



September 30, 2022

Commission to Develop a Pilot Program to Provide Legal Representation to Families in the Child Protection System
email to: samuel.senft@legislature.maine.gov & janet.stocco@legislature.maine.gov

Re: Public Comments requested for Meeting on Monday, October 3, 2022

Dear Commission Members:

My name is Lauren Wille and I am a managing attorney at Disability Rights Maine (DRM). DRM is Maine's designated Protection and Advocacy agency for people with disabilities. We represent individuals, both children and adults, with various disabilities whose rights have been violated or who have faced discrimination on the basis of disability. Prior to beginning my work at DRM in 2017, a fair amount of my legal practice was dedicated to representing parents in Child Protection matters. I also have had training as a Guardian ad Litem, although my work in that area was more limited. Parents with disabilities are disproportionately represented in these types of matters. Thank you for the opportunity to provide these comments.

I will focus my comments on each of the questions you presented in order.

1. *What type of legal assistance would be most useful to parents when the department is investigating a report of potential abuse or neglect?*
 - a. *Should the legal assistance focus on helping parents understand their rights during the investigation and in negotiating with the department to try to reach a solution that prevents the need to remove the child?*
 - b. *And/or, should the free legal advice focus on other legal issues, such as: housing issues; DV issues; custody/guardianship issues; or other legal problems?*

Both types of legal assistance mentioned above are crucial, and I believe an attorney representing a parent who is being investigated for abuse or neglect cannot focus legal assistance on the first while ignoring the underlying reasons that are almost always

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involved in Child Protection matters. When I have represented parents in the past, they have already had a great deal of interaction with the Department prior to the filing of a petition to remove the child. Not having representation earlier in the process often creates a multitude of issues that may make a child's removal from the home more likely, or, if removal is unavoidable, can make reunification efforts more difficult.

Parents who are being investigated for abuse or neglect are scared, stressed, confused, and defensive. It is difficult not to be when one is facing the prospect of losing one's child(ren). Without an advocate to represent the parent, the process can be more adversarial than it needs to be. There are times when I believe that, had an attorney been involved earlier, court proceedings or removal of the child from the home could have been avoidable. I have worked with clients who did not understand their rights, or the process, or had been outright misinformed by the time I began working with them. By this point, animosity and distrust of the Department has become deep-seated, and that can derail a parent's ability to effectively engage in reunification services. Having an advocate specifically for the parent that can play even a small role at the beginning of the process can make a huge difference in the ultimate outcome.

This is especially important for parents with disabilities. The Department is required to reasonably accommodate parents with disabilities through the investigation and subsequent process. Parents do not often know this is their right, and, more importantly, caseworkers and investigators at the Department are not always aware of this. An attorney can help ensure parents with disabilities are appropriately accommodated from the very beginning of the process. This is important because accommodating parents who need more or different type of help will lead to more successful outcomes for reunification, and that is good for families. Although Disability Rights Maine does not directly represent parents in these matters, we do regularly consult with attorneys who do to help ensure these rights are understood and can connect attorneys with training and resources.

To the second point, more often than not, issues like housing instability, domestic violence, custody/guardianship issues, substance abuse, or other legal problems are a factor in these cases. These are all issues that require long-term solutions, and in Child Protection cases, time is of the essence. The sooner a family can be connected with resources to help address these issues, the better. Earlier invention with an attorney can help connect parents to resources, and to encourage parents to utilize them.

2. *Because this is a pilot project, we have to decide how to focus the assistance: What population would most benefit from this type of legal support? For example,*
 - a. *Is there a particular type of situation the pilot project should focus on?*
 - i. *For example, pregnant mothers who have a substance use disorder, situations of domestic violence, housing instability, immigration etc.?*
 - b. *Or, do you think it is better for the pilot project to focus on helping all low-income parents who are subject to an investigation in a single geographic area of the State? If so, what area of the State do you suggest, and why?*

Ideally, all low-income parents who are subject to an investigation in Maine should have court-appointed counsel as soon as an investigation is opened. Understanding that this is a pilot project, I believe it would be better to focus on a geographical region of the State rather than a particular type of situation. Because the situations underlying most Child Protection matters are complicated, they cannot be neatly grouped into categories. Domestic violence is often associated with housing instability. Substance use disorder often leads to other legal problems. A pilot project in which legal counsel were provided in only one type of situation would be difficult to administer. While I do not have an opinion on which region in particular a pilot project should focus on, it would make sense to consider the frequency of investigations, and to focus on an area of the state where the most help can be given.

3. *What other ideas do you have related to this pilot project? How can this project best be designed for success?*

Another component of the pilot project might focus specifically on parents with disabilities. As mentioned above, the State is required to accommodate parents with disabilities throughout the Child Protection process, and many stakeholders, including parents, attorneys, caseworkers, and AAGs, are often unaware of the rights individuals have under the Americans with Disabilities Act, and how that intersects with Child Protection proceedings. In addition to having attorneys involved earlier in the process, it would be helpful to have an educational component for stakeholders so that they can learn more about ways to assist clients who have disabilities to access reunification services successfully. Focusing on accommodating people with disabilities has the potential to make the process less rigid, more compassionate, and more holistic.

Children are of course harmed by abuse and neglect, and the State should do everything in its power to keep children safe. It is also better for children when they remain with, or be reunified with, their parents safely. In my extensive work with parents who have been involved in Child Protection cases, I have never once worked with a parent who intended to create unsafe circumstances for his or her children. Lack of parenting education, lack of support for parents (particularly parents with disabilities), stress, housing instability, domestic violence, substance use, legal problems, poverty, and a general lack of systemic supports for parents are often significant underlying factors. Both parents and the State have the same goal in keeping children safe, and parents may be more willing to engage in efforts to reach that common goal if they had legal advocates from the start.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "L. Wille". The signature is written in a cursive, flowing style.

Lauren Wille, Esq.
Managing Attorney
Disability Rights Maine