

# Administrative Office of the Courts

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## **Judicial Branch testimony in opposition to LD 869, An Act to Give Grandparents Intervenor Status in Certain Child Protection Proceedings:**

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 present testimony in opposition to LD 869.

The proposed legislation allows the court to grant intervenor status to a grandparent in a child protection case solely on the basis that the child is in foster care. This is problematic because it circumvents rigorous standards already in place for intervention, and would increase the workload of the courts and result in delays to these cases.

Under Maine law, there are already multiple avenues by which a grandparent can become involved in a child protection case under appropriate circumstances. Under Rule 24 of the Maine Rules of Civil Procedure, any person, including a grandparent to a child who is the subject of a child protection case, may apply to the court for intervenor status. If this status is granted, an intervenor is given the same rights as a party—for example, the intervenor has the right to (1) file motions in the case, (2) access the court records, (3) receive notice of all court proceedings, (4) participate in court proceedings including to present evidence and cross-examine witnesses, and (5) file an appeal. Because an intervenor is given the same rights as a party to the case, Rule 24 requires the applicant to show either that the grandparent has a legal interest in the proceedings and is so situated that the disposition of the action may as a practical matter impair or impede the person's ability to protect that interest, or that "the applicant's claim or defense and the main action have a question of law or fact in common" and that intervention will not "unduly delay or prejudice the adjudication of the rights of the original parties."

All grandparents already may also request interested person status pursuant to section 4005-D of Title 22, which a court shall grant unless the court finds good cause not to do so. Those designated as "interested persons" may attend child protection court hearings, which are confidential, but do not have the right to be heard or to present or cross-examine witnesses, present evidence or have access to pleadings.

LD 869 seeks to circumvent the appropriately rigorous process for intervenor status set forth in the Rule 24, but only for grandparents solely on the basis that their grandchild is in foster care. The proposed legislation does not provide a standard for denying a grandparent's motion for intervenor status; the amendment says that the court "may" grant the motion, but the only criteria given is that a child be in foster care and that the applicant be a grandparent. The

amendment does not incorporate Rule 24 standards or even require that the determination be just or in the best interest of the child. Consequently, as written, it could result in the court granting intervenor status to a grandparent who has never seen the child or had a relationship with the parents. It is also unclear why the standard for intervenor status would be lowered only for grandparents, when in many cases, there may be other relatives (like an aunt or uncle) or close family friends who have a significant relationship to the child and may qualify to become an intervenor under Rule 24.

Finally, if every grandparent in a child protection case could become an intervenor anytime a child was placed in foster care, it would increase the volume of child protection matters with one or more grandparents who have intervenor status. This would increase the workload of the courts and could result in delays to these cases, because as previously noted, intervenors must get notice of proceedings, can file motions, can access case records, can be heard in court, and can file appeals. Also, the scheduling of child protection cases already requires notice and availability of multiple persons, including the parents of the child, counsel for the parents, a DHHS caseworker, an AAG representing DHHS, a guardian ad litem, and others. The addition of more intervenors would make scheduling difficult and continuances more likely. Finally, the increase in intervenors would raise guardian ad litem costs in these matters because guardians ad litem would need to regularly have contact with the grandparents as intervenors.

For all these reasons, the Judicial Branch requests an ought-not-to-pass report on LD 869.

Thank you for your time.