

MAINE STATE LEGISLATURE

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Date: 06-08-07

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JUDICIARY

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**STATE OF MAINE
SENATE
123RD LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 596, L.D. 1689, Bill, "An Act To Amend the Child and Family Services and Child Protection Act"

Amend the bill by striking out all of sections 2 to 4 (page 1, lines 8 to 39 and page 2, lines 1 to 2 in L.D.) and inserting the following:

'Sec. 2. 22 MRSA §4005-E, as amended by PL 2005, c. 366, §6, is further amended to read:

§4005-E. Relatives; visitation and access; placement

1. Grandparent visitation and access. A grandparent who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request the court to grant reasonable rights of visitation or access. When a child is placed in a prospective adoptive home and the prospective adoptive parents have signed an adoptive placement agreement, a grandparent's right to contact or have access to the child that was granted pursuant to this chapter is suspended. If the adoption is not final within 18 months of adoptive placement, then the grandparent whose rights of contact or access were suspended pursuant to this subsection may resume, as a matter of right and without further court order, contact with the child in accordance with the order granting that contact or access, unless the court determines after a hearing that the contact is not in the child's best interests. A grandparent's rights of visitation or access terminate when the adoption is finalized pursuant to Title 18-A, section 9-308. Nothing in this section prohibits prospective adoptive parents from independently facilitating or permitting contact between a child and a grandparent, especially when a court has previously ordered rights of contact.

2. Placement. A ~~grandparent~~ relative who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request the court to order that the child be placed with the ~~grandparent~~ relative. A ~~grandparent~~ relative who has not been designated as a participant under section 4005-D may make the request for placement in writing. In

COMMITTEE AMENDMENT

1 making a decision on the request, the court shall ~~give the grandparents~~ make placement
2 with a relative a priority for consideration for placement if that placement is in the best
3 interests of the child and consistent with section 4003.

4 **3. Conviction or adjudication for certain sex offenses; presumption.** There is a
5 rebuttable presumption that the ~~grandparent~~ relative would create a situation of jeopardy
6 for the child if any contact were to be permitted and that contact is not in the best interest
7 of the child if the court finds that the ~~grandparent~~ relative:

8 A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection
9 6-A, paragraph A in which the victim was a minor at the time of the offense and the
10 ~~grandparent~~ relative was at least 5 years older than the minor at the time of the
11 offense except that, if the offense was gross sexual assault under Title 17-A, section
12 253, subsection 1, paragraph B or C and the minor victim submitted as a result of
13 compulsion, the presumption applies regardless of the ages of the ~~grandparent~~
14 relative and the minor victim at the time of the offense; or

15 B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually
16 abusing a person who was a minor at the time of the abuse.

17 The ~~grandparent~~ relative seeking visitation with or access to the child may produce
18 evidence to rebut the presumption.

19 Amend the bill by striking out all of sections 9 to 13 (page 2, lines 19 to 37 and page
20 3, lines 1 to 19 in L.D.)'

21 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
22 section number to read consecutively.

23 SUMMARY

24 This amendment strikes from the bill provisions that propose to change the standard
25 for determining the appropriateness of the placement of a child when in the custody of the
26 State in a child protection proceeding. Retained are provisions expanding the status of
27 relatives in the determination of placement of a child by the Department of Health and
28 Human Services. It also retains the change to mandatory disclosure of information to a
29 relative or other person whom the department is investigating for possible custody or
30 placement of the child.

31 FISCAL NOTE REQUIRED

32 (See attached)



Approved: 05/30/07 *MAC*

123rd MAINE LEGISLATURE

LD 1689

LR 2495(02)

An Act To Amend the Child and Family Services and Child Protection Act

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

The additional costs to the Judicial Department and the Department of the Attorney General can be absorbed utilizing existing budgeted resources.