

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)

FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1436

S. P. 514

In Senate, March 23, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Minkowsky of Androscoggin.

Cosponsor: Representative Livesay of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT Concerning the Consent Requirements and Termination of Parental Rights for Adoption Proceedings.

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

Sec. 1. 19 MRSA § 532, sub-§ 2, ¶ A-1, as enacted by PL 1979, c. 733, § 9, is amended to read:

A-1. A parent whose parental rights have been terminated under section 533-A or Title 22, ~~section 4051, et seq.~~ chapter 1071, subchapter VI;

Sec. 2. 19 MRSA § 532, sub-§ 5, ¶ B, as amended by PL 1979, c. 733, § 9, is further amended to read:

B. The Department of Human Services of by an adoption agency duly licensed in Maine; ~~or~~

Sec. 3. 19 MRSA § 532, sub-§ 5, ¶ D, as repealed and replaced by PL 1979, c. 733, § 9, is amended to read:

D. A public agency or duly licensed private agency to whom parental rights have been transferred under the law of another state or country; or

Sec. 4. 19 MRSA § 532, sub-§ 5, ¶ E is enacted to read:

E. The parents, guardian or legal custodian, provided that one of the petitioners is a blood relative of the child.

Sec. 5. 19 MRSA § 532-C, as amended by PL 1975, c. 293, § 4, is further amended by adding after the 3rd paragraph a new paragraph to read:

The mother is entitled to legal counsel for any hearing held pursuant to this section. The putative father, if he is entitled to notice under this section, is entitled to legal counsel for any hearing held pursuant to this section. If the mother or the putative father wants an attorney but is unable to afford one, he or she may request the court to appoint legal counsel. The court, if it finds them indigent, shall appoint and pay the reasonable costs and expenses of the legal counsel of each of them.

Sec. 6. 19 MRSA § 532-C, 5th ¶, as enacted by PL 1973, c. 791, § 2, is repealed and the following enacted in its place:

If, after a hearing, the judge finds that the putative father is the natural father but that, based on clear and convincing evidence, that parent is unwilling or unable to protect the child from jeopardy and the circumstances are unlikely to change in a reasonable time, he shall rule, if it appears to be in the best interest of the child, that the natural father has not established parental rights to that child, and has abandoned the child and that only the mother of the illegitimate child must consent to the adoption of that child or execute a surrender and release for the purpose of adoption of that child.

Sec. 7. 19 MRSA § 532-C, 6th ¶, first sentence, as enacted by PL 1973, c. 791, § 2, is repealed and the following enacted in its place:

If the judge finds that the putative father is the natural father and that he is willing and able to protect the child from jeopardy, he may rule, if it appears to be in the best interest of the child, that the natural father has established parental rights to that child.

Sec. 8. 19 MRSA § 533-A is enacted to read:

§ 533-A. Termination of parental rights

1. Jurisdiction. A petition for termination of parental rights may be brought in Probate Court as part of an adoption petition when a child protection petition has not been initiated.

2. Except as otherwise provided by this section, a termination petition shall be subject to the provisions of Title 22, chapter 1071, subchapter VI.

3. Guardian ad litem. The following provisions shall govern guardians ad litem.

A. The court shall appoint a guardian ad litem for the child. His reasonable costs and expenses shall be paid by the Probate Court. The appointment shall be made as soon as possible after the proceeding is initiated.

B. The guardian ad litem shall be given access to all reports and records relevant to the case. In general, the guardian ad litem shall represent the child.

He may investigate to ascertain the facts, including reviewing records of psychiatric, psychological or physical examinations of the child, parents or other persons having or seeking care or custody of the child, interviewing the child with or without other persons present, interviewing, subpoenaing, examining and cross-examining witnesses and making recommendations to the court.

Sec. 9. 22 MRSA § 4051, as enacted by PL 1979, c. 733, § 18, is amended by adding at the end a new sentence to read:

A petition for termination of parental rights may also be brought in a Probate Court as part of an adoption proceeding as provided in Title 19, chapter 9.

Sec. 10. 22 MRSA § 4052, sub-§ 2, as enacted by PL 1979, c. 733, § 18, is amended to read:

2. Time filed. A If a petition has been filed for a protection order or for a divorce, a termination petition may be brought no earlier than 3 months after disposition under section 4036 or under Title 19, section 752.

Sec. 11. 22 MRSA § 4052, sub-§ 3, ¶ D, as enacted by PL 1979, c. 733, § 18, is amended to read:

D. The names and address of the guardian ad litem of the child in the related child protection proceeding or adoption proceeding;

Sec. 12. 22 MRSA § 4055, sub-§ 1, ¶ A, as enacted by PL 1979, c. 733, § 18, is repealed and the following enacted in its place:

A. One of the following conditions has been met:

(1) Custody has been removed from the parent under:

(a) Section 4035 or 4038;

(b) Title 19, section 752; or

(c) Section 3792 prior to the effective date of this chapter; or

(2) The petition has been filed as part of an adoption proceeding in Title 19, chapter 9; and

STATEMENT OF FACT

This bill:

1. Allows the consent for adoption to be made to a Probate Judge if one of the adopting parents is a blood relative of the child;

2. Allows the Probate Judge jurisdiction to terminate parental rights as part of an adoption proceeding when a child protection petition has not previously been initiated; and

3. Provides a right to legal counsel for each parent in hearings to determine the consent requirement for putative fathers. If either parent is indigent, he or she may have court appointed counsel. The bill also provides standards for the surrender and release of the putative father's parental rights for the purposes of adoption. These standards are similar to those required for proceedings terminating parental rights.