

MAINE STATE LEGISLATURE

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SMG
A. 10

L.D. 1480

Date: 6-28-11

(Filing No. H-670)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
125TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "E" to COMMITTEE AMENDMENT "A" to H.P. 1089,
L.D. 1480, Bill, "An Act To Correct Errors and Inconsistencies in the Laws of Maine"

Amend the amendment by adding after Part G the following:

'PART H

Sec. H-1. 22 MRSA §4038-E, sub-§1, ¶¶H and J, as enacted by PL 2011, c. 402, §15, are amended to read:

- H. A statement of the intent of the biological parents to consent to the adoption;
- J. A statement that the biological parents are entitled to legal counsel in the adoption from permanency guardianship proceeding and that, if they want an attorney and are unable to afford one, they should contact the court as soon as possible to request appointed counsel.

Sec. H-2. 22 MRSA §4038-E, sub-§6, as enacted by PL 2011, c. 402, §15, is amended to read:

6. Service. The petition and the notice of the case management conference must be served on the ~~parent whose rights were terminated~~ parents and the guardian ad litem for the child at least 10 days prior to the scheduled case management conference date. Service must be in accordance with the Maine Rules of Civil Procedure or in any other manner ordered by the court.

Sec. H-3. 22 MRSA §4038-E, sub-§8, ¶B, as enacted by PL 2011, c. 402, §15, is amended to read:

- B. The child's biological parents, ~~if parental rights have not been terminated~~; and

Sec. H-4. 22 MRSA §4038-E, sub-§11, as enacted by PL 2011, c. 402, §15, is amended to read:

11. Effect of consent to adoption by the parent. An order granting the adoption has the following effect.

- A. An order granting the adoption of the child by the permanency guardian divests the consenting parent and child of all legal rights, powers, privileges, immunities,

HOUSE AMENDMENT

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1 duties and obligations to each other as parent and child, except the inheritance rights
2 between the child and the ~~biological~~ parent.

3 B. An adoption order may not disentitle a child to benefits due the child from any
4 3rd person, agency, or state or the United States and may not affect the rights and
5 benefits that a Native American derives from descent from a member of a federally
6 recognized Indian tribe.

7 **Sec. H-5. Effective date.** This Part takes effect 90 days after the adjournment of
8 the First Regular Session of the 125th Legislature.'

9 Amend the amendment by relettering or renumbering any nonconsecutive Part letter
10 or section number to read consecutively.

11 **SUMMARY**

12 Public Law 2011, chapter 402 establishes a process to allow a child who is the
13 subject of a permanency guardianship to be adopted by the permanency guardian. The
14 new law contains inconsistencies when referring to the parents of the child. Because the
15 term "parent" is defined in the Maine Revised Statutes, Title 22, section 4002 as "a
16 natural or adoptive parent," use of the term "parent" will cover all appropriate situations.
17 This amendment deletes the word "biological" where it was incorrectly used.

18 Public Law 2011, chapter 402 provides that the petition and the notice of the case
19 management conference must be served on the child's parent as well as the guardian ad
20 litem, mistakenly referring to this parent as the "parent whose rights were terminated,"
21 although a child may be the subject of a permanency guardianship without a parent's
22 rights being terminated. Public Law 2011, chapter 402 should have required service on
23 the parents of the child. This amendment makes this correction.

24 This amendment adds an effective date section to make this correction take effect
25 when Public Law 2011, chapter 402 takes effect, which is 90 days after the adjournment
26 of the First Regular Session of the 125th Legislature.

27 **SPONSORED BY:** Joan Nass
28 **(Representative NASS)**

29 **TOWN: Acton**