

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

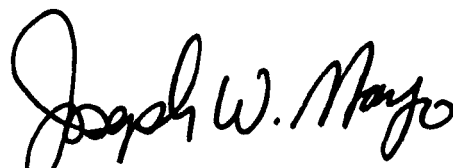
No. 484

H.P. 364

House of Representatives, February 9, 1995

An Act Concerning Grandparents' Rights of Visitation and Custody.

Received by the Clerk of the House on February 7, 1995. Referred to the Committee on Judiciary and ordered printed pursuant to Joint Rule 14.


JOSEPH W. MAYO, Clerk

Presented by Representative POULIN of Oakland.

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

2
4 **Sec. 1. 19 MRSA §214, sub-§6**, as amended by PL 1989, c. 272, §1, is further amended to read:

6 **6. Order.** The order of the court ~~shall~~ must award allocated
8 parental rights and responsibilities, shared parental rights and
10 responsibilities or sole parental rights and responsibilities,
12 according to the best interest of the child. ~~Where~~ When the
14 parents have agreed to an award of shared parental rights and
16 responsibilities or so agree in open court, the court shall make
18 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.

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

20 The court may award parental rights and responsibilities to a 3rd
22 person, a society or institution for the care and protection of
24 children, or to the Department of Human Services upon a finding
26 that awarding parental rights and responsibilities to either or
28 both parents will place the child in jeopardy as defined in Title
22, section 4002, subsection 6. The court may award parental
rights and responsibilities to a grandparent or grandparents of
the child upon a finding that such an award is in the best
interest of the child as described in subsection 5.

30 Every final order issued under this section ~~shall~~ must contain:

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

36 B. A statement that each parent ~~shall~~ must have access to
38 records and information pertaining to a minor child,
40 including, but not limited to, medical, dental and school
42 records, whether or not the child resides with the parent,
44 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.

46 **Sec. 2. 19 MRSA §581, sub-§6**, as amended by PL 1989, c. 272,
§2, is further amended to read:

48 **6. Order.** Upon petition under subsection 3, paragraph B,
50 the order of the court ~~shall~~ must award allocated parental rights
and responsibilities, shared parental rights and responsibilities

2 or sole parental rights and responsibilities, according to the
3 best interest of the child. ~~Where~~ When the parents have agreed to
4 an award of shared parental rights and responsibilities or so
5 agree in open court, the court shall make that award unless there
6 is substantial evidence that it should not be ordered. The court
7 shall state in its decision the reasons for not ordering a shared
8 parental rights and responsibilities award agreed to by the
9 parents.

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

12 The court may award parental rights and responsibilities to a 3rd
13 person, a society or institution for the care and protection of
14 children, or to the Department of Human Services upon a finding
15 that awarding parental rights and responsibilities to either or
16 both parents will place the child in jeopardy as defined in Title
17 22, section 4002, subsection 6. The court may award parental
18 rights and responsibilities to a grandparent or grandparents of
19 the child upon a finding that such an award is in the best
20 interest of the child as described in subsection 5.

21 Every final order issued under this section shall ~~shall~~ must contain:

22
23 A. A provision for child support or a statement of the
24 reasons for not ordering child support; and

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

34
35 **Sec. 3. 19 MRSA §752, sub-§6,** as enacted by PL 1983, c. 813,
36 §5, is amended to read:

37
38 **6. Order.** The order of the court shall ~~shall~~ must award
39 allocated parental rights and responsibilities, shared parental
40 rights and responsibilities or sole parental rights and
41 responsibilities, according to the best interest of the child.
42 ~~Where~~ When the parents have agreed to an award of shared parental
43 rights and responsibilities or so agree in open court, the court
44 shall make that award unless there is substantial evidence that
45 it should not be ordered. The court shall state in its decision
46 the reasons for not ordering a shared parental rights and
47 responsibilities award agreed to by the parents.
48
49
50

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

6 The court may award parental rights and responsibilities with
8 respect to the child to a 3rd person, some suitable society or
10 institution for the care and protection of children or the
12 Department of Human Services upon a finding that awarding
14 parental rights and responsibilities to either or both parents
will place the child in jeopardy as defined in Title 22, section
4002, subsection 6. The court may award parental rights and
responsibilities to a grandparent or grandparents of the child
upon a finding that such an award is in the best interest of the
child as described in subsection 5.

16 Every final order issued under this section shall ~~shall~~ must contain:

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

22 B. A statement that each parent shall ~~shall~~ must have access to
24 records and information pertaining to a minor child,
including, but not limited to, medical, dental and school
26 records, whether or not the child resides with the parent,
28 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.

30 **Sec. 4. 19 MRSA §1002, sub-§1**, as amended by PL 1993, c. 686,
32 §4 and affected by §13, is further amended to read:

34 **1. Grandparent.** "Grandparent" is the biological or
adoptive parent of the child's biological or adoptive parent.
36 ~~"Grandparent" does not include the biological or adoptive parent
of a child's biological or adoptive parent who consented to
38 adoption under section 1122 or whose parental rights have been
terminated pursuant to section 1114 or Title 22, chapter 1071,
40 subchapter VI.~~

42 **Sec. 5. 19 MRSA §1004**, as enacted by PL 1991, c. 414, is
44 amended by adding at the end a new paragraph to read:

46 If a proceeding that may result in the determination of
parental rights and responsibilities has been commenced in the
Superior Court or the District Court under chapter 5, 11, 13 or
48 18 or Title 22, chapter 1071, a petition made under this chapter
must also be considered a motion to intervene in that proceeding
50 under the Maine Rules of Civil Procedure, Rule 24, if the

petition contains the information required by that rule and is filed with the court having jurisdiction over the proceeding.

Sec. 6. 19 MRSA §1102, sub-§7-A is enacted to read:

7-A. Grandparent. "Grandparent" has the same meaning as in section 1002.

Sec. 7. 19 MRSA §1107 is enacted to read:

§1107. Intervention by grandparent

A grandparent has the right to intervene in any court proceeding under this chapter that may result in the termination or surrender and release of parental rights and responsibilities. The court may award parental rights and responsibilities to a grandparent or grandparents of the child upon a finding that such an award is in the best interest of the child.

Sec. 8. 22 MRSA §4005-B, sub-§1, as enacted by PL 1993, c. 697, §1, is amended to read:

1. Definition. For the purposes of this section, "grandparent" means the biological or adoptive parent of the child's biological or adoptive parent. ~~"Grandparent" does not include the parent of a child's parent who consented to adoption or whose parental rights have been terminated.~~

STATEMENT OF FACT

This bill permits grandparents to be awarded parental rights and responsibilities in any proceeding when those rights will be awarded, including parental separation, divorce, surrender and release for adoption, termination of parental rights and child protective proceedings. The bill also requires a petition by grandparents for visitation rights to be considered a motion to intervene in proceedings when parental rights and responsibilities are determined.