



Testimony of Lucia Chomeau Hunt, Esq.
Pine Tree Legal Assistance, Inc.

Speaking in Support of LD 765

An Act to Permit Recordings of a Protected Person to Be Admissible in Evidence

Date of Public Hearing: March 15, 2023

Senator Carney, Representative Mooney, and members of the Joint Standing Committee on Judiciary, my name is Lucia Chomeau Hunt. I am the directing attorney of Family Law and Victim Rights at Pine Tree Legal Assistance, Inc., and I am speaking to you today in support of LD 765, An Act to Permit Recordings of a Protected Person to Be Admissible in Evidence.

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 Legal Assistance 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. Under the largest grant that supports Pine Tree's work with survivors, we prioritize representing parents or caregivers whose children have been interviewed at the CACs. We have a direct referral process from the CACs to Pine Tree for these cases, and they are some of the most challenging and frustrating cases that we handle. We prioritize them because there is a gap in Maine's family court processes that means it is particularly challenging for parents to navigate the family court system when a child has been sexually abused.

This bill addresses that gap that is so challenging for families to navigate. It makes the forensic interviews from a child advocacy center admissible in civil cases, such as family matters and protection from abuse cases. By clarifying the process by which the records can be requested and used, this bill will allow parents to effectively use the family court system to protect their children, while minimizing the harm to children who have been abused.

Admitting forensic interviews will allow cases to move forward and achieve protection for children. Parents often file Protection from Abuse cases to protect children who have been abused. However, the narrow hearsay exceptions in Maine often mean that they are unable to prove their case without the child victim testifying. Children are often too young or too

traumatized to provide testimony, particularly within the short timeframe and chaotic court process of the Protection from Abuse dockets. Pine Tree attorneys who move to Maine after practicing law in other states are often alarmed by the fact that we have no hearsay exceptions for child victims. This change will allow the court system to respond to these cases and protect children.

Establishing a clear process for obtaining forensic interviews will also allow the court system to function optimally. Right now, there is little consistency or clarity about what process should be followed when a forensic interview is requested as part of a civil case. I have seen judges who were former prosecutors issue orders that notify law enforcement about the potential disclosure of these interviews during the pendency of a criminal investigation into the same sexual assault. More often, there is confusion about what can be released, and to whom, let alone a process to make sure all interested parties are aware of the request. Litigants who do not have an attorney in the family matter case are at a huge disadvantage trying to put the pieces together, and they are often unable to get an order that addresses the issue because they do not have sufficient evidence. This bill will make sure that the information that the court needs is available, accessible, and also protected.

As an attorney handling child sexual assault cases, one of the hardest parts of my job has always been explaining to parents that they either have to have their children testify in open court, or dismiss a case if the other party won't agree, even though the children have been interviewed at the CAC. The Child Advocacy Center model should include the pieces that this bill puts into place.

I had a case several years ago where a family friend had sexually abused two brothers, one of whom was about 12 and the other a few years younger. The boys had disclosed the abuse and then been interviewed at the CAC. Their parents were horrified and blamed themselves for what had happened, realizing in retrospect that their friend's interest in their children was actually grooming behavior. When I explained the court process to the family, it was clear that the children were extremely embarrassed, ashamed, and would struggle to testify about what had happened to them. We made a plan that included the older brother testifying, although he had not witnessed much of what had happened to his younger brother. We hoped that would be sufficient. Fortunately, we were able to negotiate an agreed-to order, without the need for testimony from the child. Pine Tree handles cases like this one every week.

Thank you to Senator Carney and her co-sponsors, and this committee, for your support of survivors. I urge you to pass LD 765. This thoughtful, carefully crafted bill will make essential changes that will allow parents and the courts to protect children and other vulnerable survivors.

I am happy to answer any questions.