

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
118TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 838, L.D. 2246, Bill, "An Act to Require Expeditious Action in Child Protection Cases"

Amend the bill in Part A in section 9 in subsection 4-A by striking out all of the last line (page 3, line 37 in L.D.) and inserting in its place the following: 'This time period does not apply if good cause is shown. Good cause does not include a scheduling problem.'

Further amend the bill in Part B in section 1 in subsection 1-B by striking out all of paragraph A (page 4, lines 16 to 21 in L.D.) and inserting in its place the following:

'A. The parent has subjected the child to aggravated circumstances including, but not limited to, the following:

(1) Rape, gross sexual misconduct, gross sexual assault, sexual abuse, incest, aggravated assault, kidnapping, promotion of prostitution, abandonment, torture, chronic abuse or any other treatment that is heinous or abhorrent to society; or

(2) Refusal for 6 months to comply with treatment required in a reunification plan.'

Further amend the bill in Part B in section 3 by striking out all of subsection 9-C (page 5, lines 17 to 20 in L.D.) and inserting in its place the following:

**COMMITTEE AMENDMENT**

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'9-C. Removal of the child from home. "Removal of the child from home" means that the department or a court has taken a child out of the home of the parent, legal guardian or custodian without the permission of the parent or legal guardian.'

Further amend the bill in Part B by striking out all of sections 6 and 7.

Further amend the bill in Part B in section 13 in that part designated "~~§4041.~~" in subsection 1 in paragraph C-1 in the first line (page 11, line 12 in L.D.) by striking out the following: "extraordinary"

Further amend the bill in Part B in section 13 in that part designated "~~§4041.~~" in subsection 1 by striking out all of paragraph E (page 11, lines 33 to 35 in L.D.) and inserting in its place the following:

'E. The department may make reasonable efforts to place a child for adoption or with a legal guardian concurrently with reunification efforts.'

Further amend the bill in Part B in section 13 in that part designated "~~§4041.~~" in subsection 2 by striking out all of paragraph B-1 (page 13 lines 20 to 32 in L.D.) and inserting in its place the following:

'B-1. When the department discontinues efforts to return the child to a parent, it shall give written notice of this decision to that parent at the parent's last known address. This notice must include the specific reasons for the department's decision, the specific efforts the department has made in working with the parent and child and a statement of the parent's rights under section 4038. The department shall seek an order authorizing it to discontinue reunification efforts. Within 10 days of sending written notice of the decision to discontinue reunification efforts, the department shall file a motion for approval of discontinuance of reunification efforts with supporting affidavits. If the parents file a responsive pleading within 21 days, the court shall conduct a summary proceeding in accordance with the provisions of section 4034, subsection 4. If no responsive pleading is filed, the court may hold a summary hearing in accordance with the provisions of section 4034, subsection 4 or may decide the matter without a hearing.'

Further amend the bill in Part B in section 16 in subsection 2-A by striking out all of paragraph B (page 14, lines 19 to 28 in L.D.) and inserting in its place the following:

'B. A court order includes a finding of an aggravating factor and an order to cease reunification.'

Further amend the bill in Part B in section 16 in subsection 2-A by inserting at the end the following:

'The department is not required to file a termination petition if the department has chosen to have the child cared for by a relative or the department has documented to the court a compelling reason for determining that filing such a petition would not be in the best interests of the child.'

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

### **PART C**

**Sec. C-1. 18-A MRSA §9-302, sub-§(c)** is enacted to read:

(c) When the department consents to the adoption of a child in its custody, the department shall immediately notify:

(1) The District Court in which the action under Title 22, chapter 1071 is pending; and

(2) The guardian ad litem for the child.'

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 Department of Human Services will realize some savings and experience some additional costs associated with these changes in child protection provisions. The net fiscal impact is expected to be minimal.

The Judicial Department will incur some minor additional costs and additional workload as a result of implementing a number of procedural changes to expedite action in child protective cases. These costs can be absorbed within the Judicial Department's existing budget resources.'

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SUMMARY

This amendment includes additional recommendations from the Committee to Study the Role of the Courts in Protecting Children. It makes the following changes to the bill.

1. It excludes scheduling problems as a reason to delay the issuance of a jeopardy order within 120 days of the filing of a child protection petition.

2. It adds as an aggravating circumstance the fact that the parent has refused for 6 months to comply with treatment required in a reunification plan.

3. It makes changes to be consistent with the legal roles of the legal guardian and custodian.

4. It deletes unnecessary sections concerning the contents of the petition.

5. It clarifies the standard for when the Department of Human Services may be excused from presenting plans or decisions to the court.

6. It revises the procedure the department must follow when it decides to terminate reunification efforts.

7. It clarifies when the department is not required to file a termination petition.

This amendment adds Part C to the bill. It requires the Department of Human Services to notify both the District Court in which the child protection action is pending and the guardian ad litem when the department consents to the adoption of a child within the department's custody.