



**Testimony of Jade Richards, Esq.
Pine Tree Legal Assistance, Inc.**

Speaking in Support of LD 580

**An Act to Improve Family Court Procedure
Before the Joint Standing Committee on Judiciary**

Date of Public Hearing: March 15, 2023

Senator Carney, Representative Moonen, and members of the Joint Standing Committee on Judiciary,

My name is Jade Richards. I am a staff attorney in the Family Law and Victim Rights Unit at Pine Tree Legal Assistance, Inc., and I am speaking to you today in support of LD 580, An Act to Improve Family Court Procedure.

I have been asked to share the perspective of Pine Tree Legal Assistance on these issues and I am speaking today on behalf of Pine Tree Legal Assistance (Pine Tree). Pine Tree is a nonprofit organization with offices in Portland, Lewiston, Augusta, Bangor, Machias, and Presque Isle. Since 1967, Pine Tree has provided free legal services to low-income people throughout the State of Maine.

Attorneys in Pine Tree's statewide Family Law and Victim Rights unit represent survivors of domestic violence, sexual assault, and stalking. In 2022, we represented survivors in 1,333 cases, primarily Protection from Abuse, family matters, and other civil legal cases related to the violence they have experienced.

This bill is important because it creates a process that protects children in instances when the Protection from Abuse process is not appropriate, and the family court process is not available to respond in a timely way to the emergency situation. Throughout Pine Tree's statewide family law and protection from abuse practice, attorneys have noticed a tremendous need for an emergency parental rights and responsibilities process. The Maine Protection from Abuse statute is relatively narrow regarding what constitutes abuse and qualifies a person to obtain a Protection from Abuse Order. There are many instances where a child is not being abused under the legal definition, but still may be at risk of harm. These cases are most appropriately handled in family court. However, the family court process is lengthy, and parties are typically required to wait a period of months before being heard on the merits of their case. Because of this, protective parents often face the choice of protecting their child, or, assuming there is already a

family court order in place, being in contempt of that order by withholding their child from the other parent in order to protect the child.

For instance, in one matter that Pine Tree handled, a family had a court order that allowed the father to visit with the minor children at his home. The father had previously committed domestic violence to the mother and the mother obtained a Protection from Abuse Order for herself against him. Despite the Protection Order, the father texted and called the mother 50-100x per day threatening to come to her home. The father was arrested for violation of the Protection Order. After his release and during a visit with the children, the father became suicidal and stabbed himself several times in front of the children, ages 7 and 5. It was clear that the children would not be safe if they continued visiting the father unsupervised at that time. However, the father stabbing himself in front of the children did not meet the legal definition of abuse under Maine law and therefore the children's mother could not obtain a Protection from Abuse Order on the children's behalf. The mother was left with the decision to either allow the children to continue seeing the father per the current court order, or to make a parenting decision to withhold the children in violation of the court order while waiting for the family court process to get underway.

On another occasion a family had a parental rights and responsibilities order that allowed the father contact with the parties' pre-teen son. During one visit the father became heavily intoxicated and forced his son into the vehicle with him despite his son's pleas for his father not to drive intoxicated. Once in the vehicle, the father crashed into a telephone pole. The father drove away and went to one of his friend's homes. The child ran inside where the friend called the child's mother. Despite the earlier crash, the father again attempted to get the child back in the vehicle to leave the friend's home. The friend thankfully intervened. After that, the child did not feel safe visiting his father without someone else present. Again, the protective parent had to choose to violate the current court order to protect her child, or to continue sending the child to visit with an unsafe parent.

Further, in one matter handled by a Pine Tree attorney, the child was enrolled in school in northern Maine. There were no court orders in place. The father then enrolled the child in school in southern Maine without the mother's consent. The mother was finally able to get the child back and attempted to enroll her in school back in northern Maine. The school refused enrollment until there was a court order regarding primary residence of the child, given the amount of back and forth. This resulted in the child missing almost the entire Kindergarten year of school while the family waited for a resolution in their family matter case.

On numerous occasions Pine Tree attorneys have represented clients in cases where their minor children have been sexually assaulted or physically abused by the other parent. Often, these children are much too young to testify in court. Because of this, the Protection from Abuse process is not a viable option to seek protection. However, well-meaning Department of Health and Human Services agents often urge clients to file Protection from Abuse Complaints. At that point, the client must then dismiss their Protection Order Complaint after being advised by an attorney that they cannot meet their burden of proof at a hearing. Again, these parents are left

with the choice to withhold the child from the other parent, potentially in violation of a court order, or to send the child to visit with their alleged abuser.

With an emergency parental rights and responsibilities process in place, these families would have access to an immediate court order that protects the children. The process would allow the court to immediately become involved, to craft a safe visitation structure for the child and other parent when appropriate, and to potentially appoint a Guardian *ad Litem* to investigate the matter at an earlier stage than is now possible in the current family court structure.

The instances when an emergency parental rights and responsibilities process would be helpful to Maine families is unlimited. Described above are just some of the most common examples that we see. All scenarios end with the same result though, either the child must continue enduring the status quo while waiting months for a hearing date in the family court process, or for the protective parent to withhold the child and face a finding of contempt with possible jail time and fines being imposed.

Thank you to Senator Carney and this committee. Your support of the addition of an emergency parental rights and responsibilities process to the existing statutory scheme will ensure that courts can quickly and effectively address the best interest of the children in Maine. I urge you to pass LD 580 and am happy to answer any questions.

Contact Information:

Jade Richards, Esq.
Staff Attorney, Family Law and Victim Rights
Pine Tree Legal Assistance, Inc.
PO Bo 2429; 39 Green Street
Augusta, ME 04338
207-400-3231
jrichards@ptla.org