

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1689

S.P. 596

March 23, 2007

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

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator PLOWMAN of Penobscot.
Cosponsored by Senators: DIAMOND of Cumberland, McCORMICK of Kennebec,
SHERMAN of Aroostook, WESTON of Waldo, Representative: CROSTHWAITE of
Ellsworth.

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

2 **Sec. 1. 22 MRSA §4002, sub-§9-B,** as enacted by PL 1997, c. 715, Pt. B, §3, is
3 amended to read:

4 **9-B. Relative.** "Relative ~~providing care~~" means the biological or adoptive parent of
5 the child's biological or adoptive parent, or the biological or adoptive sister, brother, aunt,
6 uncle or cousin of the child ~~with whom the child lives and who has taken responsibility~~
7 ~~for the child.~~

8 **Sec. 2. 22 MRSA §4003, sub-§3-A,** as enacted by PL 2005, c. 374, §1, is
9 amended to read:

10 **3-A. Relative placement.** Place children who are taken from the custody of their
11 parents with an adult relative ~~when possible~~ as long as the placement does not put the
12 child in circumstances of jeopardy;

13 **Sec. 3. 22 MRSA §4005-E, sub-§1,** as enacted by PL 2001, c. 696, §16, is
14 amended to read:

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

31 **Sec. 4. 22 MRSA §4005-E, sub-§2,** as enacted by PL 2001, c. 696, §16, is
32 amended to read:

33 **2. Placement.** A grandparent relative who is designated as an interested person or a
34 participant under section 4005-D or who has been granted intervenor status under the
35 Maine Rules of Civil Procedure, Rule 24 may request the court to order that the child be
36 placed with the grandparent relative. A grandparent relative who has not been designated
37 as a participant under section 4005-D may make the request for placement in writing. In
38 making a decision on the request, the court shall ~~give the grandparents~~ make placement
39 with the relative a priority for consideration for placement if that placement ~~is in the best~~

1 ~~interests of~~ does not put the child ~~and consistent with section 4003~~ in circumstances of
2 jeopardy.

3 **Sec. 5. 22 MRSA §4008, sub-§2, ¶E-1**, as enacted by PL 2005, c. 300, §6, is
4 repealed.

5 **Sec. 6. 22 MRSA §4008, sub-§3, ¶I**, as enacted by PL 2003, c. 673, Pt. Z, §4, is
6 amended to read:

7 I. Any government entity that needs such information in order to carry out its
8 responsibilities under law to protect children from abuse and neglect. For purposes
9 of this paragraph, "government entity" means a federal entity, a state entity of any
10 state, a local government entity of any state or locality or an agent of a federal, state
11 or local government entity; ~~and~~

12 **Sec. 7. 22 MRSA §4008, sub-§3, ¶J**, as enacted by PL 2003, c. 673, Pt. Z, §4, is
13 amended to read:

14 J. To a juvenile court when the child who is the subject of the records has been
15 brought before the court pursuant to Title 15, Part 6-; and

16 **Sec. 8. 22 MRSA §4008, sub-§3, ¶K** is enacted to read:

17 K. A relative or other person whom the department is investigating for possible
18 custody or placement of the child.

19 **Sec. 9. 22 MRSA §4036-B, sub-§3, ¶A**, as enacted by PL 2003, c. 408, §1, is
20 amended to read:

21 A. Whether or not the department has made reasonable efforts to prevent the removal
22 of the child from home; ~~and~~

23 **Sec. 10. 22 MRSA §4036-B, sub-§3, ¶B**, as enacted by PL 2003, c. 408, §1, is
24 amended to read:

25 B. If the court finds that the department did not make reasonable efforts to prevent
26 the removal of the child from home, whether or not there is an aggravating factor-;
27 and

28 **Sec. 11. 22 MRSA §4036-B, sub-§3, ¶C** is enacted to read:

29 C. Whether or not there is a relative of the child who is interested in placement and
30 whether placement of the child with that relative would put the child in circumstances
31 of jeopardy.

32 **Sec. 12. 22 MRSA §4038-B, sub-§4, ¶A**, as enacted by PL 2005, c. 372, §6, is
33 amended to read:

34 A. The permanency plan must determine whether and when, if applicable, the child
35 will be:

36 (1) Returned to a parent. Before the court may enter an order returning the
37 custody of the child to a parent, the parent must show that the parent has carried

1 out the responsibilities set forth in section 4041, subsection 1-A, paragraph B;
2 that to the court's satisfaction the parent has rectified and resolved the problems
3 that caused the removal of the child from home and any subsequent problems that
4 would interfere with the parent's ability to care for the child and protect the child
5 from jeopardy; and that the parent can protect the child from jeopardy;

6 (2) Placed for adoption, in which case the department shall file a petition for
7 termination of parental rights;

8 (3) Cared for by a permanency guardian, as provided in section 4038-C, or a
9 guardian appointed by the Probate Court pursuant to Title 18-A, sections 5-206
10 and 5-207;

11 (4) Placed with a ~~fit and willing~~ relative; or

12 (5) Placed in another planned permanent living arrangement. The District Court
13 may adopt another planned permanent living arrangement as the permanency
14 plan for the child only after the department has documented to the court a
15 compelling reason for determining that it would not be in the best interests of the
16 child to be returned home, be referred for termination of parental rights or be
17 placed for adoption, be cared for by a permanency guardian or be placed with a
18 ~~fit and willing~~ relative.

19 **Sec. 13. 22 MRSA §4062, sub-§4,** as enacted by PL 1999, c. 382, §1, is repealed.

20 SUMMARY

21 This bill amends the Child and Family Services and Child Protection Act by
22 expanding the status of relatives in the determination of placement of a child.