

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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**Legislative Document**

**No. 1836**

H. P. 1393

House of Representatives, April 4, 1973

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Connolly of Portland.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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**AN ACT** Relating to Custody of Foster Children.

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

R. S., T. 22, § 3793-A, additional. Title 22 of the Revised Statutes is amended by adding a new section 3793-A to read as follows:

§ 3793-A. Custody of foster children

Any child in the custody of the Department of Health and Welfare which has been placed by the said department in a home and who remains in said home for a period of 2 years or greater may not be removed from said home by the said department, except upon 5 days' notice in writing given in person to the head of the household in such home or upon the head of the household's written waiver of notice executed within 5 days of the child's removal. If the head of the household of such home feels that the department's action is arbitrary or capricious, he may petition the District Court for an order prohibiting the removal of the child or children in question and the court shall order a hearing held thereon. At such hearing, the burden of proof will be upon the said department to show cause why such a child should be removed from the home in question, provided, nonetheless, that if any such child is living in circumstances deemed by the court to present serious, immediate and urgent danger to the child's safety or life, an order of temporary removal pending hearing may be made by the court without notice to the head of the household of the home where the child is living.

STATEMENT OF FACT

The purpose of this bill is to give foster parents a chance to be notified 5 days before a foster child will be removed from their custody, if that child

has been in their care for more than 2 years, as they can prepare the child emotionally for the change. It also gives the foster parents the right to court review of the Department of Health and Welfare's removal of foster children if they feel the department is being arbitrary or not in keeping with the child's best interest. Under present law, foster parents have no legal rights whatsoever. It does not diminish, however, the biological parents' rights to petition for restoration of custody, as provided in Title 22, section 3793.