Written Testimony of Sarah Crittenden Loud, Esq. in support of LD 1544
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For a Public Hearing of the Maine Legislature Judiciary Committee
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To the honorable committee members:

I was a child welfare attorney in Texas before I moved to Maine and began practicing here in January of 2024. I take appointments for parents and I also serve as a guardian ad litem. I found Maine was in some ways ahead of Texas in providing needed services such as case managers for parents, and I see a huge benefit to families here who are covered by MaineCare. On the other hand, Maine lags behind in supporting its families in a number of areas, and I see the direct impact of that.

As we all know federal law requires the state to provide reasonable efforts to prevent removal or achieve reunification. This is a condition of receiving federal funds, and the consequence of a finding of failing to make reasonable efforts is a loss of funding. However, many states, including Texas, have also made reasonable efforts a condition for termination of rights. Specifically, Texas requires that at a final hearing the department has the burden to present clear and convincing evidence of at least one ground for termination; that termination is in the best interest of the child; and that the department made reasonable efforts to return the child to the parent before commencement of a trial on the merits, and despite those reasonable efforts, a continuing danger remains that in the home that prevents the return of the child to the parent.

The proposed language of this bill would align Maine with Texas and at least 26 other states. Additionally, in real life terms, this would ensure that families get focused attention on what exactly they need, rather than the generic service plan that overworked caseworkers tend to give every parent. These service plans typically require a mental health and substance use assessment and random drug testing whether or not the parent has mental health or substance abuse issues. Usually the department wants to the parent to get separate substance abuse and mental health counseling, so they end up with two providers instead of one. The plans require parents to obtain or maintain safe and stable housing, whether or not they already have it, are looking for it, or have been on waitlists for months. The plans require a parenting class, whether the parent is a "good" parent in a bad relationship or a parent who has no clue how to be a parent.

Another major impact that this bill would have on the child welfare system here in Maine is the requirement that the department weigh the trauma of removal of the child against the risk to the child of remaining in the home. When I began practicing here I immediately saw

the effect of the high profile coverage of child fatalities in the system over the past few years. The department is on high alert and wants to take no chances on a child's safety. Inexperienced investigative caseworkers are quick to remove children from their parents' home, and newborns from the hospital. Nobody wants to be the one responsible for a child's injury or death. Yet the result of this is to inflict undeniable trauma on children who may be removed from the home at any hour, placed in the back of a car and taken to a stranger's house and left there, not knowing what is going to happen to them next.

By requiring the agency to consider these consequences, to document how the decision was made, my hope is that the caseworkers will be given targeted training to be able to recognize actual substantial risk versus the potential risk of a risk. As a guardian ad litem I've been on cases where it's really on the borderline. Often the underlying issue is poverty and the neglect that comes with parents who have poor parenting skills trying to make ends meet. There are so many cases out there where a caseworker with more training and better judgment would be able to make a reasonable assessment of the risk, if in fact this were a required finding. And that takes us right back around to the reasonable efforts to prevent removal.

If I have time I'd like to address the third issue in this bill, which does away with having a prior termination as an aggravating factor. This is one thing that Texas hasn't yet come on board with best practices, and one I'm very familiar with. I've counseled parents on many occasions about the risks of involuntary termination at trial versus a voluntary consent. I've had many parents want a trial because they don't want their kid to be told "your mother gave you up." They would rather their kid be told "your mother fought for you to the end." That it is held against a parent that they exercised their right to a trial on the merits because they didn't want to voluntarily give up their kid is contrary to the foundations of our judicial system.

I respectfully urge the committee to vote "ought to pass" on LD 1544. Thank you for your time and attention.