

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1447

H.P. 1036

House of Representatives, May 3, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative RICHARDS of Hampden.

Cosponsored by Senator EMERSON of Penobscot, Senator GAUVREAU of Androscoggin and Representative PARADIS of Old Town.

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STATE OF MAINE

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

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An Act to Provide Visitation and Custody Rights to Grandparents in  
Cases other than Divorce.

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

3               **Sec. 1. 19 MRSA §214, sub-§6,** as enacted by PL 1983, c. 813,  
5       §1, is amended to read:

7               **6. Order.** The order of the court shall award allocated  
9       parental rights and responsibilities, shared parental rights and  
11       responsibilities or sole parental rights and responsibilities,  
13       according to the best interest of the child. Where the parents  
15       have agreed to an award of shared parental rights and  
      responsibilities or so agree in open court, the court shall make  
      that award unless there is substantial evidence that it should  
      not be ordered. The court shall state in its decision the reasons  
      for not ordering a shared parental rights and responsibilities  
      award agreed to by the parents.

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

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

27       Every final order issued under this section shall contain:

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

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

43               **Sec. 2. 19 MRSA §581, sub-§6,** as enacted by PL 1983, c. 813,  
      §2, is amended to read:

45               **6. Order.** Upon petition under subsection 3, paragraph B,  
47       the order of the court shall award allocated parental rights and  
49       responsibilities, shared parental rights and responsibilities or  
51       sole parental rights and responsibilities, according to the best  
      interest of the child. Where the parents have agreed to an award  
      of shared parental rights and responsibilities or so agree in  
      open court, the court shall make that award unless there is  
      substantial evidence that it should not be ordered. The court

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26 purpose of causing detriment to the other parent. If that  
27 access is not ordered, the court shall state in the order  
28 its reasons for denying that access.

29

### 31 STATEMENT OF FACT

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34 Under current law, courts may award parental rights and  
35 responsibilities to the Department of Human Services,  
36 grandparents or other 3rd persons in the context of divorce  
37 proceedings. This bill would allow the courts to award custody  
38 to 3rd persons in other cases involving custody, including legal  
39 separations and cases resolving the custody of children born  
40 outside of marriage.