

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 1107

H.P. 776

House of Representatives, March 19, 2013

**An Act To Provide a Uniform Process for the Use of Orders
Awarding Parental Rights and Responsibilities To Dispose of a
Child Protective Case**

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FREY of Bangor.

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

2 **Sec. 1. 22 MRSA §4036, sub-§1-A**, as enacted by PL 2007, c. 256, §1, is
3 amended to read:

4 **1-A. Parental rights and responsibilities orders.** Upon request of a parent, the
5 court may enter an order awarding parental rights and responsibilities pursuant to Title
6 19-A, section 1653 if the court determines that the order will protect the child from
7 jeopardy and is in the child's best interest as defined in Title 19-A, section 1653,
8 subsection 3. Before the order is issued, the court shall require notice of intent to dispose
9 of the child protective case through an order awarding parental rights and responsibilities
10 made pursuant to the Maine Rules of Civil Procedure, Rule 4. If the court enters an order
11 pursuant to this subsection:

12 A. The court shall open a family matters case on behalf of the parties and require the
13 case to be appropriately docketed without a separate initial filing by the parties. The
14 court shall require the parties to complete the income affidavits, child support
15 worksheets and supporting documentation as required in Title 19-A, chapter 63. The
16 court shall enter the order has the same force and effect as other orders entered
17 awarding parental rights and responsibilities pursuant to Title 19-A, section 1653;

18 A-1. The order awarding parental rights and responsibilities may not include
19 reference to or discussion of the child protective case, although the court may identify
20 any jeopardy that remains as a finding of fact. Child protective case documents are
21 confidential, and the court shall seal and keep confidential any documents from the
22 child protective case that are made a part of the record of the family matters case
23 opened under paragraph A;

24 B. The order awarding parental rights and responsibilities is subject to modification
25 or termination in the same manner as other orders entered pursuant to Title 19-A,
26 section 1653;

27 C. Any person who requests a modification or termination of the order awarding
28 parental rights and responsibilities must serve the department with the motion or
29 petition;

30 D. The department is not a party to proceedings to modify or terminate the order
31 awarding parental rights and responsibilities unless otherwise ordered by the court.
32 ~~This paragraph may not be construed to limit the department's ability to request a~~
33 ~~judicial review pursuant to section 4038, subsection 2; and~~

34 ~~E. Notwithstanding section 4038, the court may order that further judicial reviews~~
35 ~~may not be held unless requested by a party and, notwithstanding section 4038 B,~~
36 ~~may order that further permanency planning hearings may not be held; and~~

37 ~~F. The~~ After the order awarding parental rights and responsibilities is entered, the
38 court may shall terminate the appointments of the guardian ad litem and attorneys for
39 parents and guardians, ~~in which case. After the appointments are terminated,~~ the
40 attorneys and guardian ad litem have no further responsibilities to their clients or the
41 court.

1 **SUMMARY**

2 This bill amends the child protection law to make clear that the court has authority to
3 completely dispose of a child protective case by entering an order awarding parental
4 rights and responsibilities under Title 19-A, section 1653. This bill requires the court,
5 rather than the parties, to open a new family matters case and have it docketed; the parties
6 are required to file the income affidavits, child support worksheets and supporting
7 documentation as are required in all family matters cases. The order awarding parental
8 rights and responsibilities is entered pursuant to Title 19-A, section 1653 and is subject to
9 modification and enforcement as are all other orders issued under Title 19-A, section
10 1653.

11 No mention of the child protective case may be included in the order awarding
12 parental rights and responsibilities. If jeopardy continues to exist, the court may include
13 that as a finding of fact. Child protective case documents are confidential and the court is
14 required to seal and keep confidential any documents from the child protective case that
15 are made a part of the record of the family matters case.

16 This bill repeals the authority of the court to order child protective reviews once the
17 order awarding parental rights and responsibilities is entered. The court is required to
18 terminate the appointment of the guardian ad litem and the attorneys for the parents and
19 guardians upon entering the order awarding parental rights and responsibilities.