

MAINE STATE LEGISLATURE

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JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 858, L.D. 1163, Bill, "An Act to Amend Child Protective Laws"

Amend the bill by striking out all of sections 1 and 2.

Further amend the bill in section 3 by striking out all of subsection 4 and inserting in its place the following:

'4. Final protection order. The court shall issue a final protection order within 18 12 months of the filing of the child protection petition unless good cause is shown why the order should not be issued within that time period.

Notwithstanding any other provision of this subsection, if the court makes a finding pursuant to section 4055, subsection 1-A 2, then the court shall issue a final protection order within 12 9 months of the filing of the child protection petition, unless good cause is shown why the order should not be issued within that time period. --- Good cause does not include a scheduling problem, 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;

B. The victim of any of the following crimes was a child for whom the parent was responsible or the victim was a child who was a member of a household lived in or frequented by the parent and the parent has been convicted of:

1. 2. 3.

- 2 (1) Murder;
- 4 (2) Felony murder;
- 6 (3) Manslaughter;
- 8 (4) Aiding or soliciting suicide;
- 10 (5) Aggravated assault;
- 12 (6) Rape;
- 14 (7) Gross sexual misconduct or gross sexual assault;
- 16 (8) Sexual abuse of minors;
- 18 (9) Incest;
- 20 (10) Kidnapping;
- 22 (11) Promotion of prostitution; or
- 24 (12) A comparable crime in another jurisdiction;

26 C. The child has been placed in the legal custody or care
 28 of the department, the parent has a chronic substance abuse
 30 problem and the parent's prognosis indicates that the child
 32 will not be able to return to the custody of the parent
 34 within a reasonable period of time, considering the child's
 age and the need for a permanent home. The fact that a
 parent has been unable to provide safe care of a child for a
 period of 12 months due to substance abuse constitutes a
 chronic substance abuse problem;

36 D. The child has been placed in the legal custody or care
 38 of the department, the court has previously terminated
 40 parental rights to another child who is a member of the same
 42 family and the parent continues to lack the ability or
 44 willingness to show the court that the parent has sought
 services that would rehabilitate the parent, or the parent
 can not show evidence that an additional period of services
 would result in reunification in a time reasonably
 calculated to meet the needs of the child and the child's
 need for a permanent home; or

46 E. The child has been placed in the legal custody or care
 48 of the department for at least 12 months and the parents
 have been offered or received services to correct the

COMMITTEE AMENDMENT

2 situation but have refused or have made no significant
3 effort to correct the situation.

4 Good cause does not include a scheduling problem.'

6 Further amend the bill by striking out all of section 4.

8 Further amend the bill by inserting after section 5 the
9 following:

10 'Sec. 6. 22 MRSA §4038, sub-§1-A, ¶¶B and C, as enacted by PL
12 1987, c. 269, §2, are amended to read:

14 B. When custody has been granted to a parent who did not
15 have custody at the time the child protection petition was
16 filed; ~~or~~

18 C. When the child lives with the foster parent with whom
19 the department has entered into a long-term foster care
20 agreement pursuant to section 4064; or

22 Sec. 7. 22 MRSA §4038, sub-§1-A, ¶D is enacted to read:

24 D. When there is a signed adoptive placement agreement
25 regarding the child between the department and the
26 prospective parent or parents.'

28 Further amend the bill by inserting after section 7 the
29 following:

30 'Sec. 8. 22 MRSA §4052, sub-§2, as amended by PL 1983, c. 249,
32 §1, is further amended to read:

34 2. **Time filed.** A termination petition may be brought no
35 earlier than ~~3--months~~ 45 days after disposition under section
36 4036 or under Title 19, section 213, 214 or 752.

38 Sec. 9. 22 MRSA §4052, sub-§2, as amended by PL 1995, c. 694,
39 Pt. D, §47 and affected by Pt. E, §2, is further amended to read:

40 2. **Time filed.** A termination petition may be brought no
41 earlier than ~~3--months~~ 45 days after disposition under section
42 4036 or under Title 19-A, section 1502 or 1653.'

44 Further amend the bill by inserting after section 9 the
46 following:

Sec. 10. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 22, section 4052, subsection 2, as amended by Public Law 1995, chapter 694, Part D, section 47 and affected by Part E, section 2, takes effect October 1, 1997.'

Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

Further amend the bill by inserting at the end before the summary the following:

FISCAL NOTE

The Judicial Department may require additional General Fund appropriations to cover court appointed attorney and guardian ad litem costs related to representing children or their parents in these additional child protective proceedings. The amounts can not be estimated at this time. The additional workload and administrative costs associated with the additional number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department.'

SUMMARY

This amendment removes the provisions of the bill that change the standard for removing a child from parental custody. It retains the provisions that shorten the time periods applicable in child protective cases except those appearing in the definition of "abandonment" under the Maine Revised Statutes, Title 22, section 4002, subsection 1-A. It corrects a cross-reference. It adds to the list of circumstances in which review is not mandated when there is a signed adoptive placement agreement between the Department of Human Services and the prospective parent or parents. It shortens the mandatory 90-day waiting period for filing a termination petition to 45 days. It also adds a fiscal note to the bill.