

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1998

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Legislative Document

No. 2246

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S.P. 838

In Senate, March 3, 1998

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### An Act to Require Expeditious Action in Child Protection Cases.

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York. (GOVERNOR'S BILL).  
Cosponsored by Senators: LONGLEY of Waldo, MITCHELL of Penobscot, PARADIS of  
Aroostook, Representatives: MADORE of Augusta, MITCHELL of Portland, PLOWMAN of  
Hampden.

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

4 PART A

6 Sec. A-1. 22 MRSA §4005, sub-§1, ¶B, as amended by PL 1995, c.  
405, §19, is further amended to read:

8 B. The guardian ad litem shall act in pursuit of the best  
10 interests of the child. The guardian ad litem must be given  
12 access to all reports and records relevant to the case and  
investigate to ascertain the facts. The investigation must  
include, when possible and appropriate, the following:

14 (1) Review of relevant mental health records and  
16 materials;

18 (2) Review of relevant medical records;

20 (3) Review of relevant school records and other  
pertinent materials;

22 (4) Interviews with the child with or without other  
24 persons present; and

26 (5) Interviews with parents, foster parents, teachers,  
caseworkers and other persons who have been involved in  
28 caring for or treating the child.

30 The guardian ad litem shall have face-to-face contact with  
the child in the child's home or foster home within 7 days  
of appointment by the court and at least once every 3 months  
32 thereafter or on a schedule established by the court for  
reasons specific to the child and family. The guardian ad  
34 litem shall report to the court and all parties in writing  
at 6-month intervals, or as is otherwise ordered by the  
36 court, regarding the guardian ad litem's activities on the  
behalf of the child and recommendations concerning the  
38 manner in which the court should proceed in the best  
interest of the child. The court may provide an opportunity  
40 for the child to address the court personally if the child  
requests to do so or if the guardian ad litem believes it is  
42 in the child's best interest.

44 Sec. A-2. 22 MRSA §4005, sub-§1, ¶D, as enacted by PL 1983, c.  
183, is amended to read:

46 D. The guardian ad litem shall make a written report of his  
48 the investigation, findings and recommendations, and shall  
provide a copy of his the report to each of the parties  
50 reasonably in advance of the hearing, and to the court on

2 consent-of-all-parties, except that he the guardian ad litem  
need not provide a written report prior to a hearing on a  
4 preliminary protection order.

6 Sec. A-3. 22 MRSA §4006, as amended by PL 1983, c. 772, §3,  
is repealed and the following enacted in its place:

8 **§4006. Appeals**

10 A party aggrieved by an order of a court entered pursuant to  
12 section 4035, 4054 or 4071 may appeal directly to the Supreme  
14 Judicial Court sitting as the Law Court and such appeals are  
governed by the Maine Rules of Civil Procedure, chapter 9.

16 Appeals from any order under section 4035, 4054 or 4071 must  
18 be expedited. Any attorney appointed to represent a party in a  
20 District Court proceeding under this chapter shall continue to  
represent that client in any appeal unless otherwise ordered by  
the court.

22 Orders entered under this chapter under sections other than  
24 section 4035, 4054 or 4071 are interlocutory and are not  
appealable.

26 Sec. A-4. 22 MRSA §4034, sub-§4, as amended by PL 1983, c.  
184, §4, is further amended to read:

28 4. Summary preliminary hearing. If the custodial parent  
30 appears and does not consent, or if a noncustodial parent  
requests a hearing, then the court shall hold a summary  
32 preliminary hearing on that order within 10 days of its issuance  
or request, ~~unless all parties agree to a later date.~~ If a parent  
34 or custodian is not served with the petition before the summary  
preliminary hearing, the parent or custodian may request a  
36 subsequent preliminary hearing within 10 days after receipt of  
the petition. The petitioner shall--bear bears the burden of  
38 proof. At a summary preliminary hearing, the court may limit  
testimony to the testimony of the caseworker, parent, custodian,  
40 guardian ad litem, foster parent, preadoptive parent or relative  
providing care and may admit evidence, including reports and  
42 records, that would otherwise be inadmissible as hearsay  
evidence. If, after the hearing, the court finds, by a  
44 preponderance of the evidence, that returning the child to his  
the child's custodian would place him the child in immediate risk  
46 of serious harm, it shall continue the order or make another  
disposition under section 4036. If the court's preliminary  
48 order includes a finding of an aggravating factor, the court may  
order the department not to commence reunification or to cease  
50 reunification, in which case a permanency planning hearing must  
commence within 30 days of entry of the preliminary order.

2           **Sec. A-5. 22 MRSA §4034, sub-§5**, as enacted by PL 1979, c.  
733, §18, is amended to read:

4  
5. **Contents of order.** The order shall must include a notice  
6 to the parents and custodians of their right to counsel, as  
required under section 4032, subsection 2, paragraph G, and, if  
8 the order was made without consent, notice of the date and time  
of the summary preliminary hearing. The order must include a  
10 notice to the parent or custodian that if a parent or custodian  
is not served with the petition before the summary preliminary  
12 hearing, the parent or custodian is entitled to request a  
subsequent preliminary hearing within 10 days after receipt of  
14 the petition.

16           **Sec. A-6. 22 MRSA §4035**, as amended by PL 1997, c. 475, §1,  
is further amended by repealing and replacing the headnote to  
18 read:

20 **§4035. Hearing on jeopardy order petition**

22           **Sec. A-7. 22 MRSA §4035, sub-§1**, as enacted by PL 1979, c.  
733, §18, is amended to read:

24  
1. **Hearing required.** The court shall hold a hearing prior  
26 to making a ~~final-protection~~ jeopardy order.

28           **Sec. A-8. 22 MRSA §4035, sub-§4**, as amended by PL 1997, c.  
475, §1, is repealed.

30           **Sec. A-9. 22 MRSA §4035, sub-§4-A** is enacted to read:

32  
**4-A. Jeopardy order.** The court shall issue a jeopardy  
34 order within 120 days of the filing of the child protection  
petition.

36 This time period does not apply if good cause is shown.

38           **Sec. A-10. 22 MRSA §4036, sub-§1, ¶G-1**, as amended by PL 1995,  
40 c. 405, §21, is repealed.

42           **Sec. A-11. 22 MRSA §4036, sub-§1, ¶G-2** is enacted to read:

44 G-2. If the court's jeopardy order includes a finding of an  
aggravating factor, the court may order the department to  
46 cease reunification, in which case a permanency planning  
hearing must commence within 30 days of the order to cease  
48 reunification.

50           **Sec. A-12. 22 MRSA §4055, sub-§3**, as amended by PL 1993, c.  
198, §2, is further amended to read:

2           3. ~~Wishes of child. The court may not order termination if~~  
3           ~~the child is at least 14 years old and objects to the~~  
4           ~~termination.~~ The court shall consider, but is not bound by, the  
5           wishes of a child 12 years of age or older in making an order  
6           under this section.

8  
9  
10                                   **PART B**

11           **Sec. B-1. 22 MRSA §4002, sub-§1-B** is enacted to read:

12           **1-B. Aggravating factor.** "Aggravating factor" means any of  
13           the following circumstances with regard to the parent.

14                           A. The parent has subjected the child to aggravated  
15                           circumstances including but not limited to rape, gross  
16                           sexual misconduct, gross sexual assault, sexual abuse,  
17                           incest, aggravated assault, kidnapping, promotion of  
18                           prostitution, abandonment, torture, chronic abuse or any  
19                           other treatment that is heinous or abhorrent to society.

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

24                                   (1) Murder;

25                                   (2) Felony murder;

26                                   (3) Manslaughter;

27                                   (4) Aiding, conspiring or soliciting murder or  
28                                   manslaughter;

29                                   (5) Felony assault that results in serious bodily  
30                                   injury; or

31                                   (6) Any comparable crime in another jurisdiction.

32                           C. The parental rights of the parent to a sibling have been  
33                           terminated involuntarily.

34                           D. The parent has abandoned the child.

35           **Sec. B-2. 22 MRSA §4002, sub-§5-A** is enacted to read:

36           **5-A. Foster parent.** "Foster parent" means a person whose  
37           home is licensed by the department as a family foster home as

2 defined in section 8101, subsection 3 and with whom the child  
3 lives pursuant to a court order or agreement with the department.

4 **Sec. B-3. 22 MRSA §4002, sub-§§9-A, 9-B and 9-C** are enacted to  
5 read:

6 **9-A. Preadoptive parent.** "Preadoptive parent" means a  
7 person who has entered into a preadoption agreement with the  
8 department with respect to the child.

9 **9-B. Relative providing care.** "Relative providing care"  
10 means the biological or adoptive parent of the child's biological  
11 or adoptive parent, or the biological or adoptive sister,  
12 brother, aunt, uncle or cousin of the child with whom the child  
13 lives and who has taken responsibility for the child.

14 **9-C. Removal of the child from home.** "Removal of the child  
15 from home" means that the department or a court has taken a child  
16 out of the home of the parent or custodian without the permission  
17 of the parent or custodian.

18 **Sec. B-4. 22 MRSA §4003, first ¶,** as enacted by PL 1979, c. 733,  
19 §18, is amended to read:

20 Recognizing that the health and safety of children must be  
21 of paramount concern and that the right to family integrity is  
22 limited by the right of children to be protected from abuse and  
23 neglect and recognizing also that uncertainty and instability are  
24 possible in extended foster home or institutional living, it is  
25 the intent of the Legislature that this chapter:

26 **Sec. B-5. 22 MRSA §4005-C** is enacted to read:

27 **§4005-C. Rights of persons who are not parties**

28 The foster parent of a child, if any, and any preadoptive  
29 parent or relative providing care for the child must be provided  
30 notice of and an opportunity to be heard in any review or hearing  
31 to be held with respect to the child. The right to be heard  
32 includes the right to testify but does not include the right to  
33 present other witnesses or evidence, to attend any other portion  
34 of the review or hearing or to have access to pleadings or  
35 records. This section may not be construed to require that any  
36 foster parent, preadoptive parent or relative providing care for  
37 the child be made a party to the review or hearing solely on the  
38 basis of the notice and opportunity to be heard.

39 **Sec. B-6. 22 MRSA §4032, sub-§2, ¶¶G and H,** as enacted by PL  
40 1979, c. 733, §18, are amended to read:

2 G. A statement that the parents and custodians are entitled  
4 to legal counsel in the proceedings and that, if they want  
6 an attorney but are unable to afford one, they should  
contact the court as soon as possible to request appointed  
counsel; and

8 H. A statement that petition proceedings could lead to the  
10 termination of parental rights, under section 4051 et seq.;

12 **Sec. B-7. 22 MRSA §4032, sub-§2, ¶¶I and J are enacted to read:**

14 I. The names and addresses of all foster parents,  
preadoptive parents and relatives providing care; and

16 J. A statement that all foster parents, preadoptive parents  
18 and relatives providing care are entitled to notice of and  
an opportunity to be heard in any review or hearing held  
20 with respect to the child. The statement must include the  
following language:

22 "The right to be heard includes only the right to  
24 testify and does not include the right to present other  
witnesses or evidence, to attend any other portion of  
26 the review or hearing or to have access to pleadings or  
records."

28 **Sec. B-8. 22 MRSA §4033, sub-§5 is enacted to read:**

30 5. Notice to foster parents, preadoptive parents and  
32 relatives providing care. The department shall provide written  
notice of all reviews and hearings in advance of the proceeding  
34 to foster parents, preadoptive parents and relatives providing  
care. The notice must be dated and signed, must include a  
36 statement that foster parents, preadoptive parents and relatives  
providing care are entitled to notice of and an opportunity to be  
38 heard in any review or hearing held with respect to the child and  
must contain the following language:

40 "The right to be heard includes only the right to  
42 testify and does not include the right to present other  
witnesses or evidence, to attend any other portion of  
44 the review or hearing or to have access to pleadings or  
records."

46 A copy of the notice must be filed with the court prior to the  
48 review or hearing.

50 **Sec. B-9. 22 MRSA §4038, sub-§1, as amended by PL 1997, c.  
475, §2, is further amended to read:**



2           1. **Mandated review.** If a court has made a final-protection  
jeopardy order, it shall review the case at least once within-12  
4 ~~months-of-the-final-protection-order-and-at-least-every-2-years~~  
thereafter every 6 months, unless the child has been emancipated  
6 or adopted.

8           **Sec. B-10. 22 MRSA §4038, sub-§3**, as repealed and replaced by  
PL 1983, c. 185, is amended to read:

10           3. **Notice of review.** Notice of the reviews shall must be  
12 given to all parties to the initial proceeding according to  
District Court Civil Rule 4. Notice shall may not be given to a  
14 parent whose rights have been terminated under subchapter VI.  
The department shall provide written notice of all reviews and  
16 hearings in advance of the proceeding to the foster parent,  
preadoptive parent and relative providing care. The notice must  
18 be dated and signed, must include a statement that the foster  
parent, preadoptive parent and relative providing care are  
20 entitled to notice of and an opportunity to be heard in any  
review or hearing held with respect to the child and must contain  
22 the following language:

24           "The right to be heard includes only the right to  
26 testify and does not include the right to present other  
witnesses or evidence, to attend any other portion of  
28 the review or hearing or to have access to pleadings or  
records."

30           A copy of the notice must be filed with the court prior to the  
review or hearing.

32           **Sec. B-11. 22 MRSA §4038, sub-§7**, as amended by PL 1997, c.  
34 475, §§5 and 6, is repealed.

36           **Sec. B-12. 22 MRSA §4038, sub-§7-A** is enacted to read:

38           7-A. Permanency planning hearing. The court shall conduct  
a permanency planning hearing and shall determine a permanency  
40 plan within 12 months of the time a child is considered to have  
entered foster care and every 12 months thereafter. If the  
42 court's jeopardy ruling includes a finding of an aggravating  
factor, the court may order the department to cease  
44 reunification, in which case a permanency planning hearing must  
commence within 30 days of the order to cease reunification.

46           A. A child is considered to have entered foster care on the  
48 date of the first judicial finding that the child has been  
subjected to child abuse or neglect or on the 60th day after  
50 removal of the child from home, whichever occurs first.

2 B. The permanency plan for the child must contain  
4 determinations on the following issues.

6 (1) The permanency plan must determine whether and  
8 when, if applicable, the child will be:

10 (a) Returned to the parent. Before the court may  
12 enter an order returning the custody of the child  
14 to a parent, the parent must show that the parent  
16 has carried out the responsibilities set forth in  
18 section 4041, subsection 1, paragraph B; that to  
20 the court's satisfaction the parent has rectified  
22 and resolved the problems that caused the removal  
24 of the child from home and any subsequent problems  
26 that would interfere with the parent's ability to  
28 care for and protect the child from jeopardy; and  
30 that the parent can protect the child from  
32 jeopardy;

34 (b) Placed for adoption, in which case the  
36 department shall file a petition for termination  
38 of parental rights;

40 (c) Referred for legal guardianship; or

42 (d) Placed in another planned permanent living  
44 arrangement when the department has documented to  
46 the court a compelling reason for determining that  
48 it would not be in the best interests of the child  
to be returned home, be referred for termination  
of parental rights or be placed for adoption, be  
placed with a fit and willing relative, or be  
placed with a legal guardian.

36 (2) In the case of a child placed in foster care  
38 outside the state in which the parents of the child  
40 live, the permanency plan must determine whether the  
42 out-of-state placement continues to be appropriate and  
44 in the best interests of the child.

46 (3) In the case of a child who is 16 years of age or  
48 older, the permanency plan must determine the services  
needed to assist the child to make the transition from  
foster care to independent living.

48 C. The court shall consider, but is not bound by, the  
wishes of the child in making a determination under this  
subsection if the child is 12 years of age or older.

2           **Sec. B-13. 22 MRSA §4041**, as amended by PL 1995, c. 694, Pt.  
D, §46 and affected by Pt. E, §2, is further amended to read:

4           **§4041. Departmental responsibilities**

6           **1. Rehabilitation and reunification.** A child is considered  
8 to have entered foster care on the date of the first judicial  
finding that the child has been subjected to child abuse or  
10 neglect or on the 60th day after the child is removed from the  
home, whichever occurs first. When a child has ~~been ordered into~~  
12 ~~the custody of the department under this chapter or under Title~~  
~~19-A, section 1653~~ is considered to have entered foster care, the  
14 responsibility for reunification and rehabilitation of the family  
must be shared as follows.

16           A. The department shall:

18                   (1) Develop a rehabilitation and reunification plan,  
20 which must include the following:

22                           (a) The reasons for the child's removal of the  
24 child from home;

26                           (b) Any changes that must occur for the child to  
return home;

28                           (c) Rehabilitation services that must be  
30 completed satisfactorily prior to the return home;

32                           (d) Services available to assist the parents in  
rehabilitating and reunifying with the child,  
34 including reasonable transportation within the  
area in which the child is located for visits if  
36 the parents are unable to afford that  
transportation;

38                           (e) A schedule of visits between the child and  
the parents when visits are not detrimental to the  
40 child's best interests, including any special  
conditions under which the visits must take place;

42                           (f) A reasonable time schedule for proposed  
44 reunification, which is reasonably calculated to  
meet the child's needs; and

46                           (g) A delineation of the financial  
48 responsibilities of the parents and the department  
during the reunification process;

2 (2) Provide the parents with prompt written notice of  
4 the following, unless that notice would be detrimental  
to the best interests of the child:

6 (a) The child's residence and, when practicable,  
8 at least 7 days' advance written notice of a  
planned change of residence; and

10 (b) Any serious injuries, major medical care  
12 received or hospitalization of the child;

14 (3) Make good faith efforts to cooperate with the  
parents in the development and pursuit of the plan;

16 (4) Periodically review with the parents the progress  
18 of the reunification plan and make any appropriate  
changes in that plan;

20 (5) Petition for judicial review and return of custody  
22 of the child to the parents at the earliest appropriate  
time; and

24 (6) Petition for termination of parental rights at the  
26 earliest possible time that it is determined that  
28 family reunification efforts will be discontinued  
pursuant to subsection 2 and that termination is in the  
best interests of the child;

30 B. Parents are responsible for rectifying and resolving  
32 problems that prevent the return of the child to the home  
and shall take part in a reasonable rehabilitation and  
34 reunification plan and shall:

36 (1) Maintain meaningful contact with the child  
38 pursuant to the reunification plan. When a parent has  
left the area where the child has been placed, this  
must include making arrangements to visit the child at  
40 or near the child's placement;

42 (2) Seek and utilize appropriate services to assist in  
rehabilitating and reunifying with the child;

44 (3) Pay reasonable sums toward the support of the  
46 child within the limits of their ability to pay;

48 (4) Maintain contact with the department, including  
prompt written notification to the department of any  
change of address; and

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(5) Make good faith efforts to cooperate with the department in developing and pursuing the plan; and

~~C. When the parties can not agree as to contents of a reasonable rehabilitation and reunification plan, any party may file a motion for judicial review pursuant to section 4038. At the review, the court shall review the proposed plans of either party and shall order reasonable reunification plans as it determines necessary.~~

C-1. Unless excused for extraordinary good cause shown, at any hearing held under section 4034, subsection 4 or within 10 days of the filing of the petition if no hearing under section 4034, subsection 4 is held, the department shall present to the court for review a reunification plan, a plan to avoid removal of the child from home or decision not to commence reunification. In the presentation to the court, the department shall include information about other parents or relatives with whom the child could be placed. Prior to review by the court, the department shall provide a copy of its proposal to counsel for the parents, or to the parents if they have no counsel, and to the guardian ad litem. The court may review the proposal in a hearing that does not allow testimonial evidence with all parties and counsel present or may hold a summary hearing at which the court may limit testimony to the testimony of the caseworker, parent, guardian ad litem, person to whom trial placement was given, foster parents, preadoptive parents or relatives providing care and may admit evidence, including reports and records, that would otherwise be inadmissible as hearsay evidence; and

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

**2. Determination of need to commence or discontinue rehabilitation and reunification efforts.** The following provisions shall determine when rehabilitation and reunification efforts are not necessary or may be discontinued.

~~A. The department may either decide to not commence or to discontinue rehabilitation and reunification efforts with either parent or the court may order that rehabilitation and reunification efforts need not commence or that the department has no further responsibilities for rehabilitation and reunification with either parent when:~~

~~(1) The parent is willing to consent to termination of parental rights;~~

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~~(2) -- The parent cannot be located;~~

~~(3) -- The parent is unwilling or unable to rehabilitate and reunify with the child within a time which is reasonably calculated to meet the child's needs;~~

~~(4) -- The parent has abandoned the child;~~

~~(5) -- The parent has acted toward a child in a manner which is heinous or abhorrent to society or has failed to protect a child in a manner which is heinous or abhorrent to society, without regard to the intent of the parent; or~~

~~(6) -- 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:~~

~~(a) -- Murder;~~

~~(b) -- Felony murder;~~

~~(c) -- Manslaughter;~~

~~(d) -- Aiding or soliciting suicide;~~

~~(e) -- Aggravated assault;~~

~~(f) -- Rape;~~

~~(g) -- Gross sexual misconduct;~~

~~(h) -- Sexual abuse of minors;~~

~~(i) -- Incest;~~

~~(j) -- Kidnapping;~~

~~(k) -- Promotion of prostitution; or~~

~~(l) -- A comparable crime in another jurisdiction.~~

~~B. -- When the department discontinues efforts to return the child to a parent, it shall give written notice of this decision to that parent at his last known address. -- This notice shall include the specific reasons for the department's decision, the specific efforts the department~~

2 has--made--in--working--with--the--parent--and--child--and--a  
statement--of--the--parent's--rights--under--section--4038.---This  
4 notice--requirement--must--precede--service--of--a--copy--of--a  
petition--to--terminate--parental--rights--under--subchapter--VI.

6 A-1. The court may order that the department need not  
7 commence or may cease reunification efforts only if the  
8 court finds the existence of an aggravating factor or that  
9 continuation of reunification efforts is inconsistent with  
10 the permanency plan for the child. When 2 placements with  
11 the same parent have failed and the child is returned to the  
12 custody of the department, the court shall make a finding  
13 that continuation of reunification efforts is inconsistent  
14 with the permanency plan for the child and order the  
15 department to cease reunification unless the parent  
16 demonstrates that reunification should be continued and the  
17 court determines reunification efforts to be in the best  
18 interests of the child.

20 B-1. If the department seeks an order authorizing it to  
21 discontinue reunification efforts, prior to discontinuing  
22 reunification efforts, the department shall file a motion  
23 for approval of discontinuation of reunification efforts  
24 with supporting affidavits. If the parents file a  
25 responsive pleading within 21 days, the court shall conduct  
26 a summary preliminary hearing in accordance with the  
27 provisions of section 4034, subsection 4. If a responsive  
28 pleading is not filed, the court may hold a summary  
29 preliminary hearing in accordance with the provisions of  
30 section 4034, subsection 4 or may decide the matter without  
31 a hearing. The department may not discontinue reunification  
32 efforts without a court order authorizing the discontinuance.

34 C. If the department discontinues efforts to return the  
35 child to a parent, but does not seek termination of parental  
36 rights, then subsection 1, paragraph A, subparagraph (1),  
37 division (e) and subsection 1, paragraph A, subparagraph  
38 (2), shall still apply.

40 **3. Notice to guardian ad litem.** The department shall  
41 notify the guardian ad litem, as described in section 4005, of  
42 any substantial change in circumstances that may have an impact  
43 on the best interests of the child. A substantial change in  
44 circumstances includes but is not limited to any change in the  
45 child's residence.

46 **Sec. B-14. 22 MRSA §4052, sub-§1,** as enacted by PL 1979, c.  
47 733, §18, is amended to read:

50 **1. Petitioner.** A termination petition may be brought by the  
custodian of the child or by the department.

2           **Sec. B-15. 22 MRSA §4052, sub-§2**, as amended by PL 1997, c.  
475, §§7 and 8 and affected by §11, is repealed.

4           **Sec. B-16. 22 MRSA §4052, sub-§2-A** is enacted to read:

6           **2-A. Department as petitioner or as party.** The department  
8 shall file a termination petition or seek to be joined as a party  
to any pending petition in the following circumstances:

10           **A. A child has been in foster care for 15 of the most**  
12 **recent 22 months. This paragraph does not apply if the**  
14 **department is required to undertake reunification efforts**  
16 **and the department has not provided to the family of the**  
18 **child such services as the department determines to be**  
**necessary for the safe return of the child to the child's**  
**home consistent with the time period in the case plan; or**

20           **B. A court order includes a finding of an aggravating**  
**factor and an order to cease reunification, unless:**

22                   **(1) The department has chosen to have the child cared**  
24 **for by a relative; or**

26                   **(2) The department has documented to the court a**  
28 **compelling reason for determining that filing such a**  
**petition would not be in the best interests of the**  
**child.**

30           **Sec. B-17. 22 MRSA §4053**, as enacted by PL 1979, c. 733, §18,  
is amended to read:

32           **§4053. Service and notice**

34           The petition and the notice of hearing shall must be served  
36 on the parents and the guardian ad litem for the child at least  
10 days prior to the hearing date. Service shall must be made in  
38 accordance with the District Court Civil Rules. The department  
shall provide written notice of all reviews and hearings in  
40 advance of the proceeding to foster parents, preadoptive parents  
and relatives providing care. The notice must be dated and  
42 signed, must include a statement that foster parents, preadoptive  
parents and relatives providing care are entitled to notice of  
44 and an opportunity to be heard in any review or hearing held with  
respect to the child and must contain the following language:

46                   "The right to be heard includes only the right to  
48 testify and does not include the right to present other  
witnesses or evidence, to attend any other portion of  
50 the review or hearing or to have access to pleadings or  
records."



2           A copy of the notice must be filed with the court prior to  
3           the review or hearing. The department shall mail a copy of the  
4           petition to all attorneys of record when the petition is filed in  
5           court.

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### SUMMARY

10           The purpose of this bill is to require expeditious action in  
11           child protection cases. It provides for summary preliminary  
12           hearings, shortens many time periods, expands the list of  
13           aggravating factors in child protection cases, provides  
14           procedural safeguards for foster and preadoptive parents and  
15           relatives providing care and alters the reunification  
16           responsibilities of the Department of Human Services.