

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

H.P. 1357 - L.D. 1824

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

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

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

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

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

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

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

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 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.