

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)



131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1279

S.P. 516

In Senate, March 23, 2023

**An Act to Strengthen Maine's Child Protection Laws by Limiting
Contact with Violent Offenders**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BALDACCI of Penobscot.

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

2 **Sec. 1. 18-C MRSA §5-204, sub-§2, ¶C**, as amended by PL 2021, c. 340, §1, is
3 further amended by amending subparagraph (1) to read:

4 (1) The parent is currently unwilling or unable to meet the minor's needs and that
5 will have a substantial adverse effect on the minor's well-being if the minor lives
6 with the parent; including but not limited to the situation of an adult living in the
7 child's home who has:

8 (a) Been convicted of a crime of violence of any classification as described in
9 Title 17-A, sections 4 and 4-A, including but not limited to Class D domestic
10 violence assault under Title 17-A, section 207-A; and

11 (b) No documented record of successful completion of a certified domestic
12 violence intervention program as described in Title 19-A, section 4116,
13 subsection 1 or a comparable program of counseling or treatment for domestic
14 violence.

15 **Sec. 2. 22 MRSA §4002, sub-§6, ¶C**, as amended by PL 1983, c. 184, §2, is further
16 amended to read:

17 C. Abandonment of the child or absence of any person responsible for the child, which
18 creates a threat of serious harm; ~~or~~

19 **Sec. 3. 22 MRSA §4002, sub-§6, ¶D**, as corrected by RR 2021, c. 2, Pt. B, §178,
20 is amended to read:

21 D. The end of voluntary placement, when the imminent return of the child to the child's
22 custodian causes a threat of serious harm; ~~or~~

23 **Sec. 4. 22 MRSA §4002, sub-§6, ¶E** is enacted to read:

24 E. An adult living in the child's home who has:

25 (1) Been convicted of a crime of violence of any classification as described in Title
26 17-A, sections 4 and 4-A, including but not limited to Class D domestic violence
27 assault under Title 17-A, section 207-A; and

28 (2) No documented record of successful completion of a certified domestic
29 violence intervention program as described in Title 19-A, section 4116, subsection
30 1 or a comparable program of counseling or treatment for domestic violence.

31 **Sec. 5. 22 MRSA §4002, sub-§10, ¶B**, as amended by PL 1985, c. 739, §3, is
32 further amended to read:

33 B. Serious mental or emotional injury or impairment ~~which~~ that now or in the future
34 is likely to be evidenced by serious mental, behavioral or personality disorder,
35 including severe anxiety, depression or withdrawal, untoward aggressive behavior,
36 seriously delayed development or similar serious dysfunctional behavior; ~~or~~

37 **Sec. 6. 22 MRSA §4002, sub-§10, ¶C**, as enacted by PL 1979, c. 733, §18, is
38 amended to read:

39 C. Sexual abuse or exploitation; ~~or~~

40 **Sec. 7. 22 MRSA §4002, sub-§10, ¶D** is enacted to read:

1 D. The situation of an adult living in the child's home who has:

2 (1) Been convicted of a crime of violence of any classification as described in Title
3 17-A, sections 4 and 4-A, including but not limited to Class D domestic violence
4 assault under Title 17-A, section 207-A; and

5 (2) No documented record of successful completion of a certified domestic
6 violence intervention program as described in Title 19-A, section 4116, subsection
7 1 or a comparable program of counseling or treatment for domestic violence.

8 **Sec. 8. 22 MRSA §4035, sub-§2-B** is enacted to read:

9 **2-B. Conviction or adjudication for crimes of violence; presumption.** There is a
10 rebuttable presumption:

11 A. That the person seeking custody or contact with the child would create a situation
12 of jeopardy for the child if any contact were to be permitted and that contact is not in
13 the best interest of the child if the court finds that the person has:

14 (1) Been convicted or adjudicated of a crime of violence of any classification as
15 described in Title 17-A, sections 4 and 4-A, including but not limited to Class D
16 domestic violence assault under Title 17-A, section 207-A; and

17 (2) No documented record of successful completion of a certified domestic
18 violence intervention program as described in Title 19-A, section 4116, subsection
19 1 or a comparable program of counseling or treatment for domestic violence.

20 The person seeking custody or contact with the child may produce evidence to rebut
21 the presumption under this paragraph; and

22 B. That the parent or person responsible for the child would create a situation of
23 jeopardy for the child if the parent or person allows, encourages or fails to prevent
24 contact between the child and a person who has:

25 (1) Been convicted or adjudicated of a crime of violence of any classification as
26 described in Title 17-A, sections 4 and 4-A, including but not limited to Class D
27 domestic violence assault under Title 17-A, section 207-A; and

28 (2) No documented record of successful completion of a certified domestic
29 violence intervention program as described in Title 19-A, section 4116, subsection
30 1 or a comparable program of counseling or treatment for domestic violence.

31 The parent or person responsible for the child may produce evidence to rebut the
32 presumption under this paragraph.

33 **SUMMARY**

34 This bill amends the provisions of law allowing a court to appoint a guardian for a
35 minor, amends the definitions of jeopardy and serious harm under the Child and Family
36 Services and Child Protection Act and establishes a presumption of jeopardy in a jeopardy
37 proceeding for circumstances in which the parent of a child or a person in contact with the
38 child has been convicted or adjudicated of a crime of violence of any classification and
39 there is no documented record of successful completion of a certified domestic violence
40 intervention program.