



MAINE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

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March 24, 2025

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Senator Anne Carney, Chair
Representative Amy Kuhn, Chair
Joint Committee on Judiciary
5 State House Station, Room 438
Augusta, ME 04333

RE: LD 1175: An Act Regarding the Appointment and Payment of Counsel for Indigent Parents and Minors

Dear Senator Carney, Representative Kuhn, and Honorable Members of the Judiciary Committee:

The Maine Association of Criminal Defense Lawyers is a non-profit organization that has nearly 300 member attorneys who practice criminal defense across the state. Since 1992, MACDL has advocated for its members and the people we are fortunate to represent in courtrooms throughout Maine and at the State House.

MACDL presents this testimony to **oppose** LD 1175.

The Judicial Branch has asked that *this* bill be presented to *this* Legislature—during *this* budget cycle. This is a bizarre and troubling bill.

Time and again the Judicial Branch will not testify in support of increased funding for the Maine Commission on Public Defense Services, but it somehow deems it appropriate to present this bill that would *command* MCPDS to pay attorneys in matters that have traditionally been paid for by the Judicial Branch.

Similar to last week's emergency bill, LD 1101, this bill would end run MCPDS entirely in that it allows the court to appoint any attorney to represent an indigent parent and/or child without having that attorney subject to vetting or other qualification standards—yet still requiring MCPDS to shoulder that financial burden entirely. Once more, the Judicial Branch wants to control the appointment of counsel but does not want to pay for it—which is the true motivation behind this bill.

This bill, in practice, would also require MCPDS to pay for counsel on both sides of a legal dispute, which creates a host of ethical conflicts that this perfunctory, ill-conceived bill does not address.

MCPDS is tasked with providing high-quality, effective representation to people who are constitutionally or statutorily eligible to receive such services as the cases they are involved in involve the possible deprivation of either liberty or the loss of their children to the State. This bill would expand the scope of MCPDS's responsibilities beyond its statutory mandate.

Perhaps if the Judicial Branch would like to explore the subject matter of this bill more seriously, they could arrange discussions with MCPDS leadership to see what, if anything, MCPDS is able to do—and under what conditions—regarding the payment and oversight of

counsel in these matters. And, if such a discussion leads to an understanding, then the Judicial Branch could put forth a bill that is fleshed-out and thoughtful—perhaps even with the approval of MCPDS should concerns be worked out. My understanding is that this bill came as a surprise to MCPDS and was scheduled for a public hearing this Monday at 5:45 p.m. this past Friday—which gives MCPDS and the public *only one working hour's notice* to digest this bill and prepare testimony on this bill. That leaves not even enough time for a phone call, much less an involved discussion about what the Judicial Branch wants MCPDS to do and why. How is this fair?

It is critical for MCPDS to be responsible—independently—for both the oversight and evaluation of all its defense providers. It must have the authority to create and ensure standards for effective representation. MCPDS's independence insulates it from the whims of political pressure or judicial interference—no matter how beneficent in its intention. This bill would require MCPDS to pay attorneys over whom MCPDS has no oversight nor for whom MCPDS has developed any qualifications or practice standards. How does this make sense?

Because this bill would cut into MCPDS's funding that is designated for counsel to represent people in constitutionally or statutorily mandated criminal, juvenile, appellate, and similar matters, MACDL opposes this bill. In addition, because this bill does nothing to ensure that the counsel being appointed to people in these proceedings is qualified or accountable to MCPDS, we oppose this bill for the same reasons we opposed the Judicial Branch's bill LD 1101 last week.

Thank you for your consideration, for your attention to this important matter, and for allowing me to present this testimony to you all today.

Sincerely,

A handwritten signature in blue ink, reading "Tina Heather Nadeau". The signature is fluid and cursive, with a large loop at the end.

Tina Heather Nadeau, Esq.
MACDL Executive Director