



TESTIMONY OF ALICIA REA, ESQ.
LD 592 – Ought Not to Pass

**An Act to Amend the Laws Governing the Crime of
Endangering the Welfare of a Child**

Joint Standing Committee on
Criminal Justice and Public Safety

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Senator Beebe-Center, Representative Hasenfus, and distinguished members of the Joint Standing Committee on Criminal Justice and Public Safety, greetings. My name is Alicia Rea, and I am a policy fellow at the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions. On behalf of our members, I respectfully urge you to oppose this bill.

Under current law, a parent, foster parent, guardian or other person responsible for the long-term care of a child faces up to five years in prison if they recklessly endanger the child in a manner that leads to the child's physical injury.¹ Depending on the facts of the case, the accused can be charged and convicted for multiple counts of this same crime, and face a decade, or even multiple decades, of prison time.² The bill before you would create two new felony crimes if a person who has a duty of care for a child is found to have been reckless or consciously disregarded a risk, leading to injury of that child.

Imposing tougher punishments for behavior that is already criminalized will only expand the reach of failed systems. It punishes after the fact but does not prevent the victimization of children.

Imposing tougher penalties will, however, open the door to the increased criminalization of poor women, especially women of color. Laws that punish a failure to protect can lead to outcomes where victims of domestic violence end up with longer prison sentences for failing to protect their children than their abusive partners. This bill will also disproportionately punish parents, particularly women, who struggle with substance use. Policies that threaten women with criminal prosecution and the loss of their

¹ 17-A MRS §554 (l)(B-2).

² See 17-A MRS §554 (l)(B-2); §1608 (defining circumstances in which a court can order multiple sentences of imprisonment).



children drive women away from health care and discourage them from seeking help and safety.

In Oklahoma, an analysis showed that, between 2009 and 2018, women made up 93% of those who were convicted of failure to protect in the state.³ There are numerous examples where women are serving longer sentences than the actual perpetrators of violence in Oklahoma, which enacted its failure-to-protect statute in 1963.⁴ The criminalization of failure to protect is a regressive policy that penalizes mothers living in poverty who do not participate in the abuse of their children.

Maine should only expand its criminal code when doing so is necessary to address the problem at hand. That is not the case here. Instead, Maine needs to do a better job of getting services and support to children who are legally entitled to those protections.

We urge you to vote ought not to pass.

³ See Meghan Lambert & Lindsey Feingold, *Oklahoma's Failure to Protect Law and the Criminalization of Motherhood*, ACLU of Oklahoma, Nov. 29, 2020, available at <https://www.acluok.org/en/publications/oklahomas-failure-protect-law-and-criminalization-motherhood>.

⁴ See Mother Jones, *The Mother Trap: Kerry King never hurt her children. Why is she in prison for more time than the man who abused her daughter?*, July 1, 2022; Reese Gorman, *Mother first in five years to be charged in county under statute*, The Norman Transcript, July 31, 2020; Darla Slipke, *Mother imprisoned under failure to protect laws reflects on first months of freedom*, Oklahoman, February 3, 2020.