

127th Legislature
Senate of
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Senate District 15

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Testimony of Senator Roger Katz
before the Joint Standing Committee on Judiciary
LD 890 - "An Act to Ensure a Continuing District Court Home
for Cases Involving Children"
April 16, 2015, 1:00 pm

Senator Burns, Representative Hobbins and distinguished members of the Joint Standing Committee on Judiciary: my name is Roger Katz and I represent Augusta and surrounding towns in the Maine Senate. It is my honor to appear before you this morning to present LD 890, *An Act to Ensure a Continuing District Court Home for Cases Involving Children*.

Along with Representative Monahan, I served on the Judicial Branch's Family Division Task Force, and I agree with the findings and recommendations of its Report. But I am supporting LD 890 because I have seen first-hand the urgent problem it would address, and I believe that this bill represents a sensible and appropriate reform for that problem.

I have practiced law in Maine for nearly 40 years, including family law in the District and Probate Courts. The negative impact of the current system of splitting jurisdiction over family matters between these courts cannot be overstated. It causes delay, expense, and confusion, and it makes cases that are already difficult and emotional even more complex and contentious.

But this is not a new problem. Rather, this irrational and inefficient arrangement has been the subject of complaint and frustration among practitioners and state court judges for as long as I can remember. In fact, I don't know any who think the status quo works well or even makes basic sense.

This problem has also been the subject of numerous studies and reports long before the Family Division Task Force's report. Back in 1985, the Committee for the Study on Court Structure in Relation to Probate and Family Law Matters issued its Report to the Judicial Council (which became known as the Cotter Report, after its chair, William Cotter, who was then President of Colby College), recommended that all family matters (including those addressed in the probate courts) proceed in the District Court "to help further consolidate family matter jurisdictions ... within the court where all other family matters are primarily handled."

The following year, the Family Matters in Court Commission also reported on the problems of having family matters decided by multiple courts in simultaneous and inconsistent proceedings where the exclusive jurisdiction of the probate courts prevented consolidation of matters involving the same child or children. "This scattered jurisdiction," the Commission reported, "prevents the most efficient use of Maine's judicial resources in serving troubled parents and children. ... Each judge ... has only a few pieces of the family's puzzle. No uniform solution to the family's problems can be fashioned by a judge lacking the whole picture."

Those reports (which were not the only ones to make such recommendations) were issued 30 years ago, but their conclusions apply with at least equal force today. During my years in practice, I've seen the problems associated with requiring certain family law cases to stay in probate court only worsen as we've expanded the guardianship laws to increase the number of cases that are split between courts while at the same time retaining exclusive jurisdiction over these cases in the probate court. These county courts are simply not equipped to serve the families involved in these cases, due to scheduling delays and other deficiencies in the delivery of justice when the stakes could not be higher.

This is a problem that limits the efficiency and effectiveness of our justice system, and it is long overdue for reform. Prior attempts at addressing this problem have been unsuccessful because they were part of larger, sweeping proposals for court reorganization carrying large price tags. LD 890 is different; it would implement a modest reform that will work within our current court structure and is aimed at reversing the most serious harm. It will simply help our courts better address cases involving children.

I urge you to vote "Ought to Pass" for the benefit of Maine children and families at the center of these important and challenging cases.