

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)



127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1477

S.P. 575

In Senate, December 18, 2015

An Act To Protect Victims of Sexual Assault

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 2015. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DIAMOND of Cumberland.
Cosponsored by Representative CAMPBELL of Orrington and
Senators: DUTREMBLE of York, GERZOFSKY of Cumberland, MILLETT of Cumberland,
President THIBODEAU of Waldo, Representatives: COREY of Windham, FOWLE of
Vassalboro, WARREN of Hallowell.

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

2 **Sec. 1. 19-A MRSA §1658**, as enacted by PL 1997, c. 363, §1, is repealed and the
3 following enacted in its place:

4 **§1658. Termination of parental rights and responsibilities in cases involving sexual**
5 **assault**

6 The parental rights and responsibilities with respect to a specific child conceived as a
7 result of an act of sexual assault by the parent of that child must be terminated in
8 accordance with this section.

9 **1. Petitioner.** The petition for termination may be filed by the other parent or, if the
10 other parent is a minor, the parent or guardian of the other parent.

11 **2. Petition.** The petitioner may file a petition with the District Court that requests
12 the termination of the parental rights and responsibilities of the parent and alleges:

13 A. That the parent was convicted of a crime involving sexual assault, as defined in
14 Title 17-A, section 253, 254 or 556, or a comparable crime in another jurisdiction,
15 that resulted in the conception of the child; or

16 B. That the child was conceived as a result of an act of sexual assault, as defined in
17 Title 17-A, section 253, 254 or 556, or a comparable crime in another jurisdiction.

18 **3. Termination.** Except as provided in subsection 4, if the petitioner proves the
19 allegation in subsection 2, paragraph A by a preponderance of the evidence or the
20 allegation in subsection 2, paragraph B by clear and convincing evidence, the court shall
21 terminate the parental rights and responsibilities of the parent.

22 **4. Exception.** The court is not required to terminate the parental rights and
23 responsibilities of a parent convicted of gross sexual assault under Title 17-A, section
24 253, subsection 1, paragraph B that resulted in the conception of the child if:

25 A. The parent or guardian of the other parent filed the petition;

26 B. The other parent informs the court that the sexual act was consensual; and

27 C. The other parent opposes the termination of the parental rights and responsibilities
28 of the parent convicted of the gross sexual assault.

29 **Sec. 2. 22 MRSA §4055, sub-§1-B** is enacted to read:

30 **1-B. Presumption.** The court shall presume that the parent is unwilling or unable to
31 protect the child from jeopardy and these circumstances are unlikely to change within a
32 time that is reasonably calculated to meet the child's needs if the court determines by
33 clear and convincing evidence that the child was conceived as a result of an act by the
34 parent of sexual assault or a comparable crime in another jurisdiction. For purposes of
35 this subsection, "sexual assault" has the same meaning as in Title 17-A, section 253, 254
36 or 556. A guilty plea or conviction for sexual assault is considered clear and convincing
37 evidence for purposes of this subsection.

1 **SUMMARY**

2 Current law allows a court to terminate the parental rights and responsibilities of a
3 parent who was convicted of a crime involving sexual intercourse when the child for
4 whom the parental rights and responsibilities are being terminated was conceived as a
5 result of that crime. This bill expands that law by requiring a court to terminate the
6 parental rights and responsibilities of a parent if it can be shown by clear and convincing
7 evidence that the child was conceived as a result of an act of sexual assault by that parent.

8 This bill also establishes a presumption that a parent is unwilling or unable to protect
9 a child from jeopardy if the child was conceived as a result of an act of sexual assault by
10 the parent.