



Administrative Office of the Courts

P.O. Box 4820, Portland, Maine 04112-4820

Tel: (207) 822-0792 FAX: (207) 822-0781 TTY: (207) 822-0701

Julia Finn, Esq.
Legislative Analyst

Tel: (207) 822-0767
julia.finn@courts.maine.gov

Judicial Branch testimony neither for nor against LD 504, An Act to Improve Family Court Procedure:

Senator Carney, Representative Kuhn, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide the following testimony regarding this bill.

LD 504 creates a process to allow a party to a family matter involving a child to file a motion to ask the court to issue an emergency order of parental rights on an ex parte basis if the party shows that there is "immediate and present risk of substantial harm to the health or safety of the child(ren)." If the court enters an ex parte temporary order, the proposed bill requires the court to hold a hearing within 21 days of the issuance of the temporary order. The bill also allows the respondent to file a motion to dissolve or modify the ex parte temporary order before the scheduled hearing. If a motion to dissolve or modify is filed, the court must schedule a separate hearing on the motion "as expeditiously as the ends of justice require."

The proposed ex parte petitioning process is different from the protection from abuse statutory process, which is mostly a reactive statute that provides protection when abuse has already occurred, rather than a preventive statute that protects based on the existence of risk. Furthermore, it is distinct from the process for an ex parte temporary restraining order under Rule 65 of the Maine Rules of Civil Procedure, which requires the filing party to have an attorney to seek that relief and uses a different standard (i.e., the filing party must show that "immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition"). Finally, although a party to a family matter can request an expedited interim hearing in a family matter under Rule 107(c) of the Maine Rules of Civil procedure, that process does not authorize the court to issue an emergency ex parte order pending the interim hearing.

The passage of LD 504 would have the following impacts on Maine's courts:

- **New docket.** The proposed ex parte petitioning process would require the creation of a new and distinct process, a new "docket," in the District Court. In addition to the additional positions discussed below, the implementation of a new docket involves a considerable amount

of administrative work, including case management and electronic filing programming, the creation of multiple forms, development and printing of information for the public, development and training of clerks and other staff, and the revision of court rules.

- **Timing and scheduling.** To comply with the required hearing within 21 days of the issuance of the ex parte temporary order, the courts will need the resources to expeditiously hold hearings on motions to dissolve or modify an ex parte temporary order. This will require finding time in the schedule in all 31 courts. Finding this time will result in delays in other dockets and possible increases in the backlog. And, while lessening the burden in some courts, one new judge is not sufficient to assist in all courts.

- **High volume and hearing time.** The creation of a process for an immediate ex parte order of parental rights will result in a high volume of filings, particularly because family matters involve mostly self-represented litigants who are experiencing enormous stress as they navigate the process of family separation. In addition to a large number of filings, we anticipate that each hearing would require an average of three hours.

In the last session, the Judicial Branch determined that one District Court judge, one clerk position and one marshal position would be needed and developed a fiscal note that included those positions. We are updating the numbers and the analysis for a new fiscal note but expect it to be similar to the one previously submitted. There may be some additional costs associated with programming for both MEJIS and Enterprise Justice (Odyssey).

In addition, just a reminder that if the Committee chooses to go forward with this bill and an additional judge is needed, there needs to be a statutory change in 4 MRS § 157 to accompany the fiscal note.

Finally, while the effective date in the legislation of January 1, 2026 is possible, a later effective date of March 1 or April 1 would be preferred. The Judicial Branch's IT department is focused on the implementation and expansion of Enterprise Justice (formerly "Odyssey") to more courts and more case types.

Thank you for your time.
