

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1693

H. P. 1453

House of Representatives, April 22, 1977

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Trafton of Auburn.

Cosponsor: Mr. Kerry of Old Orchard Beach.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Establish Long-term Foster Care.

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

Sec. 1. 19 MRSA § 62, 3rd sentence, as amended by PL 1971, c. 508, § 29, is further amended to read:

No such certificate shall be issued to a male under 18 or to a female under 18 years of age, without the written consent of their parents, guardians, **foster parents of individuals in long-term foster care** or persons to whom a court has given custody of such minors first presented, if they have any living.

Sec. 2. 19 MRSA § 62, 6th sentence, as repealed and replaced by PL 1977, c. 11, is amended to read:

No certificate shall be issued to a person under 16 years of age without the written consent of that minor's parents, guardians, **foster parents of individuals in long-term foster care** or persons to whom a court has given custody of that minor first presented, if the minor has any living, and without that clerk, having notified the Judge of Probate in the county in which the minor resides of the filing of these intentions, and having received in writing the consent from the judge to issue the certificate.

Sec. 3. 22 MRSA c. 1061 is enacted to read:

CHAPTER 1061

LONG-TERM FOSTER CARE

§ 3901. Purpose

In order to promote an increased measure of permanence and security for certain children and to provide for a setting as nearly as possible equivalent to that which would be offered by natural or adopted parents, the relationship of long-term foster care is established as one alternative for the placement of children who are within the custody of the State.

It is the intent of the Legislature that a child shall be considered for placement in long-term foster care only if, in the judgment of the department, neither a return to the natural parents nor adoption can be considered as an alternative.

It is further the intent of the Legislature that a placement in long-term foster care is intended to continue until the minor becomes 18 years of age, subject to actions by the court or the department to alter or terminate the placement when in the best interests of the child.

§ 3902. Definitions

Unless the context indicates otherwise, the following words and phrases shall have the following meanings.

1. Department. "Department" shall mean the Department of Human Services.

2. Long-term foster care. "Long-term foster care" shall mean a placement setting for children within the custody of the State in which the State retains custody of the child while delegating to the foster parents, under conditions described in this chapter, the duty and authority to make certain important decisions in matters having a significant effect upon the life and development of the child.

§ 3903. Authority for placement

The department is authorized to place any child within the custody of the State in long-term foster care subject to the following conditions.

1. Initial placement. The child has been placed in foster care for one year prior to consideration for long-term foster care.

2. Return to natural parents. In the judgment of the department, the child cannot be safely returned to the natural parents.

3. Adoption. In the judgment of the department, the child is not likely to be adoptable.

4. Foster parents. The prospective foster parents and the child have expressed a strong interest in long-term foster care and have met standards established by the department for such a placement.

5. Written agreement. A written agreement between the foster parents and the department, intended to provide for the period during which the child remains in long-term foster care, has been completed, which identifies the duty and authority delegated by the department to the foster parents, speci-

fies the rights retained by the department and the natural parents and includes an individual plan for the care of the child. The department shall, after consultation with the foster parents, review and, if necessary, revise this plan at least once every 6 months.

§ 3904. Duty and authority delegated by the department

The foster parents of any child in long-term foster care shall have the authority to make the following decisions, subject to the conditions as prescribed in this chapter and any rules and regulations established pursuant to this chapter.

1. Consent to marriage. The foster parents shall have the authority to consent to marriage of the child. Within 24 hours of giving consent to marriage of the child, the foster parent shall notify the department that this consent has been given.

2. Emergency medical treatment. The foster parents shall have the authority to consent to emergency medical treatment if payment for this treatment is available under Title 19 of the Social Security Act. Within 24 hours following any emergency treatment, the foster parents shall notify the department of the nature of the emergency situation, the emergency treatment which has been given and the need, if any, for further treatment.

3. Driver's license. The foster parents shall have the authority to consent to the application for a driver's license if insurance as required by the department has been provided for the child and if, in the judgment of the foster parent, the child has been taught to drive and has the maturity to operate a motor vehicle. The foster parents shall notify the department of any consent to apply for a driver's license within 7 days of the application, along with evidence of any insurance coverage for the child. The foster parents shall notify the department of the successful completion of the driver's examination within 7 days of the examination.

4. Travel outside of the State. The foster parents shall have the authority to permit travel by the child outside of the State. Prior to the date of departure, the foster parents shall notify the department of any absence from the State which may exceed 1 month.

§ 3905. Rights of the department

Except as specifically delegated in this chapter, the department shall retain custody of the child and all rights thereto as provided by court order, statute or administrative rule.

§ 3906. Rules and regulations

The department shall establish rules and regulations for long-term foster care placements. These rules and regulations shall include, among other factors, standards for settings appropriate for long-term foster care and supervision of these settings, procedures for selecting children and foster parents, and methods of establishing and reviewing individual plans.

Sec. 4. Establishment of rules and regulations. The rules and regulations authorized under sections 1 and 2 shall be established within 90 days following the effective date of this Act.

STATEMENT OF FACT

The purpose of this bill is to establish long-term foster care as a placement setting for children with the state's custody.

For some children within the custody of the State, returning to their natural parents or adoption are either unlikely or impossible. These children will be placed in the care of foster parents. Under present law, with respect to the responsibilities of foster parents, no distinction is made between the foster parent who has a child for 6 months and the one who has a child for 6 or more years.

The purpose of this bill is to establish a new relationship called "long-term foster care." The foster parents of children placed in long-term foster care would be delegated by the department, under specific conditions, the authority to make certain significant decisions affecting the child. These decisions include consenting to marriage, to emergency medical treatment, to application for a driver's license and to travel outside of the State. The intent of delegating this authority to the foster parents is to encourage a living situation more nearly equivalent to that provided by natural or adopted parents.

This authority would be granted under conditions which would require, among other things, notification of the department of any of the above decisions. In addition, the foster parents in long-term foster care would be required to complete a written agreement with the department which provides for an individualized plan for the care of the child. The written agreement is required as a formal expression of the strong commitment to the child required of a foster parent in the long-term foster care setting.

Long-term foster care is to be considered only if return to the natural parents or adoption is unlikely. The department retains full custody of the child in the long-term foster care setting just as it does in present foster care placements. Long-term foster care is intended to be one alternative for the placement of children by the department and is not intended to be desirable or appropriate for all children within the custody of the State.