



WMA GRANT LEGAL ADVOCACY PROJECT

May 16, 2025

**Testimony of the Immigrant Legal Advocacy Project  
In Support of LD 1832  
“An Act to Clarify Available Relief for the Protection of At-risk Children”**

Good morning, Senator Bailey, and members of the Judiciary Committee. My name is Maggie Loeffelholz, and I am the Immigrant Children's Project Attorney at the Immigrant Legal Advocacy Project, or ILAP. I am here today to urge you to support LD 1832, which is needed to clarify preexisting legal procedures for certain at-risk noncitizen children seeking protection in Maine courts, as described in Title 22, Section 4099-I.

**I. About ILAP and Subject Matter Expertise:**

ILAP is Maine's *only* statewide immigration legal services organization. We serve noncitizens in Maine who would otherwise not have access to a lawyer. Our work helps individuals and families achieve security and stability, enter the workforce, and make Maine home.

ILAP's Immigrant Children's Project focuses on representing exceptionally vulnerable child victims in Maine who are seeking safety and permanent stability through the Special Immigrant Juvenile, or "SIJ" classification process. The SIJ process begins at the state court level, which is what we are addressing today. ILAP attorneys represent SIJ-eligible children in Maine state courts, and in subsequent federal immigration processes. I co-chair the SIJ Action Committee of the Maine Commission of Domestic and Sexual Abuse, which is made up of stakeholders from the judicial branch, state agencies, probate court, nonprofits, and private bar. ILAP also leads a statewide working group of practitioners litigating these cases in Maine, and partners with legal experts across the country, giving us insight into current issues and best practices locally and nationwide.

**II. Overview of the Special Immigrant Juvenile Classification Legal Process in Maine:**

Special Immigrant Juvenile classification was created by Congress in 1990 to address the serious child welfare and protection needs of children living in the United States who are victims of parental abuse, neglect, or abandonment, and are made even more vulnerable by the lack of immigration status. A child granted SIJ classification by federal immigration authorities is later afforded the opportunity to apply for a green card, providing permanent residency and protection from deportation.

Because state courts are best positioned to make determinations about the best interests of children, federal law requires children petitioning for SIJ classification to obtain specific judicial findings from a state court to include in their SIJ application. The subject of these findings includes determinations, according to state law, about the child's history of abuse, abandonment, or neglect, and whether it is in the child's best interests to live in the United States. Although state courts do not adjudicate SIJ applications themselves, obtaining these findings is the critical first step in the process. In Maine, these findings can be sought through an independent petition procedure, or by filing a motion for special findings in the context of a case in which the child is already under

the jurisdiction of the court, including minor guardianship, adoption, child protective, and parental rights and responsibilities cases.

Federal law and policy contain strict requirements for the content and form of state court findings. For the court's order to effectively qualify a child for SIJ classification, the proceeding itself and the resulting order must meet these requirements. As a result, it is critical for Maine laws and procedures related to seeking SIJ findings to be clear for both judges and practitioners, and to align with applicable federal and state law. That is what we see as the goal of this legislation – and LD 1832 makes significant improvements to clarify existing law and make procedures more efficient for practitioners and courts.

The SIJ process is complex and requires representation at every stage. In the U.S. immigration legal system, no one is guaranteed an attorney at any point, including child victims at risk of life-threatening consequences like deportation. By definition, nearly every SIJ-eligible child is unaccompanied or living with a single parent, and most often cannot afford a lawyer. As a result, most practitioners in this space are either nonprofits or private attorneys offering pro bono or significantly reduced rates. There is a severe shortage of attorneys with the required expertise or interest in these cases in Maine, meaning many SIJ-eligible children here are left with no way to access this life-changing protection. Given these realities, efficiency of the system and clarity in our law is crucial to increasing capacity to protect child victims eligible for SIJ here in our state.

### **III. LD 1832 is Needed to Improve Judicial Efficiency Around Protecting Child Victims in Maine:**

In the five years since 22 MRS 4099-I was enacted, ILAP has assisted over 150 children in the SIJ process. Through our own practice experience and extensive conversations with other practitioners, we have observed that technical changes are needed to certain sections of 22 MRS 4099-I and corresponding statutory sections, which have lacked clarity in their application, resulting in inefficiencies for both courts and practitioners, and have decreased access to legal representation for child victims of abuse, neglect, and abandonment.

#### **A. LD 1832 Clarifies the Distinction Between Motion and Petition Procedures:**

Child survivors of abuse, neglect, or abandonment who are eligible for federal SIJ protections may seek the required Maine state court findings in one of two ways: (1) by **motion** in any case where the court already has jurisdiction to make determinations about the child's care, dependency, and best interests; or (2) by filing a separate **petition** for special findings and rulings. The petition process was created in 2019 with the passage of 22 MRS 4099-I, subsection 2. Motions for special findings have been filed in Maine courts since the creation of SIJ by Congress in the 1990s, but the procedure for filing and adjudication of such motions have varied widely across courts.

Since the passage of 22 MRS 4099-I, questions have been raised about the distinction between a petition and a motion, and the applicability of the 2019 statutory language to motions, as opposed to petitions. The statute references the continued ability to request SIJ findings in other actions (including under Title 22, Title 18-C, and Title 19-A), but did not specify whether provisions within 22 MRS 4099-I would apply to such requests.

This bill clarifies the procedural distinction between seeking SIJ findings through the standalone petition for special findings, versus by motion in another case type. It does so by creating a parallel subsection with Section 4099-I that provides guidance to courts on the adjudication and content of a special findings order in response to a motion filed into a case where a child victim of abuse, neglect, or abandonment is already the subject of the case. Furthermore, the addition of or changes to sections within Title 19-A and Title 18-C included in LD 1832 provide a specific reference to the "motion" procedure of 22 MRS 4099-I, to clarify which guidance applies to judges adjudicating matters under these separate titles. This new section does not create jurisdiction, because it

already exists by virtue of the case-type in which the motion is filed. The goal is rather to clearly point judges and practitioners to the correct guidance for these types of requests, and ensure that any orders issued by Maine courts are effective in helping children gain access to SIJ protections.

#### **B. LD 1832 Clarifies District Court Jurisdiction over Petitions under 22 MRS 4099-I(2):**

A major success of the 2019 creation of petitions for special findings and rulings was opening access to SIJ protections for Maine children up to age 21, in line with federal law. The vast majority of petitions for special findings and rulings are filed in District Court by children between age 18 and 20, because there is no other process for seeking SIJ findings in Maine law for this age bracket.

A much smaller percentage of children *under* age 18 file such petitions each year. This usually occurs when certain factors restrict a SIJ-eligible child from seeking findings in other case-types. Because of a lack of clarity in the existing statute, these petitions for children under age 18 have been adjudicated in both District Courts and Probate Courts.

This jurisdictional confusion has caused challenges for practitioners, who are often representing families with children both under and over 18 who have experienced the same parental abuse, abandonment, or neglect. Any interpretation of the statute that splits jurisdiction between the Probate and District Courts based on the child's age results in a significant waste of both practitioner and court resources because two proceedings on the same topic are happening in different courts rather than one. Additionally, delays in Maine courts have exacerbated this issue. For example, if a case is filed in Probate Court when the child is under 18, if the Court is unable to resolve the case by the 18<sup>th</sup> birthday, the child must refile at the District Court. Therefore, this bill clarifies that District Courts have jurisdiction over petitions for children regardless of age.

#### **C. LD 1832 Updates Language in 22 MRS 4099-I to Bring it in Line with Maine Law and Federal Standards for SIJ Protections:**

When passed, 22 MRS 4099-I used certain terminology that was modeled after similar statutes in other states with different legal systems and definitions, or on outdated federal law. The bill contains various small changes that better align with current language and standards in federal and Maine law for clearer guidance to courts and practitioners.

#### **D. LD 1832 Ensures that Petition Proceedings are Confidential:**

Petitions for special findings and relief involve highly sensitive and private information about a child's experiences of abuse, neglect, and abandonment. Most children filing these actions must testify about significant childhood trauma, including sexual and domestic violence. Although in practice certain courts have already implemented closed proceedings and confidentiality protections for these cases, there is no provision in Maine law that clearly requires it. Therefore, we are in favor of this bill's added confidentiality protections for both the proceedings and for records related to these cases.

#### **IV. Conclusion:**

In conclusion, the changes proposed in this bill make important technical fixes and add clarity and consistency to preexisting legal procedures. LD 1832 specifically improves judicial efficiency around processes for some of the most vulnerable people in our state – child victims of abuse, neglect, or abandonment. Passing this bill is a crucial piece in protecting at-risk children in Maine and giving them the opportunity to find stability, security, and build a better future. Thank you.