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RE: L.D. 752 – OPPOSITION to "An Act to Strengthen Maine's Child Protection Laws by Limiting Contact with Violent Offenders"

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Senator Carney, Representative Kuhn, members of the Judiciary Committee, my name is Molly Owens and I am offering testimony as Chief of the Parents' Counsel Division of the Maine Commission on Public Defense Services in opposition to L.D. 752, "An Act to Strengthen Maine's Child Protection Laws by Limiting Contact with Violent Offenders".

On behalf of the Parents' Counsel Division, whose mission is to protect parents' rights and support family integrity, our position is that passage of this bill would be detrimental to children, parents and families in that it creates presumptive jeopardy against a parent or caregiver who has been convicted of any crime of violence, including misdemeanors and the misdemeanor crime of domestic violence assault, if that person has not completed a certified domestic violence intervention (CDVIP) or similar program — a program that is only available to a certain subset of offenders covered in this bill. The bill then reaches even further into the family unit, targeting the non-offending parent by presuming that parent is also *per se* jeopardous if he/she allows any contact between their child and that convicted person.

No additional inquiry is contemplated other than whether the parent or adult caregiver convicted of a certain class of crimes completed the coursework. This means, for example:

- 1) There does not need to be a nexus between the conduct that led to the conviction and the children, or a nexus between the criminal conduct and the parent's present ability to safely parent their children.
- 2) There does not need to be a nexus between whether the conduct that led to the conviction was between or among the adult caregivers that are currently in the household raising the child. The conduct could have been between strangers, siblings, cousins, or a past partner, none of whom are

in the current household. The conduct need not be directed at the child, need not happen in the child's presence, or even within the child's knowledge. There is no requirement that the conviction has anything to do with the child or current family structure.

- 3) There is not a temporal component to this bill. A person is presumptively jeopardous to their child, or someone else's child in the household, if he or she was convicted of a crime of violence at any point in their past and hasn't taken CDVIP or similar coursework. The conviction may have been months, years or decades earlier. That parent or household member may be raising their own children or helping raise their partner's or family member's children and pose absolutely no actual risk to the child or family.
- 4) There is no acknowledgment in the bill of the fact that people who pleaded guilty to the qualifying crimes in the past had no idea or advice that family separation would be a consequence when they entered their plea or exercised their right to a trial. It wasn't part of any collateral consequence discussions with their attorney because the collateral consequence didn't exist.

The bill's framework does not protect children or families but rather it simply creates a subclass of parents who are presumptively jeopardous based on conviction, even if the parent does not presently pose risk of jeopardy or serious harm to their children and then punishes the non-offending parent if they allow contact. That presumption violates parents' constitutional and protected rights to parent their children without state interference and the well-established principle that parents act in the best interest of their children. Under this bill, parents, particularly the non-offending parent, are stripped of those protections and that presumption.

LD 752 ignores the realities and complexities of families. With the broadest of strokes, this bill finds an entire class of parents and caregivers per se jeopardous and invites state intrusion into safe and stable families while doing nothing to protect or strengthen families struggling with the most common problems such as poverty, access to services, safe housing, or mental health support for parents and children. Passage of this bill would open the door to creating presumptive jeopardy in other cases, for example against parents convicted of drug possession at some point in their past or driving to endanger or operating under the influence.

Finally, LD 752 ignores the substantial harm to children of removal from their families and the prevailing literature that finds keeping children with their families is the preferred and least traumatic way to approach child protection cases. Passage of this bill would lead to family separation, financial hardship and emotional trauma for children, parents and families. On behalf of the Parents' Counsel Division, we ask you to vote ought not to pass.

Respectfully,

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