

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**FIRST REGULAR SESSION**  
December 1, 1982 to June 24, 1983  
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1983

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

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## CHAPTER 184

H.P. 891 - L.D. 1156

### AN ACT to Improve the Child and Family Services and Child Protection Act.

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

Sec. 1. 22 MRSA §4002, sub-§1-A is enacted to read:

1-A. Abandonment. "Abandonment" means any conduct on the part of the parent showing an intent to forego parental duties or relinquish parental claims. The intent may be evidenced by:

A. Failure, for a period of at least one year, to communicate meaningfully with the child;

B. Failure, for a period of at least one year, to maintain regular visitation with the child;

C. Failure to participate in any plan or program designed to reunite the parent with the child;

D. Deserting the child without affording means of identifying the child and his parent or custodian;

E. Failure to respond to notice of child protective proceedings; or

F. Any other conduct indicating an intent to forego parental duties or relinquish parental claims.

Sec. 2. 22 MRSA §4002, sub-§6, ¶C, as enacted by PL 1979, c. 733, §18, is amended to read:

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

Sec. 3. 22 MRSA §4034, sub-§3, as enacted by PL 1979, c. 733, §18, is amended to read:

3. Custodial consent. If the custodian consents in writing and the consent is voluntarily and knowingly executed in court before a judge, or the custodian does not appear after proper notice has been given, then the hearing on the preliminary protection

order may be waived need not be held, except as provided in subsection 4.

Sec. 4. 22 MRSA §4034, sub-§4, as enacted by PL 1979, c. 733, §18, is amended to read:

4. Preliminary hearing. ~~If there is no consent~~ the custodial parent appears and does not consent, or if a noncustodial parent requests a hearing, then the court shall hold a preliminary hearing on that order within 10 days of its issuance or request, unless all parties agree to a later date. The petitioner shall bear the burden of proof. If, after the hearing, the court finds, by a preponderance of the evidence, that returning the child to his custodian would place him in immediate risk of serious harm, it shall continue the order or make another disposition under section 4036.

Sec. 5. 22 MRSA §4035, sub-§3, as enacted by PL 1979, c. 733, §18, is amended to read:

3. Grounds for disposition. If the court determines that the child is in circumstances of jeopardy to his health or welfare, the court ~~may~~ shall hear any relevant evidence regarding proposed dispositions, including written or oral reports, recommendations or case plans. The court ~~may~~ shall then make a written order of any disposition under section 4036. If possible, this dispositional phase shall be conducted immediately after the adjudicatory phase. Written materials to be offered as evidence shall be made available to each party's counsel and the guardian ad litem reasonably in advance of the dispositional phase.

Effective September 23, 1983.

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## CHAPTER 185

H.P. 892 - L.D. 1157

AN ACT to Promote Early Permanency for  
Children Subject to a Protection Order.

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

22 MRSA §4038, as amended by PL 1981, c. 369, §12, is repealed and the following enacted in its place: