

# MAINE STATE LEGISLATURE

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Date: 3-29-22

L.D. 1824

(Filing No. H-875)

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**HEALTH AND HUMAN SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
130TH LEGISLATURE  
SECOND REGULAR SESSION**

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COMMITTEE AMENDMENT "A" to H.P. 1357, L.D. 1824, "An Act To Improve the Maine Child Welfare Services Ombudsman Program by Providing Additional Resources"

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Amend the bill by striking out the title and substituting the following:

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**'Resolve, To Establish the Commission To Develop a Pilot Program To Provide Legal Representation to Families in the Child Protection System'**

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Amend the bill by striking out everything after the title and inserting the following:

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**'Emergency preamble. Whereas,** acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

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**Whereas,** this resolve establishes the Commission To Develop a Pilot Program To Provide Legal Representation to Families in the Child Protection System to develop a pilot program to provide legal counsel to parents and custodians as soon as the Department of Health and Human Services has begun a safety assessment to determine if a child is at risk of harm; and

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**Whereas,** low-income parents and custodians are unclear about their rights and the expectations of the child protection system; and

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**Whereas,** legal counsel available at earlier stages in the child protection process has shown clear benefits to families in programs operating in other parts of the country; and

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**Whereas,** the work of the commission must be initiated before the 90-day period expires in order that the development of the pilot program may be completed and a report submitted in time for submission to the next legislative session; and

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**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

**COMMITTEE AMENDMENT**

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**Sec. 1. Commission established. Resolved:** That the Commission To Develop a Pilot Program To Provide Legal Representation to Families in the Child Protection System, referred to in this resolve as "the commission," is established.

**Sec. 2. Commission membership. Resolved:** That, notwithstanding Joint Rule 353, the commission consists of 13 members appointed as follows:

1. Two members of the Senate appointed by the President of the Senate, including members from each of the 2 parties holding the largest number of seats in the Legislature;

2. Three members of the House of Representatives appointed by the Speaker of the House, including members from each of the 2 parties holding the largest number of seats in the Legislature;

3. Three members appointed by the President of the Senate as follows:

A. A member with experience as an attorney for parents who is a member of the Maine State Bar Association;

B. A member of the Maine Child Welfare Advisory Panel, as recommended by the panel; and

C. A member representing the Maine Commission on Indigent Legal Services, established in the Maine Revised Statutes, Title 5, section 12004-G, subsection 25-A;

4. Three members appointed by the Speaker of the House as follows:

A. A member representing a statewide organization providing services or representation on domestic violence issues;

B. A member representing an organization that provides free civil legal assistance statewide to residents of the State with low incomes who need assistance resolving civil legal disputes; and

C. A member representing a statewide organization representing providers of behavioral health or substance use disorder treatment;

5. The Commissioner of Health and Human Services or the commissioner's designee; and

6. The Attorney General or the Attorney General's designee.

A member of the Justice for Children Task Force that reports to the Supreme Judicial Court, as recommended by the task force, is appointed by the Speaker of the House as a nonvoting member.

**Sec. 3. Chairs. Resolved:** That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

**Sec. 4. Appointments; convening of commission. Resolved:** That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been

# COMMITTEE AMENDMENT

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made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

**Sec. 5. Duties. Resolved:** That the commission shall:

1. Study programs, policies and contracts for services that provide, in other states, regions or municipalities, legal counsel to parents or custodians as soon as that state opens a safety assessment or similar initial evaluation to determine if a child is at risk of harm, rather than only after that state petitions a court;

2. Design a pilot program to provide legal counsel to parents or custodians as soon as the State opens a safety assessment to determine if a child is at risk of harm. The pilot program design must include the following:

- A. The cost of the pilot program, including options for federal or grant funding;
  - B. An assessment of the number of additional cases to be referred for legal counsel;
  - C. Identification of an appropriate organization or organizations that could provide legal counsel in the pilot program;
  - D. A method of providing notice from the Department of Health and Human Services to the organization or organizations providing legal counsel as well as appropriate confidentiality protections; and
  - E. An appropriate duration of the pilot program and data required for assessment to determine regional or statewide expansion; and
3. Solicit public comment on the establishment of a pilot program.

**Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide necessary staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

**Sec. 7. Report. Resolved:** That, no later than November 2, 2022, the commission shall submit a report that includes its findings and recommendations pursuant to section 5, including any recommendations for legislation for the pilot program, to the joint standing committees of the Legislature having jurisdiction over judiciary matters and health and human services matters. The joint standing committees are authorized to report out legislation to the First Regular Session of the 131st Legislature.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**SUMMARY**

This amendment replaces the bill, which is a concept draft, with a resolve that establishes the Commission To Develop a Pilot Program To Provide Legal Representation to Families in the Child Protection System. The commission is required to develop a pilot program to provide legal counsel to parents and custodians as soon as the Department of Health and Human Services has begun a safety assessment to determine if a child is at risk of harm. The commission is required to submit a report, no later than November 2, 2022, with findings and a proposed pilot program, to the joint standing committees of the

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COMMITTEE AMENDMENT "A" to H.P. 1357, L.D. 1824

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Legislature having jurisdiction over judiciary matters and health and human services matters.

**FISCAL NOTE REQUIRED**

**(See attached)**

**COMMITTEE AMENDMENT**



# 130th MAINE LEGISLATURE

LD 1824

LR 2399(02)

**An Act To Improve the Maine Child Welfare Services Ombudsman Program by Providing Additional Resources**

**Fiscal Note for Bill as Amended by Committee Amendment**

**Committee: Health and Human Services**

**Fiscal Note Required: Yes**

*ACH-875*

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## Fiscal Note

### Legislative Cost/Study

#### Legislative Cost/Study

The general operating expenses of this study are projected to be \$1,250 in fiscal year 2021-22 and \$1,500 in fiscal year 2022-23. The Legislature's budget for the 2022-2023 biennium includes an estimated \$6,108 in fiscal year 2021-22 and \$10,000 in fiscal year 2022-23 for the costs of legislative studies, as well as \$31,260 of balances carried over from prior years for this purpose. Whether these amounts are sufficient to fund all studies will depend on the number of studies authorized by the Legislative Council and the Legislature. The additional costs of providing staffing assistance to the study during the interim can be absorbed utilizing existing budgeted staff resources.

#### Fiscal Detail and Notes

Any additional costs to departments or agencies designated to take part in the Commission to Develop a Pilot Program to Provide Legal Representation to Families in the Child Protective System are expected to be minor and can be absorbed within existing budgeted resources.