

Administrative Office of the Courts

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Judicial Branch testimony neither for nor against LD 1544, An Act to Support Families by Improving the Court Process for Child Protection Cases:

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 and information regarding LD 1544.

While several sections of the bill involve public policy such as the requirement that the court consider the trauma to the child of removal from the child's home when making a determination on a preliminary protection order, other sections raise procedural and substantive issues as follows.

On the procedural side, in section 4 of the bill, the word "schedule" is replaced by "hold" in the sentence: "The court shall ~~schedule~~ hold a summary preliminary hearing on a preliminary protection order within 14 days but not less than 7 days after issuance of the preliminary protection order..." This change would create problems for the courts as there are times when parents are not timely served, and there are other times when the parties, including parents, wish to continue their cases.

In the same section, on page 2, the bill states that: "In **any** order after a summary preliminary hearing, the court shall make findings as to whether the risk of harm to the child is outweighed by the trauma of the child's removal from the child's home..." Some orders after a summary preliminary hearing do NOT remove children. This sentence does not make sense in those instances and perhaps should be clarified.

Section 8 of the bill amends 22 M.R.S. § 4055(1)(B) to provide that in order to terminate parental rights absent consent, the court must find as a discrete element of proof that DHHS "has fulfilled the Legislature's intent" and their obligations under section 4041(1-A) to provide reasonable efforts to rehabilitate and reunify the parent and the child. Because this is a required element under the new subsection, the court would be compelled to deny a termination of parental rights (TPR) petition, under circumstances where a parent is found to be unfit and termination is in the best interests of the child. Current law says that inadequate efforts by DHHS do not mean that the parent is not unfit. The two issues are independent of one another.

Finally, the changes outlined in this bill would require significant form revisions to add findings related to the trauma of removal, and may require programming. While we are still evaluating the need for a fiscal note, the form revisions and related programming may require additional funding.

Thank you for your consideration.