

Designing the Pilot Program

Commission to Develop a Pilot Program to Provide Legal Representation
to Families in the Child Protection System - October 17, 2022

Revised for Oct. 17, 2022 meeting

[Resolve 2021, chapter 181, §5](#) directs the Commission to complete the following duties:

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.

Duty #2: Potential Recommendations for Pilot Program Design

Issue	Potentially helpful resources	Recommendation
1. <i>What are the goals of the pilot program?</i>		
<u>Commission suggestions at 10/3/22 meeting:</u>		
<ul style="list-style-type: none">➤ Have fewer children enter the foster care system while remaining safely in their homes?<ul style="list-style-type: none">• <i>Related:</i> Deploy legal resources earlier in the child protection system process so that families can help their children thrive and not need state intervention?➤ Promote equity in outcomes of child protection investigations for families of disparate economic circumstances?➤ Increase parents' understanding of the child protection system as well as how they can engage in the process and achieve positive outcomes?<ul style="list-style-type: none">• <i>Related:</i> Standardize and streamline education materials so families can understand how the child protection system works at their very first point of contact with the system?➤ Ensure that the systems we have in place, including the family court and child welfare system, intersect in a way that is the most successful and beneficial for families?➤ Other?		10/3/22 meeting: discussed but no motion made or voted.

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2. *Who is the target client population?*

- Clients in a specific **geographic area**:
 - By county?
 - By OCFS district/region?
- Clients within a **specific demographic** or who have a specific **type of civil legal issue** affecting child safety—for example:
 - Substance use issues (substance-exposed infants, parent(s) in need of treatment, etc.);
 - Parent/custodian victim of domestic violence;
 - Housing issues (homelessness, eviction, etc.); or
 - Other demographic or specific civil legal issue?
- Clients who **both** live in a **specific geographic area** **and** are within a **specific demographic** or who have a specific **type of civil legal issue** affecting child safety.
- Other options for selecting pilot program clients?

Counties in each OCFS district:

1. York:
2. Cumberland, Sagadahoc
3. Androscoggin, Franklin, Oxford
4. Knox, Waldo, Lincoln
5. Kennebec, Somerset
6. Penobscot, Piscataquis
7. Hancock, Washington
8. Aroostook

For data on investigations, cases & child removals by county, see [DHHS data](#) from 8/22/22 meeting. For data on the number of reports vs. number of investigations, see [Child Welfare Annual Report \(2020\)](#) pp. 2, 5.

For data on risk factors identified during investigations, see [Child Welfare Annual Report \(2020\)](#) pp. 9-10 and [Child Welfare Annual Report \(2021\)](#), p. 8 (substance use).

See for comparison, [Program Design and Outcomes of Selected Pre-Petition Legal Representation Programs](#)

10/3/22 meeting: discussed but no motion made or voted.

3. *At what point should the pilot program accept referrals / engage with potential clients?*

- If OCFS receives a report of abuse or neglect?
- If report is referred for investigation (not screened out)?
- If a (services?) case is opened but a petition for removal has not yet been filed?
- Other?

See info. from [DHHS data](#) from the 8/22/22 meeting and the [OPEGA Report](#) from March 2022:

	Calendar year 2021
# reports	26,584
# investigations	9,784
# cases opened	1,575
# cases where child(ren) removed	528

10/3/22 meeting: Motion on items #3 and #5 (see p. 3):

The pilot program should serve parents not earlier than during the investigation stage and should provide direct advocacy with the child welfare agency and advocacy with respect to ancillary legal issues related to the child protection matter.

Vote: 7-4
(1 member absent and 1 member abstained)

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4. <i>Who should provide the pilot program services?</i>		
<ul style="list-style-type: none"> ➤ What organization? <ul style="list-style-type: none"> • Pine Tree Legal Assistance? • Other existing civil legal aid organization? • Contract attorneys? With MCILS oversight? • Other? ➤ What types of service providers? <ul style="list-style-type: none"> • Attorney(s)? • Social worker(s)? • Case coordinator(s)? Would they be licensed social workers or non-licensed individuals? • Parent ally/advocate(s)? • Other? 	<p><i>See for comparison, Program Design and Outcomes of Selected Pre-Petition Legal Representation Programs</i></p>	<p>10/3/22 meeting: Preliminary consensus (but no motion or vote):</p> <p>MCILS should manage the pilot program with services to be provided by a contracted provider or providers</p>
5. <i>What type(s) of services should be provided by the pilot program?</i>		
<ul style="list-style-type: none"> ➤ <i>Direct child welfare advocacy:</i> <ul style="list-style-type: none"> • Information about child welfare process, including state obligations and family rights? • Legal advice and advocacy? ➤ <i>Ancillary civil legal issues:</i> <ul style="list-style-type: none"> • Provide information, advice, connections to resources and/or legal representation on some or all of the following types of issues? <ul style="list-style-type: none"> ▪ Housing issues; ▪ Protection orders / domestic violence; ▪ Guardianships; ▪ Family matters: divorce, parental rights & responsibilities, paternity, and/or child support—limited or full representation? ▪ Public benefits issues; ▪ Substance use issues; ▪ Immigration issues; ▪ Other? • Should any civil legal issues be excluded? ➤ <i>Both of the above?</i> ➤ <i>Other?</i> 	<p><i>See Maine Child Welfare Advisory Panel, Annual Report 2021 (p. 16) pilot project recommendation.</i></p> <p>For data on risk factors identified during investigations, <i>see Child Welfare Annual Report (2020) pp. 9-10 and Child Welfare Annual Report (2021), p. 8 (substance use).</i></p> <p><i>See for comparison, Program Design and Outcomes of Selected Pre-Petition Legal Representation Programs</i></p>	<p>10/3/22 meeting: Motion on items #3 (see p.2) and #5:</p> <p>The pilot program should serve parents not earlier than during the investigation stage and should provide direct advocacy with the child welfare agency and advocacy with respect to ancillary legal issues related to the child protection matter.</p> <p>Vote: 7-4 (1 member absent and 1 member abstained)</p>
6. <i>How should referrals be made to the pilot program?</i>		
<ul style="list-style-type: none"> ➤ Should referrals only be accepted from OCFS caseworkers and supervisors? <ul style="list-style-type: none"> • What confidentiality protections and protocols should apply to such referrals? ➤ Should other sources of referrals be accepted? <ul style="list-style-type: none"> • Community partners? • Self-referrals? 	<p><i>See for comparison, Program Design and Outcomes of Selected Pre-Petition Legal Representation Programs</i></p>	<p>10/3/22 meeting: Preliminary consensus (but no motion or vote):</p> <p>The pilot program should only accept self-referrals from parents.</p>

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<ul style="list-style-type: none">• Other?		
7. <i>What data should be collected to assess the pilot program and determine regional or statewide expansion?</i>		
<ul style="list-style-type: none">➤ What client data should be collected?<ul style="list-style-type: none">• Demographic data?• Referral source?• Civil legal services needs (if appropriate)?• Other?➤ What outcomes should be measured?<ul style="list-style-type: none">• Whether services case is opened or time until services case is closed (as appropriate)?• Whether a child protection petition is filed?• If petition filed, whether the children are removed?• Outcome of civil legal advocacy/support provided (ex: protection order obtained, custody order obtained, benefits received)• Parent satisfaction (via surveys)?• Other?➤ Can and should pilot program outcomes (some or all) be measured against a control group?<ul style="list-style-type: none">• What confidentiality protections and protocols should be employed to share this outcome data?➤ Timing of data collection and reporting:<ul style="list-style-type: none">• At what interval(s) should outcome data be measured?• Should outcome data be reported at only the end of the program or should interim reports be prepared?➤ To whom should outcome data be reported?<ul style="list-style-type: none">• HHS, JUD or AFA Committees?• Other?	<p><i>See for comparison, Program Design and Outcomes of Selected Pre-Petition Legal Representation Programs</i></p> <p><i>Note: Dr. Alicia Summers will be presenting on data collection design and analysis at the 10/17/22 meeting</i></p>	Not yet discussed.
8. <i>What is the appropriate duration for the pilot program?</i>		
<ul style="list-style-type: none">➤ A definite time period (6 months? 1 year?)?➤ Until a specified amount of funding has been expended?➤ Other?		Not yet discussed.

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9. <i>How should the potential cost of the program be determined?</i>		
<ul style="list-style-type: none">➤ Serve <i>all clients</i> who meet eligibility criteria during a specified time period? ➤ Allow the program to serve up to a <i>specified maximum number of clients</i> who meet eligibility criteria during a specified time period? ➤ <i>Establish the number of staff</i> to be hired by the program, and allow the program to serve as many clients who meet eligibility criteria as that number of staff can handle during a specified time period? ➤ <i>Establish a specific dollar amount</i> that can be expended by the pilot program and allow the program to serve as many clients who meet eligibility criteria as possible during a specified time period or until all program funds are expended, whichever is sooner? ➤ <i>Other?</i>		<p>Not yet discussed.</p>
<i>What are the options for federal or grant funding of the pilot program?</i>		
<ul style="list-style-type: none">➤ Title IV-E reimbursement options:<ul style="list-style-type: none">• Seek Title IV-E reimbursement for the pre-petition pilot program;• Seek Title IV-E reimbursement for MCILS's representation of indigent parents and use funds for pre-petition pilot program ➤ American Rescue Plan Act of 2021 supplemental funds for CAPTA State Grants and CBCAP Program Grants ➤ Temporary Assistance for Needy Families (TANF) ➤ Other federal funding options?<ul style="list-style-type: none">• Title IV-B Court Improvement Program (CIP)• Title IV-B grant program for civil legal services (President's proposed FY2023 budget) ➤ Other grant funding options?	<p>See Information on potential federal funding sources provided by staff for the 10/3/2022 meeting,</p>	<p>10/3/22 meeting: Several funding options reviewed but no motion yet made or voted.</p>

Additional Recommendation - Distinct from Pilot Project

10/3/22 Meeting: Motion:

Although not part of the Pilot Project, the commission additionally supports implementation of a “warmline” to be developed and implemented by MCILS for parents subject to an investigation by child protective services.

Vote 10-2 (1 absent)