

SANDERS, HANSTEIN, CAREY & PERRY, P.A.
Attorneys at Law

PO Box 192
Farmington, Maine 04938
(207) 778-3432
FAX: (207) 778-0526

David M. Sanders (Retired)
Walter Hanstein (Retired)
Thomas J. Carey
Ashley T. Perry

tom@sandershanstein.com
ashley@sandershanstein.com

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Written testimony of Ashley T. Perry, Esq. in support of L.D. 891: An Act to Exclude Poverty as a Factor When Determining Instances of Willful Neglect or Abuse of a Child

Senator Ingwersen, Representative Meyer, and distinguished members of the Health and Human Services Committee, I am offering testimony in support of LD 891, “An Act to Exclude Poverty as a Factor When Determining Instances of Willful Neglect or Abuse of a Child.”

My name is Ashley Perry, and I am a partner at the law firm of Sanders, Hanstein, Carey & Perry, P.A., in Farmington, Maine. I have a diverse practice that, among other areas of law, includes representation of parents for protective custody cases as well as serving as a Guardian *ad Litem* for protective custody cases. I am also a board member for the Maine Parental Rights Attorneys Association, the Maine Child Welfare Advisory Panel, the Maine CASA Advisory Panel, and the Franklin County Board of Visitors.

Simply put, Maine is in a state of crisis. A dearth of community services (such as case management services, mental health providers, substance treatment providers, family therapy, visitation services, public transportation, daycare, affordable housing, funding to lessen the impacts of rising inflation, etc.) exacerbates the strain on the system that we see from the high turnover of DHHS caseworkers, the shortage of attorneys, limited court resources, and more. The result of this complex crisis is that we have a child welfare system that is overburdened, overbroad, and inconsistent. Despite these factors, Maine continues to investigate more families than the majority of other states in the country¹, substantiate parents for child abuse or neglect at a rate twice that of the national average², and remove children at a rate twice that of the national average³. While the national foster care population *declined* 15% between 2018 and 2022, Maine’s foster care population *increased* 40% over that time period.⁴ Further, it is indisputable that Maine’s child welfare system disproportionately affects impoverished families and families

¹ [ChildMaltreatmentAR2023_FINAL](#), page 35.

² [Report: Maine tops country in child abuse and neglect](#)

³ [2020 NCCPR RATE OF REMOVAL INDEX 2020ror.pdf - Google Drive](#)

⁴ [Data shows Maine's child welfare agency is moving against national trends | newscentermaine.com](#)

of color. Of these startling rates of substantiations and removals, the vast majority are based on findings of neglect, rather than abuse⁵. And yet, our current statute fails to meaningfully define “neglect”.

My career as a parent’s attorney and as a GAL is consistent with Maine’s statistics, in that the vast majority of families I have worked with in this context have been accused of child *neglect* rather than child *abuse*. In practice, poverty is a factor present in the majority of these cases. When I reflect upon the rare cases where a family *was not* impacted by poverty, I can anecdotally share that a family with access to financial resources is far more likely to survive DHHS interaction with their family intact and is far more likely to do so at a faster rate. Without a meaningful definition for “neglect”, it has been the rule—not the exception—for parents to be punished for their financial insecurity.

The ways that parents have been punished by poverty are so prevalent and pervasive, it is almost too much to put into words. Nonetheless, these are some of the common examples my clients have experienced:

- A blanket “safe and stable housing” requirement conflates a child’s need for safe and adequate shelter (which could be accomplished by the family staying with friends, staying in a hotel, staying in a family-friendly shelter, etc.) with a requirement for the parent to obtain their own long-term housing (which is often unattainable due to lack of available affordable housing, limited availability of State and/or Federal housing assistance, prior eviction records as a result of poverty, lack of case management services to help parents navigate the system, etc.).
- An impoverished parent is statistically more likely to be a victim of domestic violence and far more likely to be trapped in the cycle of domestic violence because they lack the resources and financial independence to leave an abusive partner⁶. It is not uncommon for DHHS to investigate and remove children from these parents, based on “failure to protect” their child, solely because they have lacked the resources to be able to safely extricate themselves from their abuser. These parents have been forced to prioritize short-term, immediate survival needs over long-term solutions. These parents need resources to be able to meet the short-term and long-term needs for themselves and their child—they need help, not the removal of their child.
- A parent without reliable transportation often must rely on transportation services available through MaineCare and/or agencies contracted by DHHS, which are often unreliable. It is not uncommon for rides to be canceled for weather, to not show up at all, to show up without notifying the parent in advance, or to leave without the parent if the parent is not waiting outside. These agencies typically have strict policies regarding what they deem as “no-shows” or last-minute cancellations, that often result in the parent having their rides suspended *even if the cancellation is not the parent’s fault*.

⁵ [The AFCARS Report: Maine](#)

⁶ [Income Influences Level of Protection From Domestic Violence | Psychology Today](#)

- A parent may still struggle with transportation even if they have a vehicle because they are not able to afford gasoline to make it to all of the various appointments, court events, visits, drug screens, etc. that may be scheduled that week (and may be scattered all over the State of Maine). Even if DHHS agrees to reimburse the parent for the mileage, that does not help the parent that cannot afford to pay for the gasoline up front.
- Perhaps worst of all is the reality that our current system perpetuates these systemic inequalities. Once a child is removed from a family, the parents are almost certainly going to be subject to a long list of requirements in order to get their child back, which often seem more like a test of the parent rather than a helpful “service”. Common requirements include mental health counseling, substance use counseling, case management services, evaluations, visitations with their child, random drug screens, meetings with DHHS, Family Team Meetings, attendance at all of the child’s appointments, court dates, and more. It is not uncommon for parents to have five to ten events scheduled throughout each week. Especially for parents in rural Maine, this often means that each appointment is scheduled in a different town or county. If the parent relies on public transportation, sometimes a one-hour ride turns into a two- or three-hour ride, if the driver is transporting multiple passengers and making multiple stops. When the demands of “reunification” take up the majority of the parent’s week, it is virtually impossible for the parent to maintain employment. Few employers will allow their employees the flexibility to arrange their schedule around the time-consuming, inconsistent, unpredictable, and often last-minute demands of “reunification”. A parent who is employed at the start of DHHS’s involvement is not likely to maintain consistent employment throughout DHHS’s involvement, further exacerbating the poverty problem.

Being poor does not mean that you cannot care for your child. Being poor does not mean you do not love your child. Children need their parents, and being poor does not make you a bad parent. Maine’s most vulnerable families are being torn apart—often permanently—at an alarming rate by our current system that serves to punish poverty. Children are being traumatized by removal and are suffering severe consequences. I offer support for L.D. 891 because eliminating poverty from the definition of neglect and distinguishing willful behavior from systemic inequities will help protect and strengthen Maine families. Passing L.D. 891 could lay the groundwork for vulnerable families to actually receive the help they need, without the threat of immeasurable harm to their family. I urge you to pass L.D. 891.

Contact Information:

Ashley Perry

Sanders, Hanstein, Carey & Perry, P.A.

Phone: (207) 778-3432

Email: ashley@sandershanstein.com