

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 394, L.D. 529, Bill, "An Act to Allow the Department of Human Services to Take Protective Custody of Certain Newborn Children"

Amend the bill by striking out the title and substituting the following:

'An Act to Allow the Department of Human Services to Take Protective Custody of Children When Threat of Serious Harm is Presumed'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 22 MRSA §4031, sub-§4 is enacted to read:

4. Threat of serious harm; rebuttable presumption. The court may presume that the threat of serious harm with respect to a child exists if:

A. The parent has acted toward a child in a manner that is heinous or abhorrent to society or has failed to protect a child in a manner that is heinous or abhorrent to society, without regard to the intent of the parent; or

B. The parent has been convicted of murder or a Class A or Class B crime against a person and the victim was a child.'

STATEMENT OF FACT

This amendment replaces the bill. It allows the court to make the rebuttable presumption that a child is in threat of

serious harm in 2 specific fact situations. This shifts the
burden of proof in a child protective proceeding to the parent to
prove that the child is not in threat of serious harm, despite
the existence of the facts that set up the presumption. The 2
fact situations are as follows.

1. The parent has acted toward a child or failed to protect
a child in a manner that is heinous or abhorrent to society. The
intent of the parent is irrelevant.

2. The parent has been convicted of murder or a Class A or
B crime against a person and a child was the victim.

Although the main purpose of this amendment is to allow the
Department of Human Services to take protective custody of
newborns before any harm occurs, there is no reason the criteria
can not be applied to protect children of all ages.