Testimony of Melissa Hackett
In support of LD 1544, An Act to Support Families by Improving the Court Process for Child Protection Cases
Judiciary Committee
April 14, 2025

Senator Carney, Representative Kuhn, and esteemed members of the Judiciary Committee. My name is Melissa Hackett. I am a policy associate with the Maine Children's Alliance, where I serve as the coordinator for the Maine Child Welfare Action Network. We are a group of organizations and individuals who are focused on collective action to ensure the safety and well-being of all children, youth, and families in Maine. I am offering testimony in support of LD 1544.

This legislation represents several recommendations made by the Maine Child Welfare Advisory Panel (MCWAP), one of three child welfare citizen review panels in Maine. I also serve as a member of MCWAP. I will address each of these three components of the bill.

The first recommendation is: "A prior involuntary termination of parental rights as an aggravating factor (Title 22, Section 4002(1-B)(C)) should be repealed." The impact of this is that the Department can obtain a court order that eliminates what would otherwise be their responsibility to provide reasonable efforts to reunify a child with their parent(s). Importantly, the prior involuntary termination may have been years beforehand, and thus not representative of the current capacity of the parent to engage successfully in rehabilitation and reunification services. Many partners shared their concerns that this might represent a disincentive for a parent to challenge a termination of their rights, for fear this would work against them with a future child. Perhaps most worth noting is how much this aggravating factor stands out among the other grievous offenses that would preempt the need for the Department to provide reasonable efforts to reunify parent and child. The other aggravating factors are:

"the parent has subjected any child that they were responsible for to rape, gross sexual assault, sexual abuse, incest, aggravated assault, kidnapping, promotion of prostitution, sexual exploitation of a minor, sex trafficking, abandonment, torture, chronic abuse, or any other treatment that is heinous of abhorrent to society; the parent has refused for 6 months to comply with the treatment required in a reunification plan; the parent has been convicted of a crime of murder, felony murder, manslaughter, aiding, conspiring or soliciting murder or manslaughter, felony assault that results in serious bodily injury of another child in their care; the parent has abandoned the child."

Parents have a constitutional right to raise their children. This right should not be infringed upon lightly. While the other aggravating factors might sensibly rise to an

appropriately high bar to justify the permanent severing of the parent-child relationship, a prior involuntary termination does not. This should be remedied by removing this as an aggravating factor.

The second recommendation is that “Title 22, Section 4055 should be amended to make the Department’s obligation to provide reasonable efforts to rehabilitate and reunify a discrete element that is required prior to termination of parental rights.” Making reasonable efforts to reunify families through supports and services is federally required for state child welfare agencies. Yet parents in several law court cases in Maine have argued that the Department failed to provide reasonable efforts to reunify. Even in cases where the trial court agreed, the Court determined it could not use this as a basis for overturning the termination of parental rights. Making reasonable efforts a discrete element would remedy this. Especially at a time when access to supports and services is challenging for families across Maine, it is critical that this lack of access does not relieve the Department’s obligation to provide reasonable efforts to prevent the permanent severing of the parent-child bond.

The third recommendation is that “OCFS and the Courts explicitly consider and weigh the harm/trauma of removal on the child with the immediate risk of serious harm and whether the Department has exhausted options to mitigate that risk.” A body of research supports that children experience trauma when they are separated from their families.[i] This should be weighed in the balance with the possible harm of a child remaining with their families when there are safety concerns, especially when supports and services could be brought into the home to ameliorate them. Several states have taken action to strengthen the consideration of harm of removal in court processes, and Maine should follow suit.

What all these recommendations come down to is acknowledging – and responding – to the harm children experience when they are separated from their families. That trauma has immediate and long-term impacts for their healthy development and well-being that affects their outcomes into adulthood. We all want children to be safe. And children do best when they can remain with their families. We can and must carry both child safety and the harm of family separation throughout the legal processes that structure the child welfare agency and court intervention with families when children are unsafe.

Parents have a right to raise their children, and children have a right to grow up with their families. This is fundamental. And it is supported by research and evidence that demonstrates the negative impact on children when they are separated from their families. We should ensure that the bar is appropriately high in disrupting or severing the parent-child bond, and that every effort has been made to ensure that whenever

possible, we provide supports and services to families that bring safety into the home and keeps children with their families.

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[i] American Bar Association, Law Journal Articles and Related Materials, https://www.americanbar.org/content/dam/aba/publications/litigation_committees/childrights/child-separation-memo/law-journal-articles-and-related-materials.pdf