

# MAINE STATE LEGISLATURE

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R. 9. 8

L.D. 1765

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JUDICIARY

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

COMMITTEE AMENDMENT "A" to H.P. 1285, L.D. 1765, Bill, "An Act to Amend the Standards for Appointing the Guardian of a Minor"

Amend the bill in section 1 in that part designated "~~§5-204.~~" by striking out all of subsection (b) (page 1, lines 15 to 19 in L.D.) and inserting in its place the following:

'(b) Each living parent whose parental rights and responsibilities have not been terminated or the person who is the legal custodian of the unmarried minor consents to the guardianship and the court finds that the consent creates a condition that is in the best interest of the child; or'

Further amend the bill in section 1 in that part designated "~~§5-204.~~" by inserting at the end a new paragraph to read:

'If the court appoints a limited guardian, the court shall specify the duties and powers of the guardian, as required in section 5-105, and the parental rights and responsibilities retained by the parent of the minor.'

Further amend the bill in section 2 in subsection (d) in the last line (page 1, line 48 in L.D.) by inserting after the following: "ward." the following: 'The guardian has the burden of showing by a preponderance of the evidence that continuation of the guardianship is in the best interest of the ward. If the court does not terminate the guardianship, the court may dismiss subsequent petitions for termination of the guardianship unless there has been a substantial change of circumstances.'

**COMMITTEE AMENDMENT**

R. 018

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**STATEMENT OF FACT**

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6 This amendment clarifies language to require each parent who  
8 still retains parental rights and responsibilities to consent to  
10 a guardianship by consent, but eliminates the need for consent  
12 from a parent whose parental rights and responsibilities have  
14 been terminated. It also eliminates the use of the term "natural  
16 parent" to encompass situations in which adoptive parents consent  
18 to the appointment of a guardian.

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14 This amendment requires that when the Probate Court Judge  
16 appoints a limited guardian, the order appointing the guardian  
18 must specify the powers and the duties of the guardian and the  
parental rights and responsibilities retained by the parent of  
the minor.

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20 This amendment provides that the guardian has the burden of  
22 proving by a preponderance of the evidence that the termination  
24 of the guardianship is not in the best interest of the minor if a  
petition for termination is filed. If the court determines that  
26 the guardianship should not terminate, the court may dismiss  
subsequent petitions for termination unless there is a  
28 substantial change of circumstances. "Substantial change of  
circumstances" is a term used in determining when an order of  
parental rights and responsibilities should be modified under the  
Maine Revised Statutes, Title 19.