

1 2	FIRST REGULAR SESSION
3 4	ONE HUNDRED AND ELEVENTH LEGISLATURE
5 6	Legislative Document No. 1156
7	H.P. 891 House of Representatives, March 10, 1983
8	On Motion of Representative Hobbins of Saco, referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.
10	EDWIN H. PERT, Clerk
10	Presented by Representative Thompson of So. Portland. Cosponsors: Representative Foster of Ellsworth, Representative Hobbins of Saco and Senator Gill of Cumberland.
12	STATE OF MAINE
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14	IN THE YEAR OF OUR LORD
15 16	NINETEEN HUNDRED AND EIGHTY-THREE
17 18 19	AN ACT to Improve the Child and Family Services and Child Protection Act.
20 21	Be it enacted by the People of the State of Maine as follows:
22 23	<pre>Sec. 1. 22 MRSA §4002, sub-§1-A is enacted to read:</pre>
24	1-A. Abandonment. "Abandonment" means any conduct
25 26	on the part of the parent showing an intent to forego parental duties or relinquish parental claims. The
28	parental duties or relinquish parental claims. The intent may be evidenced by:
28 29	A. Failure, for a period of at least one year, to communicate meaningfully with the child;
30	B. Failure, for a period of at least one year, to
31	maintain regular visitation with the child;

1 2	C. Failure to participate in any plan or program designed to reunite the parent with the child;
3 4 5	D. Deserting the child without affording means of identifying the child and his parent or custo- dian;
6	E. Failure to respond to notice of child protec-
7	tive proceedings; or
8 9 10	F. Any other conduct indicating an intent to forego parental duties or relinquish parental claims.
11 12	Sec. 2. 22 MRSA §4002, sub-§6, ¶C, as enacted by PL 1979, c. 733, §18, is amended to read:
13	C. Absence Abandonment of the child or absence
14	of any person responsible for the child, which
15	creates a threat of serious harm; or
16	Sec. 3. 22 MRSA §4034, sub-§3, as enacted by PL
17	1979, c. 733, §18, is amended to read:
18	3. <u>Custodial consent</u> . If the custodian consents
19	in writing and the consent is voluntarily and know-
20	ingly executed in court before a judge, or the custo-
21	dian does not appear after proper notice has been
22	given, then the hearing on the preliminary protection
23	order may be waived need not be held, except as pro-
24	vided in subsection 4.
25 26	Sec. 4. 22 MRSA §4034, sub-§4, as enacted by PL 1979, c. 733, §18, is amended to read:
27	4. <u>Preliminary hearing</u> . If there is no consent
28	the custodial parent appears and does not consent, or
29	if a noncustodial parent requests a hearing, then the
30	court shall hold a preliminary hearing on that order
31	within 10 days of its issuance or request, unless all
32	parties agree to a later date. The petitioner shall
33	bear the burden of proof. If, after the hearing, the
34	court finds, by a preponderance of the evidence, that
35	returning the child to his custodian would place him
36	in immediate risk of serious harm, it shall continue
37	the order or make another disposition under section
38	4036.

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Sec. 5. 22 MRSA §4035, sub-§3, as enacted by PL
 1979, c. 733, §18, is amended to read:

3. Grounds for disposition. If the court deter-3 mines that the child is in circumstances of jeopardy 4 5 to his health or welfare, the court may shall hear any relevant evidence regarding proposed disposi-6 tions, including written or oral reports, recommenda-7 tions or case plans. The court may <u>shall</u> then make an <u>a written</u> order of any disposition under section 8 9 10 4036. If possible, this dispositional phase shall be conducted immediately after the adjudicatory phase. Written materials to be offered as evidence shall be 11 12 13 made available to each party's counsel and the 14 guardian ad litem reasonably in advance of the dispo-15 sitional phase.

STATEMENT OF FACT

Section 1 adds a definition of abandonment to the
definitions section of the Child and Family Services
and Child Protection Act.

20 Section 2 amends the definition of jeopardy to 21 health or welfare to reflect the addition of concern 22 over abandonment.

23 Section 3 amends Title 22, section 4034, subsec-24 tion 3, dealing with consent of the custodial parent 25 to not holding a preliminary hearing when a child 26 protection order is sought. It adds a provision for 27 avoiding the preliminary hearing if the custodian 28 does not appear after being properly notified.

29 Section 4 amends Title 22, section 4034, subsec-30 tion 4, dealing with preliminary hearings so that it 31 conforms to the changes made in Title 22, section 32 4034, subsection 3.

33 The changes in section 5 are necessary to comply 34 with federal law. Federal law requires that orders of 35 disposition be in writing. This section also requires 36 the court to hear any relevant evidence regarding 37 proposed dispositions.

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