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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 Judiciary

In opposition to LD 1544, *An Act to Support Families by Improving the Court Process for Child Protection Cases*

Sponsor: Senator Bailey
Hearing Date: April 14, 2025

Senator Carney, Representative Kuhn, and members of the Joint Standing Committee on Judiciary, 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 1544, *An Act to Support Families by Improving the Court Process for Child Protection Cases.*

This bill makes a number of changes regarding the court process for child protection cases:

- Eliminating a parent's prior involuntary TPR from consideration as an aggravating factor and the termination of parental rights rebuttable presumption.
- Requiring staff to outline in their request for a PPO a detailed summary of how the Department weighed the trauma to the child of removal from the child's home against the alleged immediate risk of serious harm to the child and the specific factors the Department considered and requiring that the PPO request also specify services offered and provided to prevent removal from the home. The bill would also require the court to consider the trauma to the child when considering removal and at the summary preliminary hearing.
- Requiring the court find that the Department has "exhausted the options to mitigate the immediate risk of serious harm and avoid removal of the child" prior to removal.
- Requiring that a summary preliminary hearing be held (not just scheduled) within 14 days
- Requiring the court to make explicit findings that the Department met its statutory obligation to provide reasonable efforts to rehabilitate and reunify before granting a termination of parental rights.

OCFS is committed to improving the child welfare system but believes this bill would create circumstances that endanger children. Under 22 MRSA §4034 the Department is already required to prove (and the court must find) that a child is in immediate risk of serious harm in order to obtain a preliminary protection order (PPO). This standard is inclusive of a

consideration of competing harms already. The additional statutory requirement of specifically weighing trauma of removal risks the safety of children both in the time it would take to evaluate, quantify, and outline this information in the petition itself and in the possibility that the court could deny the PPO if they find this information is not sufficient to overcome the statutory obligation. This statutory change also fails to acknowledge that remaining in abusive or neglectful circumstances is traumatic as well.

Similarly, OCFS is concerned with this bill's proposed requirement that the Department exhaust all options to mitigate the immediate risk of serious harm and avoid removal. This language is subjective, broad, and would be a significant departure from the current language which establishes the less subjective reasonable efforts standard. The language and court's interpretation of reasonable efforts is well established and strikes a critically important balance.

OCFS is also concerned about its ability to obtain timely permanency for children if LD 1544's language was to be enacted. It would require the Department to prove reasonable efforts as part of the TPR. Reasonable efforts is a standard that OCFS is held to throughout the life of a protective custody (PC) case. At the statutorily required judicial reviews parents, through their counsel, can challenge the extent of the reasonable efforts furnished by the State and request that the court order the Department to engage in additional efforts. OCFS is concerned that by requiring proof of reasonable efforts as part of the TPR standard, the result would be to distract from what is really at issue at that late stage in the case: whether the parent is unfit and whether it is in the child's best interest for the parent's rights to be terminated. When a TPR is considered by a judge, the judge is critically determining whether a parent can ameliorate the conditions of jeopardy in a time reasonably calculated to meet the child's needs. Considering the reasonability of the efforts by the department at this stage, thwarts the purpose of this analysis. It is simply too late in the process to derail progress toward permanency for the child when reasonable efforts concerns were not raised during the judicial review process.

OCFS is committed to the safety and well-being of Maine's children and families. Staff work with individuals facing some of life's most dire circumstances on a daily basis and they see the impact of their work, both positive and negative. We agree that removal of a child from the home should only be pursued when there are no other reasonable means by which to ensure the safety of that child. That belief has motivated OCFS' extensive collaboration with system partners related to prevention, including the development of Maine's Child Safety and Family Well-being Plan, which provides a strategic framework for strengthening families to keep children safe. That effort and others like it are what Maine families need, not statutory changes that create additional barriers or hurdles to OCFS' ability to act quickly in circumstances that present an immediate risk of serious harm to a child. OCFS has significant concern that children could be further harmed while OCFS is working to gather information and do the work necessary to meet these new expectations. That concern for child safety is at the heart of OCFS' opposition to this bill.

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.