

## Stocco, Janet

---

**From:** Sean Leonard <sean@aroostooklaw.com>  
**Sent:** Friday, September 9, 2022 10:54 AM  
**To:** Senft, Samuel; Stocco, Janet  
**Subject:** Pilot Program to Provide Legal Representation to Families in the Child Protection System

**This message originates from outside the Maine Legislature.**

Good morning,

I am an attorney whose practice has many child protection cases, and I wanted to email you two about the pilot program.

1) I think any legal assistance should focus on helping parents understand their legal rights and legal options. Discussing parents' rights first.

1A) Based on my experience, I do not believe parents understand that a DHHS caseworker is a state actor there to investigate them. The parent(s) have every right to deny the caseworker entry into their home and refuse to give a statement. Far too often, parents allow the caseworkers into their homes, which helps the caseworker to see drug paraphernalia, unkempt rooms, etc. Moreover, parents provide statements to the caseworkers and submit to drug tests. By the time any attorney gets involved, the parents have already proved the Department's case for the preliminary protection order *and the jeopardy hearing*. This means parents' attorneys are playing catch up, and the best advice we can give in these situations is to tell the parents to get into services immediately. The Department should not be able to gather evidence to prove jeopardy exists before a parent is advised correctly. At the very least, the Department should have to actually work during the investigative stage before it decides to remove a child from their homes.

1B) The legal advice should focus on other legal issues too. Because I work in Aroostook County, and although we do have housing issues in child protection cases, we don't have the resources up here to adequately address housing problems. The best we can do is tell a client to apply for Section 8 and hope the wait isn't too long. Other legal issues are far more relevant to the practice in Aroostook County. First, a parent in a DV relationship needs to be advised about where they can go, what they can do to protect themselves and the child, and what they need to prove to protect themselves and the children. The Department does a terrible job of explaining that a parent can go to a DV shelter with the children, which would prevent many children from being taken from their parents. Additionally, Aroostook County's DV shelters don't have attorneys on staff or contracted, so parents seeking a PFA will fill the paperwork out. Still, they are doomed to fail at a PFA hearing. Parents aren't advised that they need to subpoena a DHHS caseworker. Parents aren't advised that a child's statement isn't admissible in court. Parents aren't informed on how to serve the abuser properly. Because parents in DV situations aren't given the proper tools to address the Department's concerns, child protection cases open up, and the Department makes an allegation against the victim for failure to protect. Additionally, parents need to be advised about guardianships. There is often a family member who has the means and ability to take care of the children if the parents are in a bad way. The children should go with someone they know while their parents get better than going into the foster care system.

2) There should not be a particular situation to focus on in this pilot program. Across all child protection cases, the most common trait parents share is that they are economically disadvantaged. The second most common trait is that the parents are under-educated. These traits go hand in hand with each other because parents lack the ability to change their unemployment or under-employment. As a result of the parents' inability to change their circumstances, they have unstable housing, will abuse drugs to self-medicate their feelings of insecurity, and resort to violence because they do not have a healthy coping mechanism developed. The pilot program will

fail in its goal if it narrows its focus to a specific demographic instead of recognizing that the biggest issue facing parents is socio-economics.

As much as I'd like Aroostook County to be a part of the pilot program, I recognize that it's impractical because of the wide geographic area parents need to cover, and we have snow six months out of the year. If I ran the project, I'd focus the efforts on Lewiston, Augusta, Bangor, and Portland in that order. This is because of the high rate of economically disadvantaged families and the population being concentrated. Parents can utilize public transportation or walk to speak with an attorney. These cities will also provide a large enough sample size to see if the pilot program shows no increase in parents' rights being protected, correlates in an increase of parents' rights being protected, or corroborates parents' rights being protected.

Best of luck

--

Sean M. Leonard, Esq., LLM  
Aroostook Elder & Family Law  
830 Main Street  
Presque Isle, Maine  
04769

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, BE AWARE THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY ME IMMEDIATELY BY TELEPHONE. THANK YOU.