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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 Health and Human Services

In opposition to LD 891, *An Act to Exclude Poverty as a Factor When Determining Instances of Willful Neglect or Abuse of a Child*

Sponsor: Senator Hickman
Hearing Date: April 8, 2025

Senator Ingwersen, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services, 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 891, *An Act to Exclude Poverty as a Factor When Determining Instances of Willful Neglect or Abuse of a Child*.

This bill would modify the Child and Family Services and Child Protection Act in several ways. First, it would add language to exclude circumstances caused by poverty from being considered abuse or neglect. Secondly, it would add the term “willful” in as a qualifier in several parts of OCFS’ core enabling statutory definitions, including the definition of abuse or neglect and the definition of jeopardy. The changes to the definition of jeopardy would require that in order to make a jeopardy finding there be willful deprivation of food, clothing, shelter, supervision, or health care. LD 891 would also modify the definition of serious harm to require that injuries be non-accidental and remove language that accounts for “threat of” situations where the harm has not yet occurred but is likely to occur. The definition of serious harm would also be modified to require that a mental, behavioral, or personality disorder be diagnosed by a medical provider and, when caused by neglect, be caused by willful neglect.

OCFS is opposed to this bill for several reasons. The additional terms that would be added to statute like “willful” and “direct and identifiable” are not defined in statute, which is likely to create confusion among staff, attorneys, and the judiciary as they work to interpret the meaning and apply that to child welfare cases.

Most importantly, this bill would significantly limit OCFS’ ability to act in situations that present a serious risk of injury or death to a child. The proposed changes to the definition of serious harm in statute would be harmful and risk the safety of children. For instance, the addition of the requirement that injuries be non-accidental is troubling as sometimes a child is injured accidentally but the reasons for the accident are driven by parental factors like a parent driving while intoxicated with their child in the car or a parent who provides inadequate supervision near a body of water resulting in a near-drowning. LD 891 would also modify the definition of serious

harm to remove OCFS' ability to intervene in situations where harm has not yet occurred but is likely to occur. One example of a situation where this could be dangerous is where a child in the home has accidentally ingested fentanyl and died. If there are other, surviving siblings to that child, OCFS would not be able to intervene and seek a jeopardy finding because no actual harm has occurred to those children and the deceased child's death was not caused by a "willful" act of the parent.

OCFS strongly believes that poverty should not be a driving force in child welfare intervention and has worked diligently with stakeholders on other changes to policy, training, and statute to ensure a proper balance is struck that ensures the safety of children. That work has resulted in LD 1406, which also has a public hearing today, and we would urge you to support as an alternative to LD 891.

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.