

**Written testimony of
Richard Wexler
Executive Director, National Coalition for Child Protection Reform
For a Public Hearing of the Maine Legislature Joint Standing Committee on Judiciary
Concerning LD 1544
April 14, 2025**

I am pleased to have this opportunity to submit this written testimony on behalf of the National Coalition for Child Protection Reform.

My organization has followed Maine child welfare for more than a quarter of a century. We issued [our first report on Maine child welfare](#) in 2002. We issued [another on the first anniversary of the death of Logan Marr](#). We met with advocates and journalists and testified twice before this Legislature. (You can find out more about NCCPR, our stellar Board of Directors, our track record and what others in the field say about us at www.nccpr.org)

I discuss our role, and the context for all child welfare reform in Maine, in written testimony submitted last week to the Health and Human Services Committee in support of another excellent bill, LD 891. I have appended that testimony at the end of this submission, so I won't repeat that context here.

Instead, I hope to offer some context specific to the need for LD 1544. It all has to do with what is probably both the most common – and the most dangerous – phrase in the entire child welfare lexicon: “best interests of the child.”

LD 1544 does not remove that phrase from any statute or regulation. But LD 1544 tempers that phrase with the humility that a profoundly arrogant system needs; the humility to know the difference between a “best interests” standard and what that phrase really gives us: A “better off” standard – as in that foster family is better off financially, so let's just put the child there.

Wait, some might say, how can you be against “best interests”? Do you want what's worst for the child? Do you not care about children's rights?

Of course, we should seek the best. But that phrase has led us to do our worst.

Because “best interests of the child” is a phrase filled with hubris. It says we are wise enough always to know what is best and capable always of acting on what we know. Those are dangerous assumptions that can lead us to try to fix what isn't broken or make worse what is.

The phrase also is like an engraved invitation to all those who hold real power in our society to inflict their whims and prejudices on those who do not. Every time a child's poverty is confused with “neglect” it's done in the name of the “best interests of the child.” Logan Marr's

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poverty was confused with neglect. A lot of people figured: How could it possibly not be in her “best interests” to be placed with a foster parent who’s not only middle-class, but even worked for what was then the Department of Human Services? I hope all these years later no one needs to be reminded of how that worked out.

Every time a well-meaning caseworker sees a dirty home – because it’s right before their eyes – but can’t see the enormous bonds of love within a family that are far more important – they are assuming that the nice clean home with those middle-class strangers must be in the “best interests of the child.”

Best interests of the child led us to the point where, in Maine, one-third of all children, 55% of Native American children, 58% of Hispanic children and [close to two-thirds of Black children](#) will be forced to endure the trauma of a child abuse investigation. And make no mistake, an investigation itself, [often accompanied by a stripsearch](#) is, in itself a trauma.

Best interests of the child is the mantra every time Maine tears a Hispanic child from her or his family and consigns that child to the chaos of foster care. And in Maine that will happen to [more than one in four Hispanic children](#).

This is why, more than 50 years ago, three scholars, Albert Solnit, Joseph Goldstein, and Anna Freud, proposed an alternative phrase.

The three wrote [a trilogy of books](#) that were enormously influential. Had their recommendations been adopted whole, we would have a vastly more humane, vastly safer, and vastly smaller child welfare system.

But the child welfare establishment cherry-picked their recommendations – embracing those that made it easier to terminate parental rights after children were removed while ignoring the heart of their work: making it much harder ever to take away child in the first place.

That’s why they were ignored when they proposed that the phrase “best interests of the child” be replaced with the phrase “least detrimental alternative.”

Least detrimental alternative is a humble phrase. It recognizes that whenever we intervene in family life we do harm. Sometimes we must intervene anyway, because intervening is less harmful than not intervening. But whenever the state steps in coercively, harm is done.

The phrase “least detrimental alternative” is a constant reminder that we must always balance the harm that we may think a family is doing against the harm of intervening. It is exactly the shot of humility that every child welfare system needs.

While that particular phrase isn’t in LD 1544, that is the heart and soul of what LD 1544 tries to do. And it’s about time.

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LD 1544 demands that DHHS caseworkers balance harms and opt for the least detrimental alternative. It demands that those workers prove they really did that balancing before a judge considers tearing children from their families. And it demands that courts show that they have done the same before approving any such request.

Here's one more reminder of why that is so important: [Study after study after study](#) has found that in the typical cases seen by workers for DHHS and its counterparts across the country – the typical cases, not the horror stories – children left in their own homes fare better in later life even than comparably maltreated children placed in foster care. Every one of those children whose lives were made worse by foster care was failed by a system that failed to balance harms.

LD 1544 has another excellent provision:

It is because Congress recognized the harm of removal that Congress enacted a law in 1980 demanding that states make “reasonable efforts” to keep families together. Judges are supposed to affirm that such efforts have been made. If they don't, the costs of taking that child away and holding her or him in foster care won't be partially reimbursed by the federal government.

But [that law was never enforced](#). Certification meant no more than checking a box on a form, and in all these years, the federal government has never checked the checkmarks. In Michigan, judges even admitted they often lied and checked the box saying reasonable efforts had been made when they didn't believe it themselves – because they didn't want to lose those federal dollars.

LD 1544 attempts to deal with this as well, demanding that DHHS get specific about exactly what they did to fulfill the reasonable efforts requirement.

I fear that this, too, won't be enforced. I can imagine DHHS simply developing a new form with several boxes to check off claiming they did this, that, and the other. No one will check – and the this, that and the other might well have nothing to do with what the family in question really needs. That's what we see whenever a family that really needs housing aid or childcare assistance is forced into “counseling” and “parent education” – which actually can make things worse by adding more stress to the family.

And that's why, much as I favor this bill, it also needs an enforcement mechanism. So I'll close with something I said in my testimony on LD 891

The best enforcement mechanism is high-quality interdisciplinary family defense. In this model the family gets a lawyer, their own social worker, and sometimes a parent advocate who has been through the system herself. Ideally, [as Casey Family Programs explains](#), this should happen starting the moment a caseworker knocks on a family's door. It's been shown to reduce foster care [with no compromise of safety](#). No, that's not to get “bad parents” off – it's to demand

alternatives to the cookie-cutter “service plans” often forced on families by agencies like DHHS and ensure families get the custom-tailored help they need – often concrete help to ameliorate the worst effects of poverty.

The Maine Commission on Public Defense Services [is just beginning](#) to create something like this in Maine. It’s a start, but it needs to be available for every family. And if you’re wondering how to pay for it: The federal government will pick up half the tab in many cases, and savings in reduced foster care costs are likely to pay for the rest.

That’s still just a start. There are a series of recommendations in the Solutions sections of NCCPR’s website, our [“Due Process Agenda”](#) and [“Doing Child Welfare Right.”](#)

And one more thing: I hope this legislature will consider actually doing what Goldstein, Freud and Solnit recommended more than half a century ago: Replace the phrase “best interests of the child” with “least detrimental alternative.”

See next page for Appendix A: NCCPR testimony on the context of Maine child welfare.

**APPENDIX A: Written testimony of
Richard Wexler
Executive Director, National Coalition for Child Protection Reform
For a Public Hearing of the Maine Legislature Committee on Health and Human Services
Concerning LD 891
April 8, 2025**

I am pleased to have the opportunity to submit this written testimony on the urgent need for LD 891. Indeed, if legislation like this were to have a name, instead of just a number, I would suggest calling it “Logan’s Law.”

I suggest that name because had such a law been on the books in 2001, and been enforced, Logan Marr might be alive today.

I hope everyone knows what happened instead, but with so much time having passed, and with the lessons from those events now routinely ignored, sometimes I’m not sure.

That’s why, while I’m sure others will offer details on the bill itself; I want to focus on the history behind it, a history that, in some ways, is more tragic than any other state. That’s not because Maine has the worst child welfare system in America. It has a pretty bad system, but it’s not the worst. But what makes Maine’s tragedy so poignant to me is that Maine once learned all the right lessons from the death of Logan Marr. Maine was on its way to becoming a national model for doing child welfare right. But all it took was fearmongering and demagoguery to wipe away a large part of that progress.

This bill I would call Logan’s Law would not, in itself, set things right again. But it would be a crucial first step in making all Maine’s vulnerable children safer – and setting Maine on the road to once again becoming a national leader.

So for those who may not know or may not remember:

Five-year-old Logan Marr was abused in one foster home, then moved to the home of Sally Schofield, a foster parent who also was a supervisor for what was then the Department of Human Services. One day Schofield dragged Logan to the basement and tied her to a high chair with 42 feet of duct tape. She died of asphyxiation. Logan Marr was taken from her mother in the first place because her family poverty was confused with neglect. She

If anyone doubts this, I ask that you please watch the PBS *Frontline* documentary “The Taking of Logan Marr.” [You can find it online here.](#) I hope that as well you will read the brief Appendix at the end of this testimony: A letter Logan’s mother Christy wrote to Sally Schofield.

I ask also that you read one book: It's called [Memoirs of a Babystealer](#) and it's by a fed-up former foster and adoptive parent in Maine, Mary Callahan. She found that almost every child she fostered could have remained safely in their own homes if their parents simply got the kind of support she got as a foster parent. In other words, poverty was confused with neglect. [You can read an essay Ms. Callahan wrote here.](#)

Logan was a victim not only of her foster mother. She was a victim of the take-the-child-and-run mentality that then gripped Maine, and a pervasive hostility to families caught up in the system; a hostility so severe that the head of DHS at the time, Kevin Concannon, would not even apologize to Logan's mother for the death of her daughter until she pressed him to do so and his failure got media attention.

My organization was familiar with that hostility even before Logan died. Shortly after, we issued [our first report on Maine child welfare](#). We issued [another on the first anniversary of Logan's death](#). We met with advocates and journalists and testified twice before this Legislature. (You can find out more about NCCPR, our stellar Board of Directors, our track record and what others in the field say about us at www.nccpr.org)

But far more important was the role of local advocates, such as Ms. Callahan, who led the Maine Alliance for DHS Accountability and Reform.

As a result, something extraordinary happened. In other states, such tragedies are written off as aberrations – though the data show they are not, as I'll get to below. But not in Maine. Thanks to Mary Callahan, thanks to some wise lawmakers who understood what this tragedy really meant, and thanks to a new Governor, John Baldacci, who brought dynamic new leadership to Maine, things changed. They changed so much that Maine went from a national scandal to a national leader in getting child welfare right.

The [Annie E. Casey Foundation](#) singled out Maine's accomplishments. So did Harvard's Kennedy School of Government, when it named Maine's child welfare reforms a finalist for its [Innovations in American Government awards](#). Indeed, throughout the child welfare community, people were saying to each other: Have you seen what they're doing in Maine?

Here's what they – or more properly you – were doing in Maine: You reduced the use of the worst form of substitute care, institutionalizing children. You increased the use of the least harmful form of foster care: kinship foster care with extended family. Fortunately, those reforms have been sustained.

But most important, you reduced the needless removal of children when family poverty was confused with neglect. And contrary to what the fearmongers predicted at the time, it was all done with no compromise in child safety. We know that because key measures of child safety remained the same or improved, even as far fewer children endured the devastating emotional trauma of removal – and the high risk of abuse in foster care itself.

The changes were policy changes, administrative changes, practice changes and culture changes. All are, of course, very important. But the changes were not locked into law. So all it took was some horror stories and some demagoguery to begin the process of undoing reform.

The demagoguery came from former Gov. Paul LePage, often referred to as Trump-before-Trump due to his penchant for [lying](#), [racism](#), [vulgarity](#) and [miscellaneous cruelty](#). He exploited high-profile child abuse deaths to push for changes in law – and a general change in approach. Those changes amounted to a giant, irrational tariff on reform, making it impossible for Maine to continue its progress.

The result was a cycle of failure: Children known-to-the-system die. There's [a foster-care panic](#), a sharp sudden spike in removals of children from their homes. We're told this is necessary to stop child abuse deaths. But the deaths don't stop. Instead of learning from that failure, the cycle repeats. The result: all Maine children become less safe.

- Children suffer the enormous inherent emotional trauma of needless removal.
- Children are put at high risk of abuse in foster care itself, where [independent studies find](#) the rate of abuse is vastly higher than states report in official figures.
- And all the false allegations, trivial cases and cases in which family [poverty is confused with neglect](#) – like the case of Logan Marr – steal time from finding those few children in real danger.

If you draw a line graph of the number of children torn from their homes in Maine since 1999, it looks almost as though the graph is mocking us: It looks like a smile, as entries safely and significantly declined during the Baldacci era, only to rise again under LePage and, sadly, remain high under the current administration.

And so, in 2022 the number of children trapped in foster care reached a record high. So did the number torn from their homes over the course of a year – higher even than before Logan Marr died. Maine took children at a rate [more than double](#) the national average, even when rates of child poverty are factored in. Maine comes down especially hard on Hispanic children. [More than one in four](#) will be forced into foster care at some point.

And no, that's not because Maine has an unusually high rate of child abuse. [As reporting by the *Maine Monitor* made clear](#), that claim is not supported by the actual data.

And who are these children? LePage's successors in demagoguery and fearmongering will gladly regale you with horror stories. Those cases are the ultimate tragedy. The only acceptable goal for such cases is zero. They also are nothing like what most DHHS caseworkers see most of the time.

In 2022, the most recent year for which comparative data are available, [85% did not involve even an allegation](#) of sexual abuse or any form of physical abuse. Fifty-four percent did **not** involve even an *allegation* of any form of drug abuse. Seventy-four percent involved "neglect." Sometimes neglect can be horrific and it can be willful. But far more often, neglect is

confused with poverty – in part because existing Maine law not only allows it but encourages it. Indeed, Maine admits that in 17% of cases, the children were taken because of issues with housing.

And who is hurt by all this? You can bet that opponents of this bill will wallow in the Big Lie of American child welfare: the false claim that “child safety” and “family preservation” are opposites that need to be “balanced” and this bill supposedly tilts the balance toward “parents rights.”

I’ve spent nearly 50 years following this issue, first as a reporter and now as an advocate, because of my belief in the primacy of child safety – and because the overwhelming body of evidence shows that, for the overwhelming majority of children the overwhelming majority of the time, family preservation isn’t just the more humane option – it is the *safer* option.

The current system, our current massive child welfare surveillance state, with its overwhelming reliance on policing families and needless foster care, makes all children less safe. The system Maine had before Logan Marr died and, sadly, has again now, destroys children in order to “save” them. Family preservationists are the true advocates for children’s rights and child safety.

Consider how many ways the approach Maine takes now, and which opponents of this bill want to keep, hurts children.

- When a child is needlessly thrown into foster care, he loses not only mom and dad but often brothers, sisters, aunts, uncles, grandparents, teachers, friends and classmates. He is cut loose from everyone loving and familiar. For a young enough child it’s an experience akin to a kidnapping. Other children feel they must have done something terribly wrong and now they are being punished. Stop and think for a moment of the cries of children torn from their parents at the Mexican border during the first term of LePage’s favorite president. [You can listen to those cries here.](#)

DHHS caseworkers mean well. But when Maine children are taken, they cry out the same way for the same reasons.

So it’s no wonder that [one study after another has found](#) that in the typical cases, not the horror stories, children left in their own homes typically fare better even than comparably-maltreated children placed in foster care – and that’s true even when the children left in their own homes get no special help.

That harm occurs even when the foster home is a good one. The majority are. But the rate of abuse in foster care is far higher than generally realized and far higher than in the general population. [Multiple studies](#) have found abuse in one-quarter to one-third of foster homes. The rate of abuse in group homes and institutions is even worse. Indeed, we all got a reminder of that

just last week, when Los Angeles County, which runs its own foster care and juvenile justice systems agreed to pay \$4 billion – yes [four billion dollars](#) – to settle thousands of lawsuits brought by children abused in their care.

But even that isn't the worst of it. The more that workers are overwhelmed with false allegations, trivial cases and children who don't need to be in foster care, the less time they have to find children in real danger. So they make even more mistakes in all directions. That's almost always the real reason for the horror stories about children left in dangerous homes. As the *Maine Monitor* explained:

The most recent federal foster care data showed that the national foster care population fell 15 percent between 2018 and 2022. In Maine, it rose nearly 40 percent over that same period. Last year, Maine had more children in state custody than at any other time in the last 20 years.

The new federal report [on child abuse] bolsters some advocates' argument that Maine is failing to keep kids safe not because it is investigating too few families but because it is investigating too many, and failing to identify the true threats in the deluge of cases.

"I talked to policymakers, and they're like, 'Okay, we've added 100 case workers, and we've thrown all this money at the agency. Why are kids still dying?'" said Melissa Hackett, policy associate at the Maine Children's Alliance. "It's because we're flooding the system."

Hypothetical horrors

What you'll also hear from opponents of this bill are hypothetical horrors. They'll look at the provisions tightening circumstances under which caseworkers can intervene coercively and find an example in which someone could be overlooked. That may tempt you to water down the bill. Then they'll come up with another one, so you'll be tempted to water it down some more. That would be a huge mistake. Indeed, it would be repeating the very blunders that got all states, not just Maine, into this mess in the first place.

The system of reporting and investigation was originally conceived to involve a narrow group of professionals reporting only suspicions of the most serious abuse – physical and sexual. But then people said: What about this possible case? Or this one? The never-ending mission creep we've seen over more than 50 years has left us with a giant child welfare surveillance state. Nationwide, more than one-third of all children, [and more than half of Black children](#) will be forced to endure the trauma of a child abuse investigation before they turn 18. In Maine, it's 55% of Native American children, 58% of Hispanic children and [close to two-thirds of Black children](#). And make no mistake, an investigation itself, [often accompanied by a stripsearch](#) is, in itself a trauma.

Also please understand: The fact that DHHS might not be able to intervene coercively in a case doesn't mean the agency can do nothing. The agency can and should offer help – and a little bit of concrete help to ameliorate the worst aspects of poverty often is all it takes.

But not always. No system can account for every eventuality. And no system can prevent every tragedy. Opponents will be quick to claim that if you pass this law some children in real danger may be missed. But, as tragedy after tragedy has made clear in Maine in recent years, you miss more children in real danger with the system you have now.

To see what really happens when a law like this one is enacted, look at Texas. In 2021, a strong bipartisan majority passed a much stronger law than the one you are considering now. Foster care entries declined significantly – and so did child abuse deaths. More significantly (because it's a more reliable measure of overall safety), the overall rate at which children are abused again when left in their own homes is lower now than when this law passed.

Did one cause the other? We don't know. What we do know is that the fearmongers were wrong. Far fewer Texas children are enduring the trauma of needless foster care, with no compromise of safety.

Further steps

Even if this law is enacted, that will be only Step One. Even the best law is of limited value if it is not enforced.

The best enforcement mechanism is high-quality interdisciplinary family defense. In this model the family gets a lawyer, their own social worker, and sometimes a parent advocate who has been through the system herself. It's been shown to reduce foster care [with no compromise of safety](#). No, that's not to get "bad parents" off – it's to demand alternatives to the cookie-cutter "service plans" often forced on families by agencies like DHHS and ensure families get the custom-tailored help they need – often concrete help to ameliorate the worst effects of poverty.

The Maine Commission on Public Defense Services [is just beginning](#) to create something like this in Maine. It's a start, but it needs to be available for every family. And if you're wondering how to pay for it: The federal government will pick up half the tab in many cases, and savings in reduced foster care costs are likely to pay for the rest.

That's still just a start. There are a series of recommendations in the Solutions sections of NCCPR's website, our ["Due Process Agenda"](#) and ["Doing Child Welfare Right."](#) One of the items listed in the latter publication is "the transformation in Maine."

And that brings us back to where we started. When I think of child welfare in Maine, I think of that line in the movie *On The Waterfront* – the line that's heard in a million parodies: I could have been a contender.

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Maine really was a contender – a contender for national leader in child welfare. After Logan Marr died, Mainers from the grassroots to the governor’s office showed the grit and determination necessary to turn an entire system around – and make all of the state’s vulnerable children safer.

Maine can be a contender again. You can take the first step by turning your back on fearmongering. You can take the first step by passing LD 891 – or as it should be called “Logan’s Law.”

For additional detail on all of the issues above, and more about Maine child welfare, see the posts about Maine on the NCCPR Child Welfare Blog, [available here](#).

See Appendix B on the following page.

Appendix A

Below is a letter sent by Logan Marr's mother, Christy, to foster mother Sally Schofield, weeks before Schofield killed Logan. The letter originally was published in Logan's Truth, independent journalist Terrilyn Simpson's comprehensive account of the case.

“PLEASE DON'T HIT OR HURT MY CHILDREN”: A LETTER FROM LOGAN MARR'S MOTHER TO LOGAN'S FOSTER MOTHER

Dear Sally,

My name is Christy. I'm Logan and Bailey's Mom. I'm writing this so you can know and understand my children. I thought I would let you know their likes and dislikes.

Logan - she likes butterflies, pizza (what kid doesn't?), flavored noodles, pitted black olives (she likes to put them on her fingers), white cheese, grape soda, Babes in Toyland (her favorite movie) the Cartoon Arthur. Logan's dislikes - peas, fish sticks, going to bed early, not picking out her clothes. Bailey's likes - her brown teddy bear blanket (she takes it everywhere, including visits), dry cereal, pitted black olives, cheese, eggs, cooked carrots.

Bailey's dislikes - having her poopie diaper changed (if you haven't noticed), someone taking her pacifier, fish sticks, someone feeding her (she likes to do it herself). Please ask [caseworker] Allison Peters what the kids are allergic to.

I don't blame you for not wanting me to know who you are, I will respect that. Regardless of what you have heard or read, I love my little ladies with all my heart. I have never hit, spanked or put my hands on my girls. I do respect my children. I'm not saying you would or wouldn't, but Please don't hit or hurt my children. The girls have already been through enough they don't need the added stress in their life.

Every night I look up at the sky about 7:45pm and say goodnight to my girls. In closing, I want to thank you for taking the time to read this. Please tell the girls before they go to bed I love them and give them a big hug and kiss. Thanks again!

--Christy