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March 4, 2025

Senator Carney, Chair
Representative Kuhn, Chair
Members, Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333-0100

Re: LD 492 – *RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Parental Rights*

Senator Carney, Representative Kuhn and members of the Joint Standing Committee on Judiciary, thank you for the opportunity to provide information in opposition of LD 492, *RESOLUTION, Proposing an Amendment to the Constitution of Maine to Provide for Parental Rights*

This bill proposes an amendment to the Maine Constitution to provide that parents have a natural, inherent, and unalienable right to their minor child. The amendment would include specific language that governmental entities “may not infringe on the authority of parents to direct the upbringing, education and care for the physical, mental, and spiritual health of their children absent abuse or neglect by the parent or criminal acts by the child”.

OCFS is opposed to this amendment for several reasons. First, the amendment’s only exception for situations of abuse or neglect requires that abuse or neglect has occurred. The proposed amendment does not allow for governmental involvement in a child’s upbringing in situations where this is a significant risk of abuse or neglect. The statutory definition of abuse or neglect contained in 22 MRSA §4002(1) includes threat of language that is fundamentally important to ensure the safety and well-being of Maine children. Furthermore, it is unclear what the implications of this change could be for Maine’s District Court where family court orders regular “infringe on the authority of parents” as Judges allocate parental rights and responsibilities based on the Court’s best interest of the child findings.

OCFS has additional concerns that this bill could have significant implications for the ability of the State to oversee and monitor situations where children are being homeschooled. While we support the right of parents to homeschool their children, we also believe that, in keeping with the truancy laws, it is important that homeschooling be tracked and monitored by the Department of Education.

Furthermore, the Department is concerned about how this amendment could be used to significantly limit the ability of the State to take actions that ensure the safety of the larger

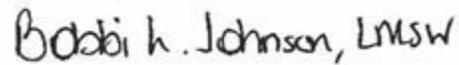
population (for instance requiring vaccinations to attend school). It is also unclear how this amendment, if enacted, would impact Title 22, Chapter 260 of the Maine Revised Statutes which allow minors to consent for health services in certain circumstances. Both vaccine requirements and the law allowing minors to consent to their own health care are properly enacted statutory provisions that could be completely nullified by this proposed amendment.

OCFS believes that sufficient constitutional protection for parents already exists in both the US Constitution and the Maine Constitution pursuant to the due process clauses of each of these documents. These protections for parents have been appropriately balanced by the Courts with the rights of children to be safe and free from abuse or neglect. OCFS would point the Committee to the 2020 law court case, *In Re Child of Ryan F. (2020 ME 21)* where the court specifically found that a “parent’s constitutional liberty interest in family integrity is not, however absolute, not forever free from state interference...and this is true in great part because the rights of another person – the child – must also be protected by the State...Thus, the State has a compelling interest in limiting, restricting, or even terminating a parent’s rights when harm to the child will result from the absence of such governmental interference.”

OCFS believes that due process offers sufficient protections for parents and that protection balances various competing rights including the rights of one parent versus the other, the rights of the child themselves, and the rights of the State to take action in furtherance of public health and safety. OCFS encourages the Committee to vote ought not to pass on LD 492.

Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,



Bobbi Johnson, LMSW
Director
Office of Child and Family Services
Maine Department of Health and Human Services