

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1163

H.P. 858

House of Representatives, February 20, 1997

An Act to Amend Child Protective Laws.

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 MARVIN of Cape Elizabeth.
Cosponsored by Senator MITCHELL of Penobscot and
Representatives: BRAGDON of Bangor, BROOKS of Winterport, LOVETT of Scarborough,
QUINT of Portland, SNOWE-MELLO of Poland, Senator: PARADIS of Aroostook.

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

2
4 **Sec. 1. 22 MRSA §4002, sub-§1-A, ¶¶A and B,** as amended by PL 1995, c. 481, §1, are further amended to read:

6 A. Failure, for a period of at least ~~6~~ 3 months and with no
8 reasonable excuse, to communicate meaningfully with the
 child;

10 B. Failure, for a period of at least ~~6~~ 3 months and with no
12 reasonable excuse, to maintain regular visitation with the
 child;

14 **Sec. 2. 22 MRSA §4003, sub-§2,** as enacted by PL 1979, c. 733,
16 §18, is amended to read:

18 **2. Removal from parental custody.** Provide that children
18 will be taken from the custody of their parents ~~only--where~~
20 ~~failure to do so would jeopardize their health or welfare when it~~
22 is in the best interest of the children because they are in
 circumstances that present a substantial risk of abuse or neglect;

24 **Sec. 3. 22 MRSA §4035, sub-§4,** as amended by PL 1995, c. 481,
26 §2, is further amended to read:

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

32 Notwithstanding any other provision of this subsection, if the
32 court makes a finding pursuant to section 4055, subsection 1-A,
34 then the court shall issue a final protection order within ~~12~~ 9
36 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.

38 **Sec. 4. 22 MRSA §4036, sub-§2,** as enacted by PL 1979, c. 733,
40 §18, is repealed and the following enacted in its place:

42 **2. Principles.** In determining the disposition, the court
 shall apply the following principles in this priority:

44 A. Further the best interest of the child;

46 B. Protect the child from jeopardy to health or welfare;

48 C. Give custody to a parent if appropriate conditions can
 be applied;

2 D. Terminate department custody at the earliest possible
3 time; and

4 E. Give custody to a parent if appropriate conditions can
5 be applied.

8 **Sec. 5. 22 MRSA §4038, sub-§1**, as amended by PL 1987, c. 269,
9 §1, is further amended to read:
10

11 **1. Mandated review.** If a court has made a final protection
12 order, it shall review the case at least once within ~~18~~ 12 months
13 of the final protection order and at least every 2 years
14 thereafter, unless the child has been emancipated or adopted.

16 **Sec. 6. 22 MRSA §4038, sub-§7, ¶A**, as amended by PL 1991, c.
17 176, §3, is further amended to read:
18

19 A. The court shall review the final protection order and
20 make a determination within ~~18~~ 12 months of its initial
21 order either to:

22 (1) Return the child to the parent;

23 (2) Continue reunification efforts for a specific
24 limited time not to exceed 6 months and to judicially
25 review the matter within the time specified; or

26 (3) Enter an order under section 4036, subsection 1,
27 paragraph G-1.
30

31 The court may not order reunification efforts to continue
32 under subparagraph (2) more than once unless all parties
33 agree to the order to continue reunification and unless the
34 court determines reunification efforts to be in the best
35 interest of the child.

36 **Sec. 7. 22 MRSA §4038, sub-§7, ¶C**, as enacted by PL 1991, c.
37 176, §3, is amended to read:
40

41 C. When 2 placements with the same parent have failed and
42 the child is returned to the custody of the department, the
43 court shall enter an order under section 4036, subsection 1,
44 paragraph G-1 unless the parent demonstrates that
45 reunification should be continued and the court determines
46 reunification efforts to be in the best interest of the
47 child.

48 **Sec. 8. 22 MRSA §4055, sub-§1-A, ¶¶C and E**, as enacted by PL
49 1995, c. 481, §4, are amended to read:
50

2 C. The child has been placed in the legal custody or care
of the department, the parent has a chronic substance abuse
4 problem, and the parent's prognosis indicates that the child
will not be able to return to the custody of the parent
6 within a reasonable period of time, considering the child's
age and the need for a permanent home. The fact that a
8 parent has been unable to provide safe care of a child for a
period of 12 9 months due to substance abuse constitutes a
10 chronic substance abuse problem;

12 E. The child has been placed in the legal custody or care
of the department for at least 12 9 months, and the parents
14 have been offered or received services to correct the
situation but have refused or have made no significant
16 effort to correct the situation.

18 **Sec. 9. 22 MRSA §4055, sub-§2**, as amended by PL 1995, c. 481,
§5, is further amended to read:

20
22 **2. Primary considerations.** In deciding to terminate
parental rights, the court shall consider the best interest of
24 the child, the needs of the child, including the child's age, the
child's attachments to relevant persons, periods of attachments
and separation, the child's ability to integrate into a
26 substitute placement or back into the parent's home and the
child's physical and emotional needs.

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SUMMARY

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This bill shortens the time periods in child protective
34 proceedings and elevates the best interests of the child to first
priority in determining child protection and termination of
36 parental rights.