

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 528

H.P. 373

House of Representatives, February 12, 2009

**An Act To Prohibit a Person Whose Parental Rights Have Been  
Terminated from Gaining Custody of a Grandchild**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CLARK of Millinocket.

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

2 **Sec. 1. 18-A MRSA §5-206**, as amended by PL 2005, c. 371, §3, is further  
3 amended to read:

4 **§5-206. Court appointment of guardian of minor; qualifications; priority of minor's**  
5 **nominee**

6 The court may appoint as guardian any person, or as coguardians more than one  
7 person, whose appointment is in the best interest of the minor. The court shall set forth in  
8 the order of appointment the basis for determining that the appointment is in the best  
9 interest of the minor. The court shall appoint a person nominated by the minor, if the  
10 minor is 14 years of age or older, unless the court finds the appointment contrary to the  
11 best interest of the minor. The court may not appoint a guardian for a minor child who  
12 will be removed from this State for the purpose of adoption. The appointment of the  
13 grandparent of a child whose parental rights with respect to any child have been  
14 terminated under Title 22, chapter 1071 or comparable law in another state is not in the  
15 best interest of the child and the court may not appoint such a person as guardian of the  
16 person's grandchild.

17 **Sec. 2. 19-A MRSA §1653, sub-§2, ¶C**, as enacted by PL 1995, c. 694, Pt. B, §2  
18 and affected by Pt. E, §2, is amended to read:

19 C. The court may award parental rights and responsibilities with respect to the child  
20 to a 3rd person, a suitable society or institution for the care and protection of children  
21 or the department, upon a finding that awarding parental rights and responsibilities to  
22 either or both parents will place the child in jeopardy as defined in Title 22, section  
23 4002, subsection 6. The court may not award parental rights and responsibilities to a  
24 person who is the grandparent of the child if the person's parental rights with respect  
25 to any child have been terminated under Title 22, chapter 1071 or comparable law in  
26 another state.

27 **Sec. 3. 19-A MRSA §1803, sub-§9** is enacted to read:

28 **9. Ineligible if parental rights terminated.** A grandparent may not be awarded  
29 rights of contact if the grandparent's parental rights with respect to any child have been  
30 terminated under Title 22, chapter 1071 or comparable law in another state.

31 **SUMMARY**

32 This bill amends the parental rights and responsibilities laws to ensure that a court  
33 does not award parental rights and responsibilities to a grandparent whose parental rights  
34 to any child have been terminated. It also prohibits the court from awarding rights of  
35 contact to a grandparent whose parental rights to any child have been terminated. This  
36 bill also amends the Probate Code to provide that appointment of a person as the guardian  
37 of that person's grandchild is not in the best interest of the child if the person's parental  
38 rights with respect to any child have been terminated and that such an appointment may  
39 not be made.