

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

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1981

The State may maintain a civil action against the owner or keeper of the dogs to recover the amount paid, unless, before the final disposition of the case, the owner or keeper of the dog produces satisfactory evidence that the dog has been killed.

Any person who keeps a dog that kills or injures any livestock, poultry or domestic rabbits commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged, in addition to the costs, unless, before the final disposition of the case, the owner or keeper of the dog produces satisfactory evidence that the dog has been killed.

Payment by the State under this section shall not exceed \$300 for grade cattle and horses or \$500 for registered cattle and horses. Payment shall not exceed \$50 for grade sheep, goats or swine, or \$100 for registered sheep, goats or swine. Payment shall not exceed \$10 for any single poultry or rabbit.

Sec. 6. 7 MRSA § 3653, as repealed by PL 1979, c. 672, Pt. A, § 42, is reenacted to read:

§ 3653. Joint and several liability

If any sheep, lambs or other domestic animals are killed or injured by 2 or more dogs at the same time, kept by 2 or more owners or keepers, the owners or keepers of the dogs shall be jointly and severally liable for the damage.

Sec. 7. 7 MRSA c. 715, as enacted by PL 1979, c. 672, Pt. A, § 44, is repealed.

Sec. 8. **Limit on repayment.** During fiscal years 1981-82 and 1982-83, any money owed to the General Fund by the dog license fund shall be repaid only at the end of the respective fiscal years and only to the extent that funds are available. Notwithstanding any other law, if such amounts are not fully repaid at the end of fiscal year 1982-83, they shall be repaid at the end of subsequent fiscal years from any amounts available at the end of such year until repayment is complete.

Effective September 18, 1981

CHAPTER 369

S. P. 604 — L. D. 1601

AN ACT Concerning the Consent Requirements and Termination of Parental Rights for Adoption Proceedings.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, under the current adoption laws of this State, it is difficult, if not impossible, to process an adoption without the written consent of both parents; and

Whereas, this is an undue hardship when one parent has willfully abandoned the child and refused to take responsibility for the child; and

Whereas, this is preventing many children from being adopted into homes where they are wanted and loved; and

Whereas, in adoption cases, termination of parental rights must now be brought in District Court, requiring 2 separate court actions; and

Whereas, certain due process requirements and equal protection requirements are currently omitted from the law in adoption hearings for the consent of a putative father; and

Whereas, all these inadequacies are creating a hinderance to adoption proceedings resulting in a detriment to the best interests of the child being adopted; and

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,

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

Sec. 1. 19 MRSA § 532, sub-§ 2, ¶ A-1, as enacted by PL 1979, c. 733, § 9, is amended to read:

A-1. A parent whose parental rights have been terminated under section 533-A or Title 22, ~~section 4051, et seq~~ chapter 1071, subchapter VI;

Sec. 2. 19 MRSA § 532, sub-§ 5, ¶ B, as amended by PL 1979, c. 733, § 9, is further amended to read:

B. The Department of Human Services or by an adoption agency duly licensed in Maine; or

Sec. 3. 19 MRSA § 532, sub-§ 5, ¶ D, as repealed and replaced by PL 1979, c. 733, § 9, is amended to read:

D. A public agency or duly licensed private agency to whom parental rights have been transferred under the law of another state or country; or

Sec. 4. 19 MRSA § 532, sub-§ 5, ¶ E is enacted to read:

E. The parents, guardian or legal custodian, provided that one of the petitioners is a blood relative of the child.

Sec. 5. 19 MRSA § 532-C, as amended by PL 1975, c. 293, § 4, is further amended by adding after the 3rd paragraph a new paragraph to read:

The mother is entitled to legal counsel for any hearing held pursuant to this section. The putative father, if he is entitled to notice under this section, is entitled to legal counsel for any hearing held pursuant to this section. If the mother or the putative father wants an attorney but is unable to afford one, he or she may request the court to appoint legal counsel. The court, if it finds either or both of them indigent, shall appoint and pay the reasonable costs and expenses of the legal counsel of either or both of them.

Sec. 6. 19 MRSA § 532-C, 5th ¶, as enacted by PL 1973, c. 791, § 2, is repealed and the following enacted in its place:

If, after a hearing, the judge finds that the putative father is the natural father but that, based on clear and convincing evidence, that parent is unwilling or unable to protect the child from jeopardy, or has willfully abandoned the child, or has refused to take responsibility for the child, and the circumstances are unlikely to change in a reasonable time, he shall rule, if it appears to be in the best interest of the child, that the natural father has not established parental rights to that child and has abandoned the child, and that only the mother of the illegitimate child must consent to the adoption of that child or execute a surrender and release for the purpose of adoption of that child.

Sec. 7. 19 MRSA § 532-C, 6th ¶, first sentence, as enacted by PL 1973, c. 791, § 2, is repealed and the following enacted in its place:

If the judge finds that the putative father is the natural father and that he is willing and able to protect the child from jeopardy, or has not willfully abandoned the child, or has not refused to take responsibility for the child, he may rule, if it appears to be in the best interest of the child, that the natural father has established parental rights to that child.

Sec. 8. 19 MRSA § 533-A is enacted to read:

§ 533-A. Termination of parental rights

1. Jurisdiction. A petition for termination of parental rights may be brought in Probate Court as part of an adoption petition when a child protection petition has not been initiated.

2. Except as otherwise provided by this section, a termination petition is subject to the provisions of Title 22, chapter 1071, subchapter VI.

3. Guardian ad litem. The following provisions govern guardians ad litem.

A. The court may appoint a guardian ad litem for the child. His reasonable costs and expenses shall be paid by the Probate Court. The appointment shall be made as soon as possible after the proceeding is initiated.

B. The guardian ad litem shall be given access to all reports and records relevant to the case. In general, the guardian ad litem shall represent the child. He may investigate to ascertain the facts, including reviewing records of psychiatric, psychological or physical examinations of the child, parents or other persons having or seeking care or custody of the child, interviewing the child with or without other persons present, interviewing, subpoenaing, examining and cross-examining witnesses and making recommendations to the court.

Sec. 9. 22 MRSA § 4003, sub-§ 4, as enacted by PL 1979, c. 733, § 18, is amended by adding at the end a new sentence to read:

It is the intent of the Legislature that the department reduce the number of children receiving assistance under Title IV-E, who have been in foster care more than 24 months, by 10% each year beginning with the federal fiscal year that starts on October 1, 1983.

Sec. 10. 22 MRSA § 4021, sub-§ 3 is enacted to read:

3. Interviewing the child without prior notification. The department may interview a child without prior notification under the following provisions.

A. The department may interview a child without prior notification to the parent or custodian when the department has reasonable grounds to believe that prior notice would increase the threat of serious harm to the child or another person.

B. The interview may take place at a school, hospital, police station or other place where the child is present.

C. School officials shall permit the department to meet with and interview the child during school hours, if the interview is necessary to carry out the department's duties under this chapter.

Sec. 11. 22 MRSA § 4037, last sentence, as enacted by PL 1979, c. 733, § 18, is amended to read:

Custody shall not include the right to ~~place the child for~~ initiate adoption proceedings without parental consent, except as provided under Title 19, section 532.

Sec. 12. 22 MRSA § 4038, sub-§ 1, as enacted by PL 1979, c. 733, § 18, is amended to read:

1. Automatic review. If the court has made a final protection order under section 4036, it shall review the case at least once within 18 months of the original order, unless the child has been adopted or emancipated. No mandated review may be required if the child was ordered into the custody of the department under section 3792 before April 3, 1980.

Sec. 13. 22 MRSA § 4051, as enacted by PL 1979, c. 733, § 18, is amended by adding at the end a new sentence to read:

A petition for termination of parental rights may also be brought in a Probate Court as part of an adoption proceeding as provided in Title 19, chapter 9, when a child protective proceeding has not been initiated.

Sec. 14. 22 MRSA § 4052, sub-§ 3, ¶ D, as enacted by PL 1979, c. 733, § 18, is amended to read:

D. The names and address of the guardian ad litem of the child in the related child protection proceeding **or adoption proceeding;**

Sec. 15. 22 MRSA § 4055, sub-§ 1, ¶ A, as enacted by PL 1979, c. 733, § 18, is repealed and the following enacted in its place:

A. One of the following conditions has been met:

(1) Custody has been removed from the parent under:

(a) Section 4035 or 4038;

(b) Title 19, section 752; or

(c) Section 3792 prior to the effective date of this chapter; or

(2) The petition has been filed as part of an adoption proceeding in Title 19, chapter 9; and

Sec. 16. 22 MRSA § 4055, sub-§ 1, ¶ B, sub-¶ (2), div. (a), as enacted by PL 1979, c. 733, § 18, is amended to read:

(a) The parent is unwilling or unable to protect the child from jeopardy or has willfully abandoned the child or has refused to take responsibility for the child;

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 29, 1981

CHAPTER 370

S. P. 418 — L. D. 1241

AN ACT to Increase the Bonding Limit on Maine State Housing Authority Bonds Secured by the Housing Reserve Fund.