

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2020

H.P. 1486 House of Representatives, January 12, 1988
Submitted by the Department of Human Services pursuant to
Joint Rule 24.

Reference to the Committee on Judiciary suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative HANLEY of Paris.

Cosponsored by Senators BLACK of Cumberland, BRANNIGAN of
Cumberland and Representative PAUL of Sanford.

STATE OF MAINE

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

1 AN ACT to Amend the Maine Juvenile Code to
2 Expand Notice Provisions.
3

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

6 Sec. 1. 15 MRSA §3304, sub-§5, as amended by PL
7 1977, c. 664, §24, is further amended to read:

8 5. Service on parents of juvenile. If the person
9 or persons to whom a summons is served are not the
10 parents or guardian of the juvenile, the summons shall
11 also be issued to the parents or guardian or both

1 notifying them of the pendency of the cause and of the
2 time and place set for hearing. The court may waive
3 this requirement if it finds that the service is not
4 possible and explains this finding in writing, except
5 as required by section 3314, subsection 1, paragraph
6 C-1 or C-2.

7 **Sec. 2.** 15 MRSA §3304, sub-§6-A, as amended by
8 PL 1985, c. 439, §13, is further amended to read:

9 6-A. Effect of nonappearance of parent or
10 custodian. The failure of a parent, guardian or legal
11 custodian to appear in response to the summons or for
12 a later hearing, or the inability to serve such a
13 party, shall not prevent the court from continuing
14 with the proceedings against a juvenile who is before
15 the court, except as provided required in section
16 3314, subsection 1, paragraphs ~~D~~ and ~~E~~ C-1 and C-2.

17 **Sec. 3.** 15 MRSA §3305, 2nd ¶, as enacted by PL
18 1977, c. 520, §1, is amended to read:

19 Upon the acceptance of such an answer, a
20 dispositional hearing shall be set at the earliest
21 practicable time that will allow for the completion of
22 a predisposition study conducted pursuant to section
23 3311 and for service of notice as required by section
24 3314, subsection 1, paragraph C-1 or C-2.

25 **Sec. 4.** 15 MRSA §3312, sub-§3, ¶A, as amended
26 by PL 1979, c. 373, §5, is further amended to read:

27 A. The court may continue the dispositional
28 hearing, either on its own motion or on the motion
29 of any interested party:

30 (1) For a period not to exceed one month to
31 receive reports or other evidence; ~~or~~

32 (2) For a period not to exceed 6 weeks to
33 allow for service of notice as required in
34 section 3314, subsection 1, paragraph C-1 or
35 C-2; or

1 (2) (3) For a period not to exceed 12
2 months in order to place the juvenile in a
3 supervised work or service program or a
4 restitution program, or for such other
5 purpose as the court in its discretion deems
6 appropriate. In the event a supervised work
7 or service program or restitution program has
8 been ordered, the court shall on final
9 disposition consider whether or not there has
10 been compliance with the program so ordered.

11 Sec. 5. 15 MRSA §3314, sub-§1, ¶C-1, as enacted
12 by PL 1985, c. 439, §16, is amended to read:

13 C-1. The court may commit a juvenile to the
14 custody of the Department of Human Services when
15 the court has determined that reasonable efforts
16 have been made to prevent or eliminate the need
17 for removal of the juvenile from his home and that
18 continuation therein would be contrary to the
19 welfare of the juvenile. The court may not enter
20 an order under this paragraph unless the parents
21 have had notice and an opportunity to be heard at
22 the dispositional hearing.

23 Notwithstanding any other provision of law, the
24 court shall not commit a juvenile to the custody
25 of the Department of Human Services until at
26 least 10 days have elapsed from the date on which
27 service pursuant to section 3304 was effected
28 unless such notice has been served on the parents,
29 custodians and the Department of Human Services in
30 accordance with District Court civil rules at
31 least 10 days prior to the dispositional hearing.
32 A party may waive this time requirement if the
33 waiver is written and voluntarily and knowingly
34 executed in court before a judge.

35 The Department of Human Services shall provide for
36 the care and placement of the juvenile as for
37 other children in the department's custody
38 pursuant to the Child and Family Services and
39 Child Protection Act, Title 22, chapter 1071,
40 suchapter VII.

1 STATEMENT OF FACT

2 This bill makes changes to the Maine Juvenile Code
3 that clarify and expand the notice required prior to
4 any disposition removing custody from parents and
5 giving custody to the Department of Human Services.

6 Under current law, a parent could be deprived of
7 custody without adequate notice and an opportunity to
8 be heard before the disposition is made by the court.

9 At least 40 days is required in order for notice
10 by publication to be completed at least 10 days prior
11 to the dispositional hearing.

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