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**Testimony of Christine Hastedt in Opposition to LD 1615, An Act to Facilitate
Substance Abuse Treatment for Certain Applicants for and Recipients of
Temporary Assistance for Needy Families**

Senator Brakey, Representative Hymanson and members of the Joint Standing Committee on Health and Human Services, my name is Chris Hastedt and I work for Maine Equal Justice Partners. Maine Equal Justice Partners is a legal services organization working with and for people with low income by seeking solutions to poverty through policy, education and legal representation. I am speaking today in opposition to LD 1615, An Act to Facilitate Substance Abuse Treatment for Certain Applicants for and Recipients of Temporary Assistance for Needy Families.

There are clearly issues within this bill that are constitutionally suspect and those give us grave concerns, but I will leave that discussion to others who are more expert in the area of constitutional law. Instead I want to focus on why this proposal is misdirected, a waste of limited resources, and harmful to families and children living in poverty.

First, there is no evidence to justify the extreme measures proposed in this bill that would require drug screening for all TANF applicants, and certain recipients. Maine's TANF law has included a drug testing provision since 2011. This provision was implemented in 2015, and, since then, only 23 people, or about one-half of one percent of TANF families, scored high enough on the screening tool to be subjected to a drug test. Of those, 11 parents lost assistance for failing to complete required drug tests, while four others lost benefits after refusing screening for drugs.¹ In other states that have screened and tested for at least one year, there have been similarly minor results. In Utah, just 29 out of the 9,516 applicants who

¹ <http://www.pressherald.com/2017/04/03/few-maine-welfare-recipients-tested-for-drugs-despite-state-law/>

were screened tested positive for an illegal substance over the course of two years. In Arizona, only 42 applicants were referred to a follow-up drug test out of over 142,000 applicants, with just 3 testing positive.²

Moreover, data shows that drug abuse is **not** more prevalent among the TANF population than any other population groups. A federal Circuit Court of Appeals that looked at all the studies in this area and thoroughly reviewed this issue, stated the following:

“[w]e have no reason to think impoverished individuals are necessarily and inherently prone to drug use, or, for that matter, are more prone to drug use than the general population. . . . If anything, the evidence extant suggests quite the opposite: that rates of drug use in the TANF population are no greater than for those who receive other government benefits, or even for the general public.”³

If there is no evidence of significant illegal drug abuse in this population, what do proposals like this achieve? In our view, they result only in shaming Maine families living in poverty and, as a result, discouraging many from applying for help that they need and are eligible for; perpetuating cruel and misleading stereotypes that undermine public support for programs intended to provide critical basic necessities to poor children; and wasting precious resources—in this case an estimated \$300,000 of taxpayer dollars—that could be put to use for real evidence-based solutions to the problems that this Committee hears about every day. Beyond that there is the cost of mandatory drug treatment that would become a condition of eligibility based on the screening results or other “reasonable suspicion” alone, without a sufficient evaluation to determine whether such treatment is really required.

And make no mistake, even if this proposal disqualifies only the parent and not the children, harm to the children is inevitable. Seventy percent of persons receiving TANF are children, and many of them are very young. In a household with a Mom and two children the maximum

² <http://www.clasp.org/issues/work-supports/in-focus/evidence-mounts-that-drug-testing-for-public-assistance-is-costly-and-ineffective>

³ *Lebron v. Sec'y of the Fla. Dep't of Children & Families*, 772 F.3d 1352, 1365, (11th Cir. Fla. 2014)

monthly benefit is \$485. But if the parent is removed from the grant, the monthly amount drops to \$262. Without a HUD voucher—and less than 10% of TANF families have such vouchers—it's hard to imagine any place in Maine where \$262 pays the monthly rent.

Finally, I want to close by pointing out that the fair hearing provision of this bill intended to allow TANF applicants or recipients challenge a denial of benefits is unprecedented in its disregard for constitutional due process, federal TANF law⁴, and simple fairness. The language at subsection (20)(B)(3) essentially conditions a family's fundamental right to challenge the denial assistance through a fair hearing on the requirement that the parent must submit to a drug test.

A "fair hearing" must be just that: **fair**. And this proposal is far from fair. If the Department claims to have a "reasonable suspicion" that an applicant or recipient is using illegal drugs, the only way that person can challenge that finding—whether they believe it is a mistake, or an abuse of state power—is to submit to a search that they object to and which would otherwise be beyond a state's power to impose. For example, what if you were a TANF recipient and your caseworker claimed to have "reasonable suspicion" that you were using illegal drugs. And, what if you wanted to appeal that decision because you thought your caseworker didn't have adequate training to make that kind of determination. Or if you believed that the worker's suspicion was based on an unsubstantiated complaint, or one made by a vindictive ex-husband. Under this legislation, the only way you could challenge what you sincerely believed to be a false claim is to take a drug test even though you felt that the decision itself was unfairly or improperly made.

For all these reasons, we ask you to unanimously reject LD 1615. Thank you for the opportunity to provide this testimony today and I'd be glad to answer any questions you may have.

⁴ 42 USC 602