions during the upcoming work session on LD 505.

Sincerely,

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Sarah Austin, Staff Attorney, GLAD Law
Hannah Hussey, Staff Attorney, GLAD Law

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Gap?, Colorado Lawyer (Dec. 2024), https://cl.cobar.org/features/can-robot-lawyers-close-the-access-to-justice-gap/.

[3] *See* Marchant*, supra* note 2 at 19; Berkenkotter & Lipinsky de Orlov, *supra* note 2; Pine Tree Legal Assistance Annual Report 2022 at 10 (noting that landlords have legal representation in about 80 percent of eviction cases, while tenants have representation in only about 20 percent of cases), *available at* https://www.ptla.org/sites/default/files/PTLA%20Annual%20Report_2022_0.pdf.

[4] Marchant, *supra* note 2 at 19.

[5] Shana Lynch, *Harnessing AI to Improve Access to Justice in Civil Courts*, Stanford University: Human-Centered Artificial Intelligence (Mar. 4, 2025), https://hai.stanford.edu/news/harnessing-ai-to-improve-access-to-justice-in-civil-courts; Marchant, *supra* note 2 at 19; Berkenkotter & Lipinsky de Orlov, *supra* note 2.

[6] Marchant, *supra* note 2 at 20.

[7] Berkenkotter & Lipinsky de Orlov, *supra* note 2.