



LD 2105 An Act to Update Maine's Mandated Reporting Laws

Testimony in Support (With Recommendations)

January 27, 2025

Senator Ingwersen, Representative Meyer and members of the Health and Human Services Committee, my name is Mark Moran. I am a Licensed Clinical Social Worker, the former Chair of Maine's Child Death and Serious Injury Review Panel, and the Social Services Manager at Northern Light Eastern Maine Medical Center. I have been involved in child welfare work in Maine for the past 25 years. I am speaking today in support of this bill, with important recommendations for your consideration. I am also speaking today on behalf of Northern Light Health and Maine Health. We worked collaboratively on the recommendations outlined in our testimony and offer one document for the public record on this bill.

Northern Light Health and Maine Health are generally in support of efforts to enhance the functioning of the child welfare system, which includes the role and responsibilities of mandated reporters. There are some elements of LD 2105 we explicitly support, and there are others with which we have some concern and for which we recommend some changes.

Section 7 of the bill seeks to repeal Title 22 Section 4009, which establishes a penalty for failing to make a mandatory report. While it may sound counterintuitive to be in favor of mandated reporting and opposed to a penalty for failing to report, section 4009 is ineffectual, and we support its repeal. To the best of my knowledge, 4009 has never been applied and has no enforcement mechanism or pathway. Additionally, in my experience, situations in which mandated reports are not made arise not from ignorance of or willful disregard for the mandate, but rather from failure to recognize the need to report based on the circumstances of the child in question. This is an education issue that is best remedied with ongoing professional education and perhaps more appropriately addressed by licensing boards if necessary.

Section 11 of the bill revises the existing statutory language related to required reporting to the district attorney. The proposed revision clarifies that the responsibility to notify the district attorney lies with the department, rather than with the reporter. It also assigns the differentiation of maltreatment committed by a "person responsible for a child" and a "person not responsible for the child" to the department. This results in a simpler decision-making process for reporters and a single point of entry for child maltreatment reports. We support all such reports being made to the department.

The portions of the bill with which we have concern are primarily in Section 11.

As proposed, 4011-D paragraph 1 does not adequately restrict mandated reporting responsibilities to adults. This could easily be remedied by starting the paragraph with “An adult” rather than “A person.” Paragraph 1 also eliminates a critical element of the existing statute, specifically language restricting the duty to report to times in which the mandated reporter is “acting in their professional capacity.” The phrase that follows “A person” is “who in the normal course of the person’s professional duties interacts with children or with persons responsible for children....” That phrase qualifies the word “person.” It does not establish when the person must report or is subject to the mandate and in the absence of such clarity, the proposed language could easily be construed to require such a person to report whether they are acting in their professional capacity or not. This is a substantial difference from existing law and long-standing practice, and we recommend clarifying paragraph 1 to be consistent with current law as it relates to this specific point. The final concern with paragraph 1 is that it seemingly opens the list of mandated reporters to anyone who has professional duties, if those duties involve interacting with children or people responsible for children. This is a very broad group that would include, for example, an Uber driver, a concert venue concessions worker, or a customer service representative of a cellular service provider. Again, this would be a substantial difference from existing law. A different approach to examining the current list of mandated reporters for more targeted potential changes may be more appropriate.

Still in Section 11, paragraph 1, sections A, B, and C unnecessarily complicate the standards applied to the degree of certainty required to report. Each of sections A, B, and C establishes its own standard: “suspects or has reason to believe,” “has knowledge of or observes,” and “knows or has reason to believe.” While we would certainly expect a mandated reporter to be contemplative about whether a report is warranted or necessary, having three different standards unreasonably adds to the cognitive burden of these decisions.

Continuing to comment on Section 11, the first blocked paragraph in section 1 is also a significant change to the current statute with which we have concern. This proposed language states that only the person with first-hand information about the suspected abuse or neglect may make the report. While we certainly see the value of the reporter being the most direct source of information, this is not always feasible, necessary, or optimal, and I would be happy to elaborate if that would be helpful. We recommend, at a minimum, editing the sentence by replacing “must” with “should, when possible.” Related to this point, we also recommend amending paragraph 1 by changing “...shall report to the department...” to “...shall report or cause a report to be made to the department....” If the Committee sees fit to not amend this blocked paragraph as described, then it should address the conflict that will remain between this blocked paragraph and the “designated agent” phrase in paragraph 3 by deleting the “designated agent” phrase. Finally, we recommend adding to the blocked paragraph the following sentence: “Nothing in this section shall be construed to prohibit a person required to report under this section from seeking consultation to determine if a report to the department is required.”

Thank you for the opportunity to testify today. I welcome any questions and would be happy to join you for the work session if that would be helpful.