MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1596

H.P. 1155

House of Representatives, April 18, 2019

An Act To Enhance the Long-term Stability of Certain At-risk Youth

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

ROBERT B. HUNT
Clerk

Presented by Representative BAILEY of Saco.

Cosponsored by Representatives: CLOUTIER of Lewiston, EVANGELOS of Friendship, TALBOT ROSS of Portland.

1 2	Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and
3 4	Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to provide protection to at-risk noncitizen children; and
5 6 7 8	Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
9	Be it enacted by the People of the State of Maine as follows:
10 11	Sec. 1. 4 MRSA §152, sub-§14, as amended by PL 2007, c. 670, §2, is further amended to read:
12 13	14. Civil violations. Jurisdiction over all civil violations, as provided in Title 17-A, section 9, and traffic infractions; and
14 15	Sec. 2. 4 MRSA §152, sub-§15, as enacted by PL 2007, c. 670, §3, is amended to read:
16 17 18	15. Restoration of right to possess firearms. Exclusive jurisdiction to conduct de novo review of a determination by the Commissioner of Public Safety pursuant to Title 15, section 393, subsection 4-A-; and
19	Sec. 3. 4 MRSA §152, sub-§16 is enacted to read:
20 21 22	16. At-risk noncitizen petitions. Jurisdiction over petitions regarding the protection, well-being, care and custody of unmarried noncitizens 18 years of age or older and under 21 years of age pursuant to Title 22, chapter 1071, subchapter 17.
23	Sec. 4. 18-C MRSA §5-104, sub-§1-A is enacted to read:
24 25 26	1-A. At-risk noncitizen petitions. The court has original jurisdiction over a petition regarding the protection, well-being, care and custody of an unmarried noncitizen pursuant to Title 22, chapter 1071, subchapter 17 who has not attained 18 years of age.
27	Sec. 5. 22 MRSA c. 1071, sub-c. 17 is enacted to read:
28	SUBCHAPTER 17
29	AT-RISK NONCITIZEN CHILDREN
30	§4099-I. At-risk noncitizen children
31 32	1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

- A. "At-risk" means there is reasonable cause to suspect that a child's health, safety
 and welfare is in jeopardy due to abuse, neglect, abandonment or similar
 circumstances and that return to the child's or the child's parent's country of origin or
 country of last habitual residence would not be in the best interest of the child.
 - B. Notwithstanding section 4002, subsection 2, "child" means an unmarried person who has not attained 21 years of age.
- 7 <u>C. "Court" includes, but is not limited to, the Probate Court and District Court, or any other state court with juvenile jurisdiction.</u>
- D. "Dependent on the court" means subject to the jurisdiction of a court competent to
 make decisions concerning the protection, well-being, care and custody of a child for
 findings, orders or referrals to support the health, safety and welfare of a child or to
 remedy the effects on a child of abuse, neglect, abandonment or similar
 circumstances.
 - E. "Noncitizen" means any person who is not a United States citizen.
 - F. "Similar circumstances" means conditions that have an effect on a child comparable to abuse, neglect or abandonment, including, but not limited to, the death of a parent.
 - 2. Petition for special findings and rulings for certain at-risk noncitizen children. An at-risk noncitizen child may petition the court for special findings. Upon reviewing the petition or complaint seeking special findings, any supporting affidavits and other evidence presented, the court shall issue findings of fact and rulings of law that must determine whether the child who is the subject of the proceeding:
 - A. Is dependent on the court;

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- B. Has suffered from abuse, neglect, abandonment or similar circumstances;
- C. May not be viably reunified with one or both parents due to abuse, neglect, abandonment or similar circumstances; and
- D. May not be returned to the child's or the child's parent's country of origin or country of last habitual residence because it is not in the best interest of the child.
- A court making a decision under this subsection is acting as a juvenile court in that it has jurisdiction over a child.
- The health and safety of the child must be of paramount concern. When considering the child's health and safety, the court shall consider whether present or past living conditions will adversely affect the child's physical, mental or emotional health.
- The at-risk noncitizen child is not required to name as a respondent a parent with whom reunification may be a viable option.
 - 3. Notice. If the identity or location of the child's parents is unknown or if the parents reside outside of the United States, the court may serve notice using any alternative method of service the court determines is appropriate or waive service when the child is described in 8 United States Code, Section 1101(a)(27)(J)(2019) and 8 United States Code, Section 1357(h)(2019).

4. Expeditious adjudication. A court shall hear, adjudicate and issue findings of 1 fact and rulings of law on any petition or complaint for special findings under this section 2 as soon as it is administratively feasible and prior to the child reaching 21 years of age to 3 serve the best interest of the child. 4 5 5. Referral for services or protection. A child who is the subject of a petition for special findings under subsection 2 may be referred for psychiatric, psychological, 6 educational, occupational, medical, dental or social services or for protection against 7 human trafficking or domestic violence. Participation in any referred services is 8 9 voluntary. 10 6. Similar findings of fact and rulings of law. Nothing in this section prevents the court from issuing similar findings of fact and rulings of law to those in subsection 2 in 11 any other proceeding concerning a noncitizen child. 12 7. Construction. This section must be liberally construed to promote the best 13 interest of the child. 14 **Emergency clause.** In view of the emergency cited in the preamble, this 15 legislation takes effect July 1, 2019. 16 17 **SUMMARY** This bill provides that the District Court has jurisdiction to consider petitions filed by 18 at-risk noncitizens who are 18 years of age or older and under 21 years of age and the 19 Probate Court has jurisdiction for at-risk noncitizens who are under 18 years of age. The 20 courts are required to expeditiously issue findings of fact, rulings of law and dependency 21 or custody determinations on these petitions. 22