



## MAINE COMMISSION ON DOMESTIC AND SEXUAL ABUSE

Testimony of Lucia Chomeau Hunt

Speaking in Support of LD 580  
An Act to Improve Family Court Procedure

Date of Public Hearing: March 15, 2023

Senator Carney, Representative Mooney, and members of the Committee on Judiciary:

My name is Lucia Hunt. I am a member of the Maine Commission on Domestic and Sexual Abuse (“the Commission”) and co-chair of the working group that the Commission convened to study the issues presented in Resolve 2021, Chapter 99. I am here today speaking on behalf of the Commission in support of LD 580, An Act to Improve Family Court Procedure.

The Commission is comprised of law enforcement, attorneys, advocates, survivors, tribal members, representatives of underserved communities, a judicial advisory member, and representatives from within state government.<sup>1</sup> The Commission is tasked with advising and assisting the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse.<sup>2</sup> The working group had the opportunity to present the study and recommendations of the Commission to this Committee earlier this session, and supports the new process that this bill creates to address the lack of an adequate response to emergency situations in Maine’s family law courts. The Commission is also willing to remain engaged in evaluation of the process as proposed.

My testimony is focused on the substance of the proposed statute, and will highlight the standard, the process, and the way the process will work within Maine’s family law statutory scheme. I am also proposing a minor amendment to clarify the scope of the statute.

**This bill codifies the authority for the court to issue an emergency order if there is risk of substantial harm to a child**

Working with FLAC and based upon other feedback from stakeholders, this proposal would allow the court to enter an order if there is an **immediate and present risk of substantial harm** to the health or safety of a child. This high standard means that the person seeking the order would have a high burden

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<sup>1</sup> 19-A M.R.S. § 4115 (1)

<sup>2</sup> 19-A M.R.S. § 4115 (3)

of proof and would have to show that the court that the child or children are in immediate danger. Although there are many situations that parents may want to address as soon as possible, this process is intended to apply only in the most dangerous situations, where children need the court to intervene and enter an order right away, even if the other parent cannot be notified and is not present.

**If the court finds that there is an emergency, a temporary order can be put in place to keep the child safe**

There is no current process other than Protection from Abuse to address an emergency like a parent overdosing, threatening suicide, or threatening to take a child and move to another state. This process would allow the court to protect a child by:

1. Allowing one parent to make decisions about the child
2. Limiting or prohibiting contact with a child
3. Preventing a parent from relocating with a child, or permitting a parent to relocate a child
4. Any other relief necessary at the discretion of the court

**A hearing must be held within 21 days, or sooner if necessary**

If the court grants an emergency order, a hearing will be scheduled within 21 days to address the need to keep the emergency order in place. If the other party needs to be heard sooner than the hearing is scheduled, a process for dissolution of the emergency order is also included. The court has broad discretion to make other orders, including scheduling orders, as needed.

**This proposal does not create a new type of family law action, but a different entry point into the existing statutory scheme.**

This process would be part of the existing court process, not a stand-alone action like a PFA. Hearings would only occur if the court enters an emergency order. Although these situations are rare, in the cases where this process is necessary, the ability to request an emergency order in extremely dangerous situations will help protect children from harm. "Misuse" of the PFA process will decrease, and the court will have the appropriate framework to protect children in emergency situations. The proposed process would allow judges or magistrates to consider these requests, maximizing limited judicial resources.

**This process would address a gap in our current family law system**

The working group's report highlights that this proposal is made within the context of an under-resourced judicial branch that is not currently able to meet the needs of families in exigent circumstances. Still, families facing emergency situations are already coming to the court to try to get the help that they need when their children are in danger. If a parent trying to protect a child from another parent who is struggling with substance abuse files a PFA, they will likely get a temporary order that gives them sole parental rights for a few weeks. However, when they go to the final hearing in the PFA, they are unlikely to be able to prove that the behavior, even though it may be clearly dangerous, meets the definition of abuse. There should be a way for families to access the courts when they need to protect their children. This proposal would fill that gap.