

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND THIRTEENTH LEGISLATURE
4

5 Legislative Document

No. 129

6
7 S.P. 62

In Senate, January 28, 1987

8 Reference to the Committee on Judiciary suggested and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate
Presented by Senator GAUVREAU of Androscoggin.
Cosponsored by Representative PARADIS of Augusta,
Representative ROLDE of York, Representative TAYLOR of Camden.
11

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-SEVEN
16

17 AN ACT Providing for Judicial Review of
18 Agency Refusals to Consent to
19 Adoptions.
20

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

23 19 MRSA §532, sub-§1, ¶C, as enacted by PL 1979,
24 c. 733, §9, is repealed and the following enacted in
25 its place:

26 C. The person or agency having legal custody or
27 guardianship of the child or to whom the child
28 has been surrendered and released; however, that
29 the person's or agency's lack of consent, if ad-
30 judged capricious, unreasonable or arbitrary by a
31 court of this State, may be overruled by such a
32 court; and

1

STATEMENT OF FACT

2 In In Re Melissa C the Law Court recently ruled
3 that the Department of Human Services presently has
4 unfettered discretion to withhold its consent to a
5 proposed adoption of a child in its custody. The
6 court held that the Maine Revised Statutes, Title 19,
7 section 532, subsection 1, paragraph C, does not pro-
8 vide for judicial review of a Department of Human
9 Services' decision to withhold consent to a proposed
10 adoption. Under present law there is no judicial
11 mechanism to review the reasonableness of a state
12 agency's refusal to consent to an adoption. This
13 bill established a standard of review by which courts
14 may judge the reasonableness of agency decision.

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