

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 935

H.P. 683

House of Representatives, March 28, 1989

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Judiciary suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative DELLERT of Gardiner.

Cosponsored by Representative WEBSTER of Cape Elizabeth and Representative
ROLDE of York.

STATE OF MAINE

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

**An Act to Promote the Best Interests of the Child in Divorce
Proceedings.**



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

3 **19 MRSA §752, sub-§§5 and 6, as enacted by PL 1983, c. 813,**
5 **§5, are amended to read:**

7 5. **Best interest of the child.** The court, in making an
9 award of parental rights and responsibilities with respect to a
11 minor child, shall apply the standard of the best interest of the
13 child. In applying this standard, the court shall consider the
15 following factors:

- 17 A. The age of the child;
- 19 B. The relationship of the child with the child's parents
21 and any other persons who may significantly affect the
23 child's welfare;
- 25 C. The preference of the child, if old enough to express a
27 meaningful preference;
- 29 D. The duration and adequacy of the child's current living
31 arrangements and the desirability of maintaining continuity;
- 33 E. The stability of any proposed living arrangements for
35 the child;
- 37 F. The motivation of the parties involved and their
39 capacities to give the child love, affection and guidance;
- 41 G. The child's adjustment to the child's present home,
43 school and community;
- 45 H. The capacity of each parent to allow and encourage
47 frequent and continuing contact between the child and the
49 other parent, including physical access;
- 51 I. The capacity of each parent to cooperate or to learn to
53 cooperate in child care;
- J. Methods for assisting parental cooperation and resolving
disputes and each parent's willingness to use those methods;
- K. The effect on the child if one parent has sole authority
over the child's upbringing; and
- L. All other factors having a reasonable bearing on the
physical and psychological well-being of the child.

The court may appoint a person to advocate for or represent the
best interests of the child, and may order payment by either or
both parents of reasonable costs for these services. If the
court finds the parents indigent, the court may pay the
reasonable costs and expenses of the advocate.

1 6. Order. The order of the court shall award allocated
2 parental rights and responsibilities, shared parental rights and
3 responsibilities or sole parental rights and responsibilities,
4 according to the best interest of the child. Where the parents
5 have agreed to an award of shared parental rights and
6 responsibilities or so agree in open court, the court shall make
7 that award unless there is substantial evidence that it should
8 not be ordered. The court shall state in its decision the reasons
9 for not ordering a shared parental rights and responsibilities
10 award agreed to by the parents. The court may order services of
11 limited duration for the well-being of the child upon a finding
12 of the necessity for services and the showing of a plan for
13 payment for services. The court may not order supervision or
14 services by the Department of Human Services unless there is a
15 finding of abuse or neglect as defined in Title 22, section 4002,
16 subsection 1, by a parent who will be providing some physical
17 care of the child. The court may order payment by either or both
18 parents of reasonable costs of services.

19 The court may award reasonable rights of contact with a minor
20 child to any 3rd persons.

21 The court may award parental rights and responsibilities with
22 respect to the child to a 3rd person, some suitable society or
23 institution for the care and protection of children or the
24 Department of Human Services upon a finding that awarding
25 parental rights and responsibilities to either or both parents
26 will place the child in jeopardy as defined in Title 22, section
27 4002, subsection 6.

28 Every final order issued under this section shall contain:

29 A. A provision for child support or a statement of the
30 reasons for not ordering child support; and

31 B. A statement that each parent shall have access to
32 records and information pertaining to a minor child,
33 including but not limited to, medical, dental and school
34 records, whether or not the child resides with the parent,
35 unless that access is found not to be in the best interest
36 of the child or that access is found to be sought for the
37 purpose of causing detriment to the other parent. If that
38 access is not ordered, the court shall state in the order
39 its reasons for denying that access.

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STATEMENT OF FACT

3 This bill permits the court to appoint an advocate to
5 represent the best interests of a child in proceedings allocating
7 parental rights and responsibilities. In addition, the court may
9 order services of a limited duration for the well-being of a
11 child upon a finding that the services are necessary and a
showing of a plan for payment for these services. The Department
of Human Services need only provide these services if the court
finds abuse or neglect of a child by the parent who will be
providing some physical care of the child.

13 This bill will direct families to use community resources to
15 resolve conflicts and problems rather than the Department of
Human Services. The resources of the department may then be used
for situations of abuse or neglect.