

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



118th MAINE LEGISLATURE

SECOND REGULAR SESSION-1998

Legislative Document

No. 2168

H.P. 1541

House of Representatives, January 26, 1998

An Act to Encourage Adoptions and Reduce the Number of Children in Foster Care in the State.

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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 BRAGDON of Bangor.

Cosponsored by Representatives: KANE of Saco, MADORE of Augusta, QUINT of Portland,
Senator: PARADIS of Aroostook.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4 Whereas, children awaiting adoption are in need of prompt
6 placement with foster and adoptive families; and

8 Whereas, this waiting list of children creates a hardship
for children awaiting adoption and for their birth families and
10 prospective foster and adoptive families; and

12 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
16 safety; now, therefore,

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

20 **Sec. 1. 18-A MRSA §9-202, sub-§(a),** as amended by PL 1997, c.
239, §2 and affected by §6, is further amended to read:

22 (a) With the approval of the judge of probate of any county
24 within the State and after a determination by the judge that a
surrender and release or a consent is in the best interest of the
26 child, the parents or surviving parent of a child may at any time
after the child's birth:

28 (1) Surrender and release all parental rights to the child
30 and the custody and control of the child to a licensed
child-placing agency or the department to enable the
32 licensed child-placing agency or the department to have the
child adopted by a suitable person; or

34 (2) Consent to have the child adopted by a specified
36 petitioner.

38 The parents or the surviving parent must execute the surrender
and release or the consent in the presence of the judge. The
40 adoptee, if 14 years of age or older, must execute the consent in
the presence of the judge. The waiver of notice by the legal
42 father who is not the biological father or putative father is
governed by section 9-201, subsection (c).

44 The agency or the department and the child's parent or parents
46 may agree to continuing contact between the birth parents and
other members of the child's birth family and the child or the
48 adoptive parents. After the adoption, the agreement to
continuing contact may be changed by the adoptive parents.

2
3 **Sec. 2. 18-A MRSA §9-308, sub-§(f)** is enacted to read:

4 (f) The birth parents, adoptive parents and child may enter
5 into a written, private agreement to permit continuing contact
6 between the child or the adoptive parents and the birth parents,
7 grandparents, siblings and other members of the child's birth
8 family under the following terms.

9 (1) The court may approve the agreement and may modify the
10 terms of the agreement if the court finds that the
11 modification is in the best interests of the child and has
12 been agreed to by the parties or that exceptional
13 circumstances have arisen since the approval of the
14 agreement that justify the modification and that the party
15 seeking modification has attempted to mediate any
16 disagreement among the parties to the agreement.

17 (2) A party seeking to enforce compliance with the
18 agreement may seek an order in a civil action and must
19 participate in mediation.

20 (3) Failure to comply with the terms of the agreement does
21 not affect the adoption decree.

22 **Sec. 3. Report.** On or before December 1, 1998, the Department
23 of Human Services shall report to the Joint Standing Committee on
24 Appropriations and Financial Affairs and the Joint Standing
25 Committee on Health and Human Services on the progress being made
26 in increasing the number of adoptions. Prior to that date the
27 Commissioner of Human Services shall:
28

29 1. Contract with those licensed child-placing agencies that
30 have an adoption program in order to increase the numbers of
31 children entering adoptive home placements and completing the
32 adoption process from the care and custody of the Department of
33 Human Services;
34

35 2. Conduct research to determine the concerns and needs of
36 biological, foster and adoptive families; and
37

38 3. Appoint an advisory board to advise the Commissioner of
39 Human Services on successful models to increase the numbers of
40 children entering stable foster home placements and completing
41 the adoption process from the care or custody of the Department
42 of Human Services.
43

44 **Emergency clause.** In view of the emergency cited in the
45 preamble, this Act takes effect when approved.
46

47
48
49
50

SUMMARY

2
4
6
8
10
12

This bill allows the birth family and adoptive parents to enter into agreements for continuing contact between the birth family and the child or adoptive parents. Prior to adoption, the bill allows the birth family and the Department of Human Services or the licensed child-placing agency to enter into continuing contact agreements that may be changed after adoption by the adoptive family. The bill requires a report from the Department of Human Services on progress in increasing adoptions from the care and custody of the department.