

Testimony of Melissa Hackett
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In support of LD 1406, An Act to Amend Certain Definitions in the Child and Family Services
Protection Act
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How we define child abuse and neglect has a significant impact on families, mandated reporters, and the state's child welfare agency. I am proud of the work we have done in partnership with OCFS since July 2025 to consider this topic as part of the Mandated Reporting and Community Supporting initiative, born from the Child Safety and Family Well-Being Plan. This legislation represents the statutory changes to our state's definition of abuse and neglect that had consensus support after six months of consideration by a variety of partners, including parents with lived experience, mandated reporters, and state child welfare agency staff.

States are guided federally in their responsibility to protect children from abuse and neglect through the Child Abuse Prevention and Treatment Act (CAPTA). Yet states are also given significant latitude to determine and outline in what instances the state is required to intervene with families. CAPTA was developed in response to concerns about children who were experiencing repeated physical harm in their homes, known as "battered child syndrome," and was most directed toward medical providers and their obligation to notify officials so they could intervene in those instances to protect children.

States vary widely in their definitions of child abuse and neglect, and other statutes that guide state agencies in their role in intervening with families when children are unsafe. Most states have also adapted their definitions over time, and now many states include references to neglect much more broadly than the initial scope of CAPTA. Neglect is often broadly defined, including circumstances like unmanageable parental substance use, mental health needs, and unmet basic needs like housing and food. The latter of these issues can often lead to a conflation of poverty with willful neglect.

Maine's definition is broad and vague compared to many other states. As of 2023, 27 states make a clear statutory distinction between poverty and neglect. Recent federal guidance and reauthorization of Title IV-B also suggest states should make this distinction and clarify that state child welfare agencies should prevent unnecessary child removal due to poverty. This response has been driven by the recognition that reports and investigations of neglect are far too common and disproportionately impact families in poverty and families of color. National estimates are that 1 in 3 children will experience a state child protective investigation; for Black children that number is more than half. It also reflects a growing recognition from the research and experiences of families, that separating children from

their families is more traumatic and harmful than providing supports to keep children with their families, even when there are concerns about safety.

The lack of clarity in Maine's definition has significant implications. Mandated reporters are trained in their obligations to make reports using this definition. While the state child welfare agency has Structured Decision Making tools to guide Intake staff when they receive reports of abuse or neglect to determine if they meet the criteria for investigation, mandated reporters have no such tools. This leads to a tremendous amount of subjectivity in one person's interpretation of abuse or neglect, and their decision to make a report.

Most impacted by this vagueness are children and families. As was noted in the presentation of the Child Safety and Family Well-Being Plan to this committee, 92% of reports of suspected abuse or neglect in Maine do not result in findings (2023). While some might argue for a "when in doubt, make a report" approach, this child safety at all costs mindset does not account for the tremendous harm done to families through unnecessary involvement with the state child welfare agency.

That mindset is often driven by a misperception that the state agency can provide support to families. Yet when reports are screened out, or not substantiated, families generally receive no support. It is critical to emphasize and clarify that the role of the state child welfare agency is to investigate families in order to keep children safe; they are not a family support agency.

Families across the country, and here in Maine, have shared that being reported or investigated – regardless of the outcome – is so frightening and traumatic, they will be much less likely to reach out for help following it. This works against our efforts to ensure families have what they need to provide safety and stability for their children.

Mandated reporters have a liability that weighs heavily in decision-making. This can often lead to over-reporting. Many have also shared they are frustrated by the current process, where they believe they are appropriately reporting suspected abuse or neglect, yet it is often screened out. If their goal was to help a family that was struggling, they were unsuccessful through this process. This has consequences for under-reporting too, if mandated reporters lose confidence in this system.

Finally, having a broad and vague definition of abuse and neglect has implications for the state child welfare agency. A "when in doubt, report" mindset, coupled with risk aversion and fears around liability, combine to inundate the agency with reports of varying quality. When we flood the state agency with reports that aren't appropriate, we strain its capacity to focus efforts with families where children are truly unsafe. This was highlighted recently in the child deaths review of the Government Oversight Committee – the state child welfare

agency and its workers need to be laser-focused and have the capacity to work in complex situations with families where there is an imminent risk of serious harm.

How we define child abuse and neglect has tremendous implications for children, their families, mandated reporters, and the state child welfare agency. A broad and vague definition leads to unnecessary and traumatic involvement for families with the child welfare agency; makes the job of mandated reporters an especially challenging one; and floods the agency charged with child protection with inappropriate reports.

We can better and sooner support families by directing them to community supports, whenever child safety is not a concern. That starts with clearly articulating what we mean by child abuse and neglect, clarifying the role of the state child welfare agency, and supporting community members to understand the difference between abuse and neglect and a family in need of support. With these changes, we can prevent the need for costly and traumatic state interventions and focus our collective efforts on working upstream to keep children safe by keeping families strong.