

132nd Legislature
Senate of
Maine
Senate District 29

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Testimony of Senator Anne Carney introducing
LD 504, An Act to Improve Family Court Procedure
before the Joint Standing Committee on Judiciary
February 26, 2025

Representative Kuhn and esteemed colleagues on the Committee on Judiciary, I am Senator Anne Carney, proudly representing Senate District 29, which includes South Portland, Cape Elizabeth and part of Scarborough. It is a pleasure to be with you today to introduce LD 504, “An Act to Improve Family Court Procedure.”

This legislation, if enacted, will create a process for requesting an emergency parental rights and responsibilities order with respect to a child, on an *ex parte* basis, upon a showing of immediate and present risk of substantial harm to the physical or emotional health or safety of the child. This process focuses on a very narrow problem: an emergency that creates an immediate and present risk of substantial harm to the health or safety of a child occurred, and to address that emergency a court must review a parental rights and responsibilities order.

A parent might need to seek emergency review if the other parent has a medical crisis, has a relapse of substance use disorder, or is engaging in harmful activity in the presence of the child. The request must be supported by an affidavit, and if an order is issued, a full hearing must occur within 21 days.

This legislation was proposed by a working group created by the 130th Legislature to study possible solutions for families facing emergency custody situations. The legislation was presented to this committee in the 131st Legislature and received support in both chambers but was not funded. I will highlight important aspects of the working group’s report to help inform your consideration of this legislation.

The working group did extensive research into processes available in other states. It conducted surveys of Maine parents with experience navigating urgent parental rights and responsibilities issues. Judicial officers, attorneys, law enforcement officers, mental health professionals, and OCFS caseworkers also participated in the survey. Their research, attached to the December 2022 Report from the Maine Commission on Domestic and Sexual Abuse, makes a strong case

for this legislation. Specifically, the information led to a recommendation to create an ex parte process in Maine's family courts for families who experience crises that do not qualify for any other type of emergency order, for example, a protection from abuse order.

I invite you to step outside of the committee room and into the courtroom with me to consider the human impact of this legislation. Parents facing this type of emergency are forced to choose between violating a court order, or complying and putting their child in harm's way. In 2023, the Judicial Branch testified that this change will mostly impact families dealing with "enormous stress as they navigate the process of family separation." By supporting this new court process, we can reduce the time families are in limbo, save parents from making those difficult decisions, and keep children out of harm's way.

The legislation proposes convening a similar working group to review data from the judicial branch for the 2 years following implementation, looking at usage of the process, outcome, the time the process takes, and any other data useful for evaluating efficacy of the process. The working group will then submit a report to this committee which may include recommendations for further improving the family court response to families with urgent safety concerns. The report back will help us identify how the process is working and what statutory changes or resources might be needed in the future to ensure that the needs of Maine families in crisis are met.

I will conclude by reading from page 23 of the report, which to me sums up the importance of enacting LD 504:

When 72% of professionals and parents [...] indicate the family courts are not consistently able to provide a timely response to families in crisis, to leave Maine's family courts at *status quo* is to do so knowing that families are going to either withhold their child from the other parent absent clear court authority to do so, at risk of later being held in contempt by the court or prompting an unsafe reaction from the other parent, or to send their child into what they have reason to believe is an unsafe situation. None of these options is in the best interest of Maine's children.

Thank you for allowing me the opportunity to introduce this bill. I welcome any questions you may have.

Anne Carney
State Senator, District 29