

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2006

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Legislative Document

No. 1962

H.P. 1374

House of Representatives, January 12, 2006

### **An Act To Ensure Foster Parents Have Access to the Appeal and Fair Hearing Process**

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Reported by Representative SIMPSON of Auburn for the Joint Standing Committee on Judiciary pursuant to Joint Order 2005, H.P. 1179.

Reference to the Committee on Judiciary suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

4 Sec. 1. 22 MRSA §4067 is enacted to read:

6 **§4067. Foster parent's right to hearing**

8 **1. Appeal.** A person licensed or formerly licensed as a  
10 foster parent who is aggrieved by any decision or action made by  
12 the department concerning that licensure has the right to appeal  
pursuant to the Maine Administrative Procedure Act. The person  
must file written notice of appeal within 30 days of the written  
department decision or action.

14 **2. Prior decisions and actions.** A person who was aggrieved  
16 by a decision or action made by the department concerning the  
licensure of that person as a foster parent within the 5 years  
18 preceding the effective date of this section has the right to  
appeal pursuant to the Maine Administrative Procedure Act. The  
20 person must file a written notice of appeal under this subsection  
within 30 days of the effective date of this section.

22 **3. Fair hearing procedure.** A hearing under this section  
24 must be held within 30 days of receipt of a request and must be  
conducted by one or more fair hearing officers who were not  
26 responsible for the decision or action. The hearing officer  
shall hear all evidence pertinent to the matter at issue and  
28 render a decision within a reasonable period after the date of  
the hearing. An action or failure to act under this section is a  
30 final agency action subject to review pursuant to Title 5,  
chapter 375, subchapter 7.

32 **4. Rules.** The department shall adopt rules to implement  
34 this section. Rules adopted pursuant to this section are routine  
technical rules as defined in Title 5, chapter 375, subchapter  
36 2-A.

38 **SUMMARY**

40 This bill provides current and former foster parents with  
42 the right to appeal any Department of Health and Human Services  
action or decision that affects licensure. The appeal must be  
44 requested in writing within 30 days of the action or decision.

46 This bill allows a person who is aggrieved by an action or  
48 decision of the department concerning that person's license as a  
foster parent within the last 5 years to appeal that decision by  
submitting a written request for appeal within 30 days of the  
50 effective date of this Act.

2           The decision-maker in the fair hearing process may not be  
the same person or body that took the action or made the decision  
from which the person is appealing.

4  
6           The decision made after the hearing is a final agency action  
that is subject to appeal under the Maine Administrative  
Procedure Act.

8           This bill includes routine technical rulemaking.  
10