Written Testimony of Sarah Crittenden Loud, Esq. in support of LD 891
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For a Public Hearing of the Maine Legislature Committee on Health and Human Services
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To the honorable committee members:

I write in support of LD 891 with regard to the proposed change to the definition of neglect and abuse. I practiced in Texas before moving to Maine in 2023. I was board certified in Child Welfare Law by the Texas Board of Legal Specialization, and I represented both parents and children under the Texas Family Code. I practiced both before and after the changes to the Family Code enacted by the Texas Legislature in 2021. Among other things, the definition of neglect was revised to mean "an act or failure to act by a person responsible for a child's care, custody or welfare evidencing the person's blatant disregard for the consequences of the act or failure to act that results in harm to the child or that creates an immediate danger to the child's physical health or safety." This was a shift from the previous definition of "substantial risk" to one of actual harm or immediate danger. Over the past four years, this narrowing of the definition of neglect resulted in far fewer Texas children being removed from their homes. [1] This is not only a cost saver for the state, as it is less expensive to support children in the home with the necessary resources, but it is a significantly better outcome for children. Study after study has shown that removal itself is traumatic, disruptive to the child's neurological and socio-emotional development, and can lead to attachment disorder as well as a plethora of behavioral disorders. Moreover, the Texas DFPS reports that child fatalities, near fatalities, and serious injuries have been declining since the change to the definition of neglect in 2021 and the corresponding emphasis on supporting children and families within the home.[2]

LD 891 adds important language that would change current definition of "neglect and abuse" which is broad enough to encompass any "threat" to the child. The current definition leads to a culture within the Department of Health and Human Services of "better safe than sorry," such that a removal from the home may occur where a young, inexperienced caseworker perceives a risk of a threat. The proposed change would require

[1] https://imprintnews.org/top-stories/texas-policies-fewer-foster-care-removals/248935

[2] https://www.dfps.texas.gov/About_DFPS/Reports_and_Presentations/Office_of_Child_Safety/documents/child-fatality-reports/2025-03-05_Child_Maltreatment_Fatalities_and_Near_Fatalities_Annual_Report.pdf

a direct and identifiable threat. The proposed change would also require actual efforts to prevent removal of the child from the family. Currently, caseworkers are told to do a "safety assessment," which is completely subjective. A caseworker may walk into a home which is dirty, smells bad, lacks bedding or even beds for the children, and see risk. Parents who use rough language, who are suspicious of the State (with a capital S), are seen as aggressive and intimidating by caseworkers, and this is also perceived as risk.

I'd like to tell the story of this family as an illustration of how the overly broad definition led to the removal of a newborn from her parents for the first two weeks of her life.

35 year old Melissa was married to 48 year old Tom. Each had a traumatic and tragic history. Melissa was in a violent and abusive relationship with her first husband. She was able to leave but not before agreeing to give up her parental rights to her 3 young children. That had been 12 years ago.

Tom and his first wife were both addicted to opiates. Tom fell asleep in the bathtub while giving his young child a bath, and the child drowned. The death was found to be accidental; Tom subsequently addressed his addiction and was granted sole custody of his other child. Eleven years passed and Tom had been sober and productive.

Tom and Melissa fell in love and married and decided to have a child together. Melissa had complications at the birth and had to have an emergency hysterectomy. While at the hospital Melissa mentioned to staff that she was grateful to have another chance at being a mother, as she had lost her parental rights to her other children many years ago. Staff reported this to DHHS, and an investigator showed up in the hospital room for a "safety assessment." The parents were both exhausted and emotional, were triggered by their previous history of loss and their dealings with the State, and were belligerent and aggressively rude to the caseworker. The "safety assessment" determined that the prior history combined with the rude parents meant there was a risk to the baby, and DHHS obtained a Preliminary Protection Order, and placed the newborn in foster care.

Twelve days later, the court held a summary preliminary hearing and found that the baby was not at risk of immediate harm, vacated the preliminary order, and ordered the baby returned to the parents. Twelve days may not seem like a long time to most of us but to a newborn this is an entire lifespan, and studies show that it's critical bonding time for babies with their parents. This was also a 12 day period during which these parents, who had endured unthinkable loss, trauma and tragedy in their lives, were forced to revisit those events and feelings.

It is important to note that this case started at a time when there were attorneys available to accept court appointments to represent the parents, and the court was able to schedule a summary preliminary hearing within 14 days. The availability of attorneys and court time has since drastically reduced, and if this same case were to start today, the parents could be waiting weeks or even months for attorney representation. Meanwhile, without a stricter

definition of neglect and abuse, DHHS caseworkers apply their own subjective standards to families, removing children at a rate that far exceeds the national average. Maine can do better, and should do better for its families.

Respectfully submitted,

Sarah Crittenden Loud, Esq.