



# Administrative Office of the Courts

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## **Judicial Branch testimony neither for nor against LD 2150, An Act to Establish Procedures for Restricting Access to State Property, Access to State Services and Communication with or through State Entities:**

Senator Carney, Representative Kuhn, members of the Joint Standing Committee on Judiciary, my name is Julie Finn and I represent the Judicial Branch. I would like to provide some brief testimony regarding LD 2150.

The Judicial Branch takes no position on the policy behind this bill but has identified some procedural issues. In no particular order, these issues are listed below:

- In Section 1, lines 40-41, the bill states that “the court shall prioritize complaints filed for protection from harassment other than those filed pursuant to this subsection.” This would appear to require the court to *de-prioritize* complaints filed under this subsection over other harassment complaints, and we question whether that is the intent.
- In Section 1, lines 23 to 31, the bill creates a process for a notice to restrict a person from accessing state property or services prior to the filing of a complaint that is somewhat akin to the process for a cease harassment notice under 17-A M.R.S. § 506-A that is the basis for obtaining a temporary emergency order in the protection from harassment statute. *See* 5 M.R.S. § 4653(1)(B). However, the proposed process is distinct from the notice provision in the PFH statute in a few notable ways: (1) first, unlike a cease harassment notice that is enforceable as a Class E crime (or class C crime under certain circumstances), *see* 17-A M.R.S. § 506-A, this new proposed notice does not have an enforcement mechanism; (2) second, this new notice can be in effect only for 90 days, as opposed to cease harassment notices, which expire one year after the date of issuance, and (3) third, unlike the existing PFH statute that includes exceptions to the cease harassment notice requirement, the proposed provision does not include exceptions for this predicate notice. It is unclear if these differences are intended to create an

alternative, parallel process to avoid using the existing PFH process. We are thus raising these differences in the event that the committee wishes to more closely align this proposed subsection to the cease harassment notice process recognized in the PFH statute.

- In Section 1, lines 34-35, the bill requires that the Department of Public Safety, Bureau of State Police, file the complaint for protection from harassment pursuant to chapter 337-A. We would simply point out that DPS cannot represent anyone in court and would need an attorney to file the complaints, whether an in-house attorney or someone from the AG's office. See 4 M.R.S. § 807 (unauthorized practice of law).
- In Section 4 line 19, the bill adds "family" to the list of entities that may file a complaint for protection from harassment. This term is problematic, overly vague, and not otherwise recognized as an entity that can file a claim. We respectfully request that "family" be removed from the bill to avoid confusion.
- In Sections 6 and 7, lines 42 and 5 respectively, the bill refers to "state property" as a prohibited area. This term is also overly vague and should include more specificity as to specific state property or properties. We suggest the language be changed to "state property as designated by the court."

Thank you for your time. I would be happy to answer any questions.