

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)



120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1670

S.P. 539

In Senate, March 15, 2001

An Act Regarding Child Abandonment.

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 KILKELLY of Lincoln.
Cosponsored by O'BRIEN of Lewiston and
Senators: DAVIS of Piscataquis, LaFOUNTAIN of York, DAGGETT of Kennebec,
DOUGLASS of Androscoggin, MARTIN of Aroostook, MILLS of Somerset, MITCHELL of
Penobscot, O'GARA of Cumberland, Representatives: ANDREWS of York, MacDOUGALL
of North Berwick, SIMPSON of Auburn.

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

2
4 **Sec. 1. 17-A MRSA §553, sub-§3** is enacted to read:

6 3. It is an affirmative defense to a prosecution under this section that, at the time the offense occurred:

8 A. The child was under 31 days of age; and

10 B. The child was delivered by the person charged under this section to an emergency room of hospital, or to a firefighter, police officer, medical services provider or hospital staff member.

14 **Sec. 2. 19-A MRSA §1653, sub-§15** is enacted to read:

16 15. Abandoned children. Notwithstanding any other provision of this Title or Title 22, a parent who voluntarily delivers a child under 31 days of age to a hospital emergency room or to a firefighter, police officer, medical services provider or a hospital staff member and who expresses an intent not to return for the child waives the parent's parental rights and responsibilities under this chapter. The department shall immediately take custody of the child and file a termination petition pursuant to Title 22, section 4052 within 21 days of taking custody of the child. A parent who waives parental rights and responsibilities under this subsection for a child is not responsible for reimbursement to the department for child care expenses under Title 22, chapter 1071, subchapter VII.

30 **Sec. 3. 22 MRSA §4018** is enacted to read:

32 §4018. Abandoned children

34 A person who voluntarily delivers a child under 31 days of age to a hospital emergency room or to a firefighter, police officer, medical services provider or a hospital staff member and who expresses an intent not to return for the child has the right to remain anonymous. A person who accepts a child under 31 days of age under this section may not inquire, pressure or coerce from the person delivering the child, the identity of the person delivering the child or the identity of the child's family.

44 **Sec. 4. 22 MRSA §4052, sub-§2-A**, as enacted by PL 1997, c. 715, Pt. B, §14, is amended to read:

46 **2-A. Department as petitioner or as party.** The department shall file a termination petition or seek to be joined as a party to any pending petition in the following circumstances:

2 A. A child has been in foster care for 15 of the most
3 recent 22 months. This paragraph does not apply if the
4 department is required to undertake reunification efforts
5 and the department has not provided to the family of the
6 child such services as the department determines to be
7 necessary for the safe return of the child to the child's
8 home consistent with the time period in the case plan; e*

9 B. A court order includes a finding of an aggravating
10 factor and an order to cease reunification; or

11 C. A person voluntarily delivers a child who is under 31
12 days of age to a hospital emergency room or to a
13 firefighter, police officer, medical services provider or a
14 hospital staff member and the person expresses an intent not
15 to return for the child.

16
17 The department is not required to file a termination petition if
18 the department has chosen to have the child cared for by a
19 relative or the department has documented to the court a
20 compelling reason for determining that filing such a petition
21 would not be in the best interests of the child.
22

23 SUMMARY

24
25 This bill creates an affirmative defense to the crime of
26 abandonment of a child if the child was 31 days or younger and
27 the person charged delivered the child to a hospital emergency
28 room or to a police officer, firefighter, medical services
29 provider or hospital staff member. This bill also ensures
30 anonymity for the person delivering the child and terminating the
31 parental rights and responsibilities of the parent delivering the
32 child.
33
34