
**Testimony of Andrea Mancuso, on behalf of the Maine Coalition to End Domestic Violence
In SUPPORT of LD 580: “An Act to Improve Family Court Procedure”**

**Before the Joint Standing Committee on Judiciary
Wednesday, March 15, 2023**

Senator Carney, Representative Moonen, and members of the Joint Standing Committee on Judiciary, I am writing on behalf of the Maine Coalition to End Domestic Violence (MCEDV)¹ in support of LD 580, “An Act to Improve Family Court Procedure.”

What should families do when they have concerns that the other parent poses imminent safety risks to their child? The protection from abuse statute narrows eligibility to those cases where abuse or other specified conduct has already occurred; Maine’s law enforcement agencies are similarly limited in their ability to respond to risk as opposed to conduct already committed; and the Office of Child and Family Services prioritizes those cases where there isn’t a parent able to protect the child. These should not be the only options available to respond to families in crisis. A functional, timely family court response is essential. However, Maine’s family courts are currently not able to provide a timely response to many families in crisis. We urge you, as policymakers and appropriators, to deeply consider how that impacts vulnerable families and child wellbeing across Maine every day, to move forward with reasonable process modifications that have been embraced by many other states, and to provide any funding necessary for effective implementation.

Maine’s Commission on Domestic and Sexual Abuse reported to the Maine Legislature back in 2010 that consideration should be given to creating an ex parte petitioning process in Maine’s family courts. The Abuse Commission has come back to you again with data to demonstrate the continued need for a different approach to responding to families in crisis. The Abuse Commission provided a lengthy report outlining its recent study and findings. Hundreds of professionals and parents with experience of the family court system were surveyed. Only 20% of respondents indicated any level of agreement (somewhat agree, agree, or strongly agree) with the assertion that Maine’s family courts are able to provide a sufficiently timely response to parents who have concerns about the imminent safety risks to their children. Those expressing some level of *disagreement*

¹ MCEDV serves a membership of eight regional domestic violence resource centers as well as the Immigrant Resource Center of Maine. Our member programs provided services to more than 12,000 victims of domestic violence in Maine last year, including court advocacy services in the civil and criminal courts.

included more than half of the members of the Maine bar who responded as well as more than half of the responding judicial officers. MCEDV would like to additionally underscore two narrative comments noted in the report from child welfare case workers. One caseworker noted: *“I tell [parents] that they can be found to be in contempt of court for violating their [family] court order but that it is also their duty to keep their child safe (and this feels so unhelpful!).”* Another caseworker reflected: *“The non-offending parent is asked to agree to and follow a safety plan when they have no authority to enforce it.”*

Though this issue is certainly not limited to those parents who have experienced or are experiencing domestic violence, domestic violence resource centers work with survivors across the state every day who are caught in this incredibly hard to navigate place. They believe the other parent poses an imminent risk to the safety of their child and don't know what to do next. The current system and structure sets them up to fail. Without the availability of a timely family court response, parents with concerns the other parents is an imminent safety risk alternatively:

- Fail to meet the statutory or evidentiary standards to have a protection from abuse order issue (again, a PFA is the only ex parte order currently available to unrepresented litigants);
- Fail to follow the family court's prior order or withhold their child from the other parent without court authority, which risks being penalized for it later in a family court proceeding; and/or
- Fail to follow the child welfare system's expectation that they adequately protect their children from known or foreseeable harm, which risks state intervention through that process.

More than 30 other states and the District of Columbia have a process in place for families to seek an ex parte emergency parental rights order from the family court. What is before you for consideration is not a radical proposal. It is, in fact, a process that 13 states have determined is inherently within the purview of their judiciary to construct even absent explicit statutory authority. We understand Maine's judiciary sees the need for statutory authority for such a process. We urge you to give them that authority, together with sufficient fiscal resources to implement it.

The Abuse Commission's report further recommends continued multi-disciplinary review and feedback regarding whether implementation of any new process is meeting the articulated need and accomplishing the intended goals. Creating explicit opportunities and expectations for policymakers to review implementation of new policies and processes fosters transparency and leads to more productive public policy development. We hope you will also support the continued review and report back that is proposed in Sections 2 and 3 of the amendment to LD 580.

As always, thank you for the opportunity to share our perspective. MCEDV and our member programs look forward to continuing to engage with legislators, representatives from the judiciary and other interested parties on these important issues.