

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

SECOND REGULAR SESSION

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1966

H. P. 1905

The Committee on Human Resources suggested. Approved for introduction by the Legislative Council pursuant to Joint Rule 24.

Office of the Clerk of the House

EDWIN H. PERT, Clerk

Presented by Mr. Goodwin of South Berwick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-EIGHT

AN ACT Providing for Notice to Parents Under the Child Abuse and Neglect Statutes.

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

Sec. 1. 22 MRSA § 3792, 2nd ¶, as last amended by PL 1977, c. 118, § 6, is further amended by inserting after the 5th sentence the following new sentences to read:

Whenever the parents or guardian has either waived notice or has not received notice because of the serious, immediate and urgent danger to the child's safety or life, the court shall have a copy of its order of care pending hearing served on the parents or guardian forthwith. In all cases, the guardian or parents shall be informed in writing that they have a right to counsel and that, if they are unable to afford an attorney, they may request that one be appointed. Any such request shall be acted upon within 3 days. In those cases where a copy of a court's order of care pending hearing is to be served, the guardian or parents shall be informed of their right to counsel at the same time and in the same manner.

Sec. 2. 22 MRSA § 3803, sub-§ 2, ¶ B, as enacted by PL 1977 c. 577, § 3, is amended by adding at the end the following new paragraph to read:

Whenever a child has been committed to the custody of the department under section 3792, the department shall give written notice to the parents at least 7 days prior to any change of residence of the child, provided that such prior notice is practicable and in the best interest of the child.

STATEMENT OF FACT

The new child abuse and neglect laws failed to provide 2 important protections to parents faced with losing custody of their children. The growing number of state custody actions makes it imperative that these protections be assured.

Section 1 of this bill will guarantee that parents or guardians receive a copy of a court's order establishing state custody and will assure that they are informed of their right to be represented in all child custody proceedings.

A number of cases has arisen in recent months where more than 8 weeks had passed between the time custody was initially removed from the parents and they were notified of their right to legal counsel and to defend their custodial rights.

In view of the many indigent persons faced with loss of custody, this guarantee of right to immediate, and, if necessary, appointed counsel is most important.

Section 2 of this bill provides that parents be notified in writing at least 7 days prior to any change in residence of a child in the custody of the Department of Human Services, if that notice is practicable and in the best interests of the child.

Under present provisions, a child in the custody of the department can be removed from the local area or even the state without notifying either the child's parents or the Attorney General. By so doing, the statutorily established visitation rights of parents can be abrogated.