

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1706

S.P. 638

In Senate, December 17, 2003

An Act To Ensure Appropriate Care and Custody of Children Orphaned by Domestic Violence

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

Received by the Secretary of the Senate on December 16, 2003. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

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

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator DOUGLASS of Androscoggin.
Cosponsored by Representative CRAVEN of Lewiston and
Senators: DAMON of Hancock, HALL of Lincoln, MAYO of Sagadahoc, Representatives:
McLAUGHLIN of Cape Elizabeth, MILLS of Farmington, NORBERT of Portland, SIMPSON
of Auburn, WALCOTT of Lewiston.

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

4 **Sec. 1. 22 MRSA §4003, sub-§1**, as enacted by PL 1979, c. 733,
§18, is amended to read:

6 **1. Authorization.** Authorize the department to protect and
assist children orphaned by domestic violence, abused and
8 neglected children, children in circumstances which that present
a substantial risk of abuse and neglect, and their families;

10 **Sec. 2. 22 MRSA §4025** is enacted to read:

12 **§4025. Emergency services; orphaned by domestic violence**

14 **1. Jurisdiction asserted.** When a child is orphaned by
16 domestic violence, the State, through the department, is presumed
to have and maintain jurisdiction over that child.

18 **2. In-state placement required.** The department shall
20 ensure that emergency or temporary placement of any child
orphaned by domestic violence is in the State until a permanent
22 placement determination is made by the department or a court of
competent jurisdiction.

24 **Sec. 3. Orphans of domestic violence; placement investigation**
26 **procedures.** The Department of Human Services shall develop
procedures for placement of children orphaned by domestic
28 violence. The procedures may be developed by the department as
substantive rulemaking in accordance with the Maine Revised
30 Statutes, Title 5, chapter 375, subchapter 2-A or by submitting
legislation to the First Regular Session of the 122nd Legislature
32 no later than December 1, 2004. The procedures must ensure a
timely investigation, similar to that required by Title 18-A,
34 section 9-304 for adoptions, and appointment of a guardian ad
litem for the orphan before permanent placement or visitation
36 rights may be ordered for the child orphaned by domestic violence.

38 **Sec. 4. Department of Public Safety to alert Department of Human**
Services. The Commissioner of Public Safety shall by rule
40 establish a procedure to ensure that when a child is orphaned by
domestic violence, if a law enforcement officer is at the scene,
42 the law enforcement officer shall immediately alert the
Department of Human Services of the fact and ensure that the
44 Department of Human Services has immediate jurisdiction and
control over the child.

46
48 **SUMMARY**

50 Under this bill, the State would assert and maintain
jurisdiction over any child orphaned in the State by domestic
52 violence. Additionally, the bill requires the Department of

Human Services to develop procedures either through rulemaking or
2 proposed legislation that would ensure a timely investigation,
similar to that required in adoptions, with a guardian ad litem
4 appointed for the child before permanent placement or visitation
rights are ordered. The bill also requires the Commissioner of
6 Public Safety to adopt rules to aid in ensuring that the
Department of Human Services is involved in a timely fashion.