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THE MAINE SENATE

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Testimony of Senator Anne Carney introducing
LD 580, An Act to Improve Family Court Procedure
Before the Joint Standing Committee on Judiciary
March 15, 2023

Representative Moonen and esteemed colleagues on the Joint Standing Committee on Judiciary, as you know, I am Anne Carney, proudly representing Senate District 29, which includes South Portland, Cape Elizabeth, and part of Scarborough. Today I am pleased to introduce LD 580, An Act To Improve Family Court Procedure. This legislation, if enacted, will create a process for requesting an ex parte court order to address an emergency involving parental rights and responsibilities when there is an immediate and present risk of substantial harm to the health or safety of a child or children.

The 130th Legislature passed LD 1577, a Resolve directing the Maine Commission on Domestic and Sexual Abuse to create a Working Group to study possible solutions for families facing emergency custody situations. The Working Group included members of the Commission on Domestic and Sexual Abuse, representatives of the Maine Judicial Branch, family law practitioners, members of the Family Law Advisory Commission, representatives of a statewide coalition to end domestic violence and any others that the Commission determined to be necessary participants. This committee received the December 2022 Report from the Maine Commission on Domestic and Sexual Abuse, which included this legislation at Appendix E.

I would like to highlight a few aspects of the report that are relevant to your consideration of this legislation.

First, the working group conducted an excellent survey of professionals working with or responding to families with urgent parental rights and responsibilities concerns and of parents with experience of the family court's response to their urgent parental rights and responsibilities concerns. They also looked at Family Court motion data and ex parte processes in other states. They have provided policy makers with significant concrete information on which to base our work on this bill. Their research is attached to the report and makes the strongest case for this legislation.

Second, generally speaking, the information gathered by the working group pointed in the same direction. They recommended creation of an ex parte process in Maine's family courts for families who experience crises that do not qualify for the issuance of a protection from abuse order. Specifically, they recommended that Title 19-A be amended to include an ex parte petitioning process to obtain an emergency order of parental rights and responsibilities.

Third, the working group made an urgent plea for adequate funding for Maine's courts, especially the Family Court, so that the needs of families can be met. As a practical matter, an ex parte process means little if our courts do not have the capacity to provide a timely hearing and order on a request for an emergency order of parental rights and responsibilities. I want to read you a portion from page 23 of the report:

When 72% of professionals and parents asked indicate the family courts are not consistently able to provide a timely response to families in crisis, to leave Maine's family courts at status quo is to do so knowing that families are going to either withhold their child from the other parent absent clear court authority to do so, at risk of later being held in contempt by the court or prompting an unsafe reaction from the other parent, or to send their child into what they have reason to believe is an unsafe situation. None of these options is in the best interest of Maine's children.

This committee has supported additional resources to the Judicial Department that will increase District Court judges and staff. I think we should work with the Judicial Department to determine the timeframe needed to implement this process for an emergency order of parental rights and responsibilities and ensure that resources are available to provide a timely response to families in crisis. The legislation also proposes continuation of the working group and a report back to this committee in three years. We are fortunate to have the commitment of the working group to support implementation of this process, and the report back will help us identify how the process is working and what statutory changes or resources might be needed in the future to ensure that the needs of Maine families in crisis are met.

Thank you for your consideration and time. I am happy to answer your questions.



Anne Carney
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