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Testimony of the Office of Child and Family Services
Maine Department of Health and Human Services

Before the Joint Standing Committee on Judiciary

In opposition to LD 752, *An Act to Strengthen Maine's Child Protection Laws by Limiting Contact with Violent Offenders*

Sponsor: Senator Baldacci
Hearing Date: March 10, 2025

Senator Carney, Representative Kuhn, and members of the Joint Standing Committee on Judiciary, my name is Bobbi Johnson, and I serve as the Director of the Office of Child and Family Services (OCFS) in the Maine Department of Health and Human Services. I am here today to testify in opposition to LD 752, *An Act to Strengthen Maine's Child Protection Laws by Limiting Contact with Violent Offenders*.

This bill would amend statute governing child welfare to say that an adult living in a child's home who has been convicted of a crime of violence who has not completed a certified domestic violence intervention program would represent serious harm to children. It presumes that situations like this show a child's parent or guardian is unwilling or unable to meet the child's needs. Furthermore, the bill would amend the definition of jeopardy to create two rebuttable presumptions, first that allowing contact with a person who has been convicted of a crime of violence and has not completed a certified domestic violence intervention program equates to jeopardy, and second, that a parent or person responsible for the child creates jeopardy if they allow such contact or encourage or fail to prevent such contact. LD 752 would also change the provision of the Maine Probate Code related to the appointment of a guardian for a minor to specify that one of the ways a parent can demonstrate that they are unwilling or unable to meet their child's needs is by living in a home with an adult who has been convicted of a crime of violence but has not completed a certified domestic violence intervention program.

OCFS is in opposition to this bill for several reasons. OCFS' role is to ensure the safety and well-being of Maine's children and protect them from abuse and/or neglect. LD 752 runs contrary to one of the fundamental tenants of OCFS' child welfare work, which is the belief that people can and do change and that they should be offered the opportunity to change in order to safely care for their children. OCFS also notes that this bill would create a rebuttable presumption despite the fact that the Law Court has found that rebuttable presumptions in child protection cases are an impermissible burden shift given the fundamental rights at play.

Additionally, OCFS has significant concerns regarding the far-ranging potential impact of this

bill. The language of LD 752 is such that anyone convicted of any “crime of violence” (which is notably not defined in this bill or elsewhere in statute) could be subject to these proposed provisions, which would result in a finding that, regardless of other factors, a child is in jeopardy when such an adult is living in the home but has not completed a certified domestic violence intervention program (even if the “crime of violence” they were convicted of is not related to domestic abuse).

Given that “crime of violence” is not defined and there are no limitations or requirement that such violence have been related to domestic abuse, it seems illogical to require that the only means by which an individual could overcome the presumption that a child is unsafe in their presence is by completion of a certified domestic violence intervention program. These programs are intensive and focus specifically on the dynamics of domestic violence and abuse. They do not have significant applicability to all crimes involving any type of violence. Certified domestic violence intervention programs also come at a cost for each participant. Furthermore, it is unlikely that there is capacity in these programs to meet the surge in demand that would result from the passage of LD 752. This sudden influx of demand could overwhelm providers and limit the accessibility of these programs for those who have actually perpetrated domestic violence crimes and require the rehabilitation specific to domestic abuse and violence.

OCFS recognizes the well-intended efforts behind this bill in seeking to ensure the safety and well-being of children, but this type of broad approach ignores the individual nuances of family situations. OCFS staff are trained to respond to, investigate, gather information, evaluate, and take action in response to allegations of child abuse and/or neglect, looking at the totality of the circumstances and available information before determining whether to seek removal or establishment of a jeopardy order. The current definition of jeopardy in the statute is already reasonably broad, including, “serious harm or threat of serious harm”, allowing OCFS to intercede when someone in the home has a recent history of conduct that indicates their presence compromises child safety. In those cases, OCFS can and does seek to rectify the situation, first by working with the family and, only when necessary, seeking removal. While removals are sometimes necessary, they are also traumatic for the child and the family and should be avoided whenever safely possible.

OCFS urges you to vote ought not to pass on LD 752.

Thank you for your time and attention. I would be happy to answer any questions you may have and to make myself available for questions at the work session.