

MAINE STATE LEGISLATURE

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132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1544

S.P. 628

In Senate, April 10, 2025

An Act to Support Families by Improving the Court Process for Child Protection Cases

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.
Cosponsored by Representative KUHN of Falmouth and
Senators: CARNEY of Cumberland, MOORE of Washington, Representatives: MEYER of
Eliot, SINCLAIR of Bath, STOVER of Boothbay.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §4002, sub-§1-B, ¶C,** as enacted by PL 1997, c. 715, Pt. B, §1,
3 is repealed.

4 **Sec. 2. 22 MRSA §4034, sub-§1,** as amended by PL 2015, c. 501, §9, is repealed
5 and the following enacted in its place:

6 **1. Request.** A petitioner may add to a child protection petition a request for a
7 preliminary protection order or may request a preliminary protection order separately from
8 the child protection petition. A request for a preliminary protection order must be sworn
9 and must include at least the following:

10 A. A summary of facts to support the request;

11 B. A detailed summary of how the department weighed the trauma to the child of
12 removal from the child's home against the alleged immediate risk of serious harm to
13 the child and the specific factors the department considered; and

14 C. The specific services offered and provided under section 4036-B, subsection 3 to
15 prevent the removal of the child from the child's home.

16 **Sec. 3. 22 MRSA §4034, sub-§2,** as amended by PL 2001, c. 696, §25, is further
17 amended to read:

18 **2. Order.** If the court finds by a preponderance of the evidence presented in the sworn
19 summary or otherwise that there is an immediate risk of serious harm to the child, it may
20 order any disposition under section 4036. In considering whether to grant a preliminary
21 protection order, the court shall consider the trauma to the child of removal from the child's
22 home and whether the department has exhausted the options to mitigate the immediate risk
23 of serious harm to the child and avoid the removal of the child from the child's home. A
24 preliminary protection order automatically expires at the time of the issuing of a final
25 protection order under section 4035 or a judicial review order under section 4038.

26 **Sec. 4. 22 MRSA §4034, sub-§4,** as amended by PL 2015, c. 501, §10, is further
27 amended to read:

28 **4. Summary preliminary hearing.** The court shall ~~schedule~~ hold a summary
29 preliminary hearing on a preliminary protection order within 14 days but not less than 7
30 days after issuance of the preliminary protection order, except that counsel for a parent may
31 request that the hearing take place sooner. Upon request of counsel, the court may conduct
32 the summary preliminary hearing as expeditiously as the court determines the interests of
33 justice require. If a parent, custodian or legal guardian appears for the summary
34 preliminary hearing and does not consent to the preliminary protection order, the court shall
35 conduct a hearing at which the petitioner bears the burden of proof. At a summary
36 preliminary hearing, the court shall consider the trauma to the child of removal from the
37 child's home in determining whether to continue the preliminary protection order and
38 whether the department has exhausted the options to mitigate the immediate risk of serious
39 harm to the child and avoid the removal of the child from the child's home. The court may
40 limit testimony to the testimony of the caseworker, parent, custodian, legal guardian,
41 guardian ad litem, foster parent, preadoptive parent or relative providing care and may
42 admit evidence, including reports and records, that would otherwise be inadmissible as
43 hearsay evidence. If after the hearing the court finds by a preponderance of the evidence

1 that returning the child to the child's custodian would place the child in immediate risk of
2 serious harm, it shall continue the order or make another disposition under section 4036. In
3 any order after a summary preliminary hearing, the court shall make findings as to whether
4 the risk of harm to the child is outweighed by the trauma of the child's removal from the
5 child's home and whether the department has exhausted the options to mitigate the
6 immediate risk of serious harm and avoid the removal of the child from the child's home.
7 If the court's preliminary protection order includes a finding of an aggravating factor, the
8 court may order the department not to commence reunification or to cease reunification, in
9 which case the court shall conduct a hearing on jeopardy and conduct a permanency
10 planning hearing. The hearings must commence within 30 days of entry of the preliminary
11 protection order.

12 If the petitioner has not been able to serve a parent, custodian or legal guardian before the
13 scheduled summary preliminary hearing, the parent, custodian or legal guardian may
14 request a subsequent summary preliminary hearing within 10 days after receipt of the
15 petition.

16 **Sec. 5. 22 MRSA §4052, sub-§3, ¶E-1** is enacted to read:

17 E-1. A detailed statement of the specific reasonable efforts the department has made
18 to rehabilitate and reunify the child with the child's parent;

19 **Sec. 6. 22 MRSA §4055, sub-§1, ¶B**, as amended by PL 2021, c. 340, §5, is further
20 amended by amending subparagraph (2), division (a) to read:

21 (a) Termination is in the best interest of the child; ~~and~~

22 **Sec. 7. 22 MRSA §4055, sub-§1, ¶B**, as amended by PL 2021, c. 340, §5, is further
23 amended by amending subparagraph (2), division (b), subdivision (iv) to read:

24 (iv) The parent has failed to make a good faith effort to rehabilitate and
25 reunify with the child pursuant to section 4041; ~~or and~~

26 **Sec. 8. 22 MRSA §4055, sub-§1, ¶B**, as amended by PL 2021, c. 340, §5, is
27 amended by enacting a new subparagraph (2), division (c) to read:

28 (c) The department has fulfilled the Legislature's intent set out in section 4003,
29 subsection 3 and the department's obligations under section 4041, subsection
30 1-A, to provide reasonable efforts to rehabilitate and reunify the parent and the
31 child; or

32 **Sec. 9. 22 MRSA §4055, sub-§1-A, ¶D**, as enacted by PL 1995, c. 481, §4, is
33 amended to read:

34 D. The child has been placed in the legal custody or care of the department, ~~the court~~
35 ~~has previously terminated parental rights to another child who is a member of the same~~
36 ~~family~~ and the parent continues to lack the ability or willingness to show the court that
37 the parent has sought services that would rehabilitate the parent or the parent ~~can not~~
38 cannot show evidence that an additional period of services would result in reunification
39 in a time reasonably calculated to meet the needs of the child and the child's need for a
40 permanent home; or

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SUMMARY

This bill amends the court process in child protection cases by eliminating as an aggravating factor consideration of whether a parent's rights to another child were previously involuntarily terminated; requiring the court to consider the trauma to the child of removal from the child's home and whether the Department of Health and Human Services exhausted its options to mitigate that harm before removing the child; and at a contested termination of parental rights hearing, requiring the court to explicitly make findings that the department met its statutory obligations to provide reasonable efforts to reunify the child and parent before ordering a termination of the parent's rights.