

MAINE STATE LEGISLATURE

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RM
R015

L.D. 1969

DATE: 3-6-02

(Filing No. H-870)

MAJORITY
JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1468, L.D. 1969, Bill, "An Act to Prohibit a Convicted Sexual Offender From Acquiring Custody or Obtaining Visitation Rights Without Adult Supervision"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Custody and Visitation for Sex Offenders'

Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 19-A MRSA §1653, sub-§3, ¶O, as amended by PL 1999, c. 702, §2, is further amended to read:

O. A parent's prior willful misuse of the protection from abuse process in chapter 101 in order to gain tactical advantage in a proceeding involving the determination of parental rights and responsibilities of a minor child. Such willful misuse may only be considered if established by clear and convincing evidence, and if it is further found by clear and convincing evidence that in the particular circumstances of the parents and child, that willful misuse tends to show that the acting parent will in the future have a lessened ability and willingness to cooperate and work with the other parent in their shared responsibilities for the child. The court shall articulate findings of fact whenever relying upon this factor as part of its determination of a child's best interest. The voluntary dismissal of a protection from abuse petition may not, taken alone, be treated as evidence of the willful misuse of the protection from abuse process; and

COMMITTEE AMENDMENT

R.O.S.

2 **Sec. 2. 19-A MRSA §1653, sub-§3, ¶P**, as enacted by PL 1999, c.
702, §3, is amended to read:

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6 P. If the child is under one year of age, whether the child
is being breast-fed; and

8 **Sec. 3. 19-A MRSA §1653, sub-§3, ¶Q** is enacted to read:

10 Q. The existence of a parent's conviction for a sex offense
12 or a sexually violent offense as those terms are defined in
Title 34-A, section 11203.

14 **Sec. 4. 19-A MRSA §1803, sub-§3, ¶¶I and J**, as enacted by PL
1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to
16 read:

18 I. Methods of assisting cooperation and resolving disputes
and each person's willingness to use those methods; and

20 J. Any other factor having a reasonable bearing on the
22 physical and psychological well-being of the child; and

24 **Sec. 5. 19-A MRSA §1803, sub-§3, ¶K** is enacted to read:

26 K. The existence of a grandparent's conviction for a sex
28 offense or a sexually violent offense as those terms are
defined in Title 34-A, section 11203.'

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SUMMARY

34 This amendment is the majority report of the Joint Standing
Committee on Judiciary. It slightly modifies the title and
replaces the bill.

36 This amendment requires the court, when establishing
38 parental rights and visitation concerning a child, to take into
account a parent's convictions for sex offenses and sexually
40 violent offenses. Those terms are defined in the Sex Offender
Registration and Notification Act of 1999 to include: gross
42 sexual assault; sexual abuse of minors; unlawful sexual contact;

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COMMITTEE AMENDMENT "A" to H.P. 1468, L.D. 1969

2 visual sexual aggression against a child; sexual misconduct with
a child under 14 years of age; solicitation of a child by
4 computer to commit a prohibited act; kidnapping; criminal
restraint; violation of privacy; incest; aggravated promotion of
6 prostitution; patronizing prostitution of a minor; and
exploitation of a minor. The court retains discretion to weigh
8 the information and how the existence of any convictions affects
the best interests of the child.

10 The same consideration must be taken when establishing
grandparents' visitation.

COMMITTEE AMENDMENT