

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 151

H.P. 109

House of Representatives, January 25, 1993

**An Act to Amend the Laws Governing Termination of Parental Rights  
and Placement of Children.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative NORTON of Winthrop.

Cosponsored by Representatives LIBBY of Kennebunk, TUFTS of Stockton Springs, VIGUE of Winslow, Senator HANDY of Androscoggin.

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

2  
3       Sec. 1. 22 MRSA §4038, sub-§1, as amended by PL 1987, c. 269,  
4 §1, is further amended to read:

6       1. **Mandated review.** If a court has made a final protection  
7 order, it shall review the case at least once within 18 6 months  
8 of the final protection order and at least every 2 years  
9 thereafter, unless the child has been emancipated or adopted.

10       Sec. 2. 22 MRSA §4038, sub-§7, ¶A, as amended by PL 1991, c.  
11 176, §3, is further amended to read:

12       A. The court shall review the final protection order and  
13 make a determination within 18 6 months of its initial order  
14 either to:  
15

16           (1) Return the child to the parent;

17           (2) Continue reunification efforts for a specific  
18 limited time not to exceed 6 months and to judicially  
19 review the matter within the time specified; or  
20

21           (3) Enter an order under section 4036, subsection 1,  
22 paragraph G-1.  
23

24       The court may not order reunification efforts to continue  
25 under subparagraph (2) more than once unless all parties  
26 agree to the order to continue reunification.  
27

28       Sec. 3. 22 MRSA §4038, sub-§7, ¶D is enacted to read:

29       D. The court shall consider, but is not bound by, the  
30 wishes of the child in making a determination under  
31 paragraph A, if the child is 12 years of age or older.

32       Sec. 4. 22 MRSA §4054, as enacted by PL 1979, c. 733, §18, is  
33 amended to read:

34       **§4054. Hearing on termination petition; jury trial**

35       The court shall hold a hearing prior to making a termination  
36 order; except that, if any party to the proceeding requests a  
37 jury trial, the proceeding must be removed to Superior Court  
38 pursuant to the Maine Rules of Civil Procedure, Rule 76C and a  
39 jury trial must be held in accordance with rules adopted by the  
40 Supreme Judicial Court.

41       Sec. 5. 22 MRSA §4055, sub-§3, as enacted by PL 1979, c. 733,  
42 §18, is amended to read:

2 3. Wishes of child. The court shall ~~shall~~ may not order  
3 termination if the child is at least 14 years old and objects to  
4 the termination. The court shall consider, but is not bound by,  
5 the wishes of a child 12 years of age or older in making an order  
6 under this section.

8  
9  
10 **STATEMENT OF FACT**

11 This bill proposes to make 3 changes in the laws governing  
12 protection orders and termination of parental rights. First, the  
13 bill shortens the time period for review of final protection  
14 orders from 18 months to 6 months. Second, it allows a jury  
15 trial on petitions for termination of parental rights. The third  
16 component of this bill requires the court to consider the  
17 placement wishes of a child at least 12 years of age in making  
18 placement decisions.