

# 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)

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

**AS PASSED BY THE**  
**ONE HUNDRED AND SEVENTEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 7, 1994 to June 30, 1995**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 29, 1995**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4**

---

---

**J.S. McCarthy Company**  
**Augusta, Maine**  
**1995**

a surrender and release must be notified of the ~~finalization completion by certified regular mail, restricted delivery and return receipt requested,~~ at their last known address. When the birth parents' rights have been terminated pursuant to Title 22, section 4055, the notice must be given to the department and the department shall notify the birth parents of the ~~finalization completion by certified regular mail, restricted delivery and return receipt requested,~~ at their last known address. Actual receipt of the notice is not a precondition of ~~finalization completion~~ and does not affect the rights or responsibilities of adoptees or adoptive parents.

**Sec. 27. 19 MRSA §1130, sub-§3,** as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

**3. Representation.** An attorney or guardian ad litem appointed to represent a party in an adoption proceeding in Probate Court continues to represent the interests of that ~~client party~~ in any appeal unless otherwise ordered by the court.

**Sec. 28. 19 MRSA §1131,** as enacted by PL 1993, c. 686, §5 and affected by §13, is amended to read:

**§1131. Records confidential**

~~All Notwithstanding any other provision of law, all Probate Court records relating to any adoption decreed on or after August 8, 1953 are declared to be confidential. The Probate Court shall keep records of those adoptions segregated from all other court records. The adoption records may be examined only upon authorization by the judge of the Probate Court. In any case where it is considered proper that an examination be authorized, the judge may in lieu of an examination, or in addition to an examination, grant authority to If a Probate Court Judge determines that examination of records pertaining to a particular adoption is proper, the judge may authorize that examination by specified persons, authorize the register of probate to disclose to specified persons any information contained in the records by letter, certificate or copy of the record or authorize a combination of both examination and disclosure.~~

Any medical or genetic information in the court records relating to an adoption must be made available to the adopted child upon reaching the age of 18, the adopted child's descendants, adoptive parents or legal guardian on petition of the court.

**Sec. 29. 19 MRSA §1136, sub-§1,** as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

**1. Grounds.** A judge of probate may, on petition of 2 or more persons, after notice and hearing,

reverse and annul a decree of the Probate Court for the following reasons:

A. The court finds that the adoption was obtained as a result of fraud, duress or illegal procedures; or

B. Other good cause shown consistent with the best interest of the child.

**Sec. 30. 19 MRSA §1136, sub-§3** is enacted to read:

**3. Certificate of annulment.** After the Probate Court annuls a decree of adoption, the Register of Probate shall transmit immediately a certified copy of the annulment to the State Registrar of Vital Statistics.

**Sec. 31. Application.** This Act applies to adoption petitions filed on or after the effective date of this Act. The Probate Court shall apply either Public Law 1993, chapter 686 or this Act to adoptions for which any of the documents listed in the Maine Revised Statutes, Title 19, section 1108, were executed on or after August 1, 1994, but before the effective date of this Act, whichever Act reduces delay in the adoption process for that particular adoption, consistent with the best interest of the child.

**Sec. 32. Forms.** The Advisory Committee on Probate Rules shall adopt by rule a form that Maine Probate Courts will mail to a court of comparable jurisdiction in another jurisdiction to provide to parents executing consents or surrender and releases when the adoption is anticipated to be completed in the State. The form must provide an explanation of Maine adoption law and must provide a place for the parents to sign certifying that they received the form. The court in the other jurisdiction shall send a copy of the executed form to the Maine Probate Court.

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

Effective July 3, 1995.

---



---

**CHAPTER 413**

**H.P. 576 - L.D. 781**

**An Act Protecting a Citizen's Right of Petition under the Constitution**

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

**Sec. 1. 14 MRSA §556** is enacted to read:

**§556. Special motion to dismiss**

When a moving party asserts that the civil claims, counterclaims or cross claims against the moving party are based on the moving party's exercise of the moving party's right of petition under the Constitution of the United States or the Constitution of Maine, the moving party may bring a special motion to dismiss. The court shall advance the special motion so that it may be heard and determined with as little delay as possible. The court shall grant the special motion, unless the party against whom the special motion is made shows that the moving party's exercise of its right of petition was devoid of any reasonable factual support or any arguable basis in law and that the moving party's acts caused actual injury to the responding party. In making its determination, the court shall consider the pleading and supporting and opposing affidavits stating the facts upon which the liability or defense is based.

The Attorney General on the Attorney General's behalf or on behalf of any government agency or subdivision to which the moving party's acts were directed may intervene to defend or otherwise support the moving party on the special motion.

All discovery proceedings are stayed upon the filing of the special motion under this section, except that the court, on motion and after a hearing and for good cause shown, may order that specified discovery be conducted. The stay of discovery remains in effect until notice of entry of the order ruling on the special motion.

The special motion to dismiss may be filed within 60 days of the service of the complaint or, in the court's discretion, at any later time upon terms the court determines proper.

If the court grants a special motion to dismiss, the court may award the moving party costs and reasonable attorney's fees, including those incurred for the special motion and any related discovery matters. This section does not affect or preclude the right of the moving party to any remedy otherwise authorized by law.

As used in this section, "a party's exercise of its right of petition" means any written or oral statement made before or submitted to a legislative, executive or judicial body, or any other governmental proceeding; any written or oral statement made in connection with an issue under consideration or review by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to encourage consideration or review of an issue by a legislative, executive or judicial body, or any other governmental proceeding; any statement reasonably likely to enlist public participation in an effort to effect such consideration; or any other statement

falling within constitutional protection of the right to petition government.

**Sec. 2. Application.** The provisions of this Act apply to all claims, counterclaims and cross claims that are not fully adjudicated on, or subsequent to, the effective date of this Act. A party may file a special motion to dismiss a claim, counterclaim or cross claim in existence on the effective date of this Act within 60 days of the effective date of this Act.

See title page for effective date.

---



---

**CHAPTER 414**
**S.P. 247 - L.D. 644**
**An Act to Expand Eligibility for  
Benefits under the Adoption  
Assistance Program**

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

**Whereas,** the Adoption Assistance Program was expanded to apply to finalized adoptions in specific situations, effective August 1, 1994, but that portion of the law has been interpreted to apply to only those adoptions finalized on or after August 1, 1994; 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 §1142,** as enacted by PL 1993, c. 686, §5 and affected by §13, is repealed and the following enacted in its place:

**§1142. Adoption assistance**

**1. Application.** Applications for the Adoption Assistance Program may be submitted by the following persons:

A. Foster parents interested in adopting an eligible child in their care;

B. Other persons interested in adopting an eligible child; and

C. Adoptive parents who were not informed of the program or of facts relevant to the child's eligibility when they adopted a child who was at