

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
130<sup>TH</sup> LEGISLATURE  
FIRST REGULAR AND FIRST SPECIAL SESSIONS



Disposition of bills and summaries of all laws enacted or finally passed

**JOINT STANDING COMMITTEE ON JUDICIARY**

December 2021

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## JOINT STANDING COMMITTEE ON JUDICIARY

### **LD 947 An Act To Address the Long-term Impact of Economic Abuse by a Spouse**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 122 adds economic abuse by a spouse as a factor the court can consider when ordering spousal support and dividing marital property.

### **LD 952 An Act To Limit Liability Regarding Donations of Menstrual Products**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 178 provides immunity from civil and criminal liability arising from an injury or death for good faith donors, including hospitals and other health care facilities, of menstrual products that are donated to bona fide charitable and nonprofit organizations. It also provides the same immunity to the charitable and nonprofit organizations that distribute those donations.

### **LD 957 An Act To Authorize Expanded Deferred Disposition Requirements**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 338 authorizes a court to include in the deferred disposition requirements that the person participate for a specified number of days in a program run by a county sheriff that may involve overnight housing, community service work and education. It authorizes the participation in public works projects by those subject to a deferred disposition.

### **LD 1030 An Act Regarding Courts' Authority To Protect Children When a Parent Has Been Awarded Sole Parental Rights and Responsibilities**

#### **ENACTED LAW SUMMARY**

Public Law 2021, chapter 340 was proposed by the Family Law Advisory Commission pursuant to the Maine Revised Statutes, Title 19-A, section 354, subsection 2. Chapter 340 expands courts' authority to protect children when a parent has been awarded sole parental rights and responsibilities in two ways. First, it amends the Maine Uniform Probate Code to ensure the court has authority to appoint a guardian for a minor upon the death of the parent who was awarded exclusive parental rights and responsibilities. Second, it provides a process to allow, in very limited situations, one parent to file a petition to terminate another parent's parental rights and responsibilities outside of an adoption proceeding.

The Maine Uniform Probate Code currently allows a court to appoint a guardian for a minor when the court finds the appointment is in the best interest of the minor and the court finds by clear and

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convincing evidence that the parents are unwilling or unable to exercise their parental rights and responsibilities. The law provides two examples of situations in which the parents are unable or unwilling to exercise their parental rights and responsibilities. Chapter 340 adds a third example: when the parent to whom a court has awarded exclusive parental rights and responsibilities dies and the court finds by clear and convincing evidence that there is neither a substantial change in circumstances between the time of the order and the parent's death nor other facts that would render a finding based on the order to be inequitable or unjust.

In current law, Title 19-A, section 1658 allows a petition to terminate the parental rights and responsibilities of a parent who committed sexual assault and the sexual assault resulted in the conception of a child. Chapter 340 allows a petition to be filed to terminate the parental rights and responsibilities of a parent in another context: when a final court order awarded exclusive parental rights and responsibilities to another parent and that order has been in effect at least 12 months and the petition alleges that termination of the parent's rights and responsibilities is necessary to protect the child from serious harm or the threat of serious harm. The order must have awarded exclusive parental rights and responsibilities with respect to all aspects of the child's welfare, with the possible exception of the right and responsibility for support, without reserving for the parent any rights to make decisions, to have access to records or to have contact with the child. Chapter 340 clarifies the procedure for the termination of parental rights and responsibilities once a petition is filed. If the petition alleges that termination of parental rights and responsibilities is necessary to protect the child from serious harm or threat of serious harm and an order awarding exclusive parental rights and responsibilities has been in effect at least 12 months, the court shall appoint a guardian ad litem. A parent may consent to an order terminating the parent's rights and responsibilities after a judge has fully explained the effects of a termination order and if such consent is written and voluntarily and knowingly executed in court. Even if a parent consents to the termination of that parent's rights and responsibilities, the court must nevertheless still make the required findings. For a petition that is based on an exclusive order of parental rights and responsibilities and that alleges that termination is necessary to protect the child from serious harm or the threat of serious harm, the petitioner must prove by clear and convincing evidence the allegations as well as that termination is in the best interest of the child.

Chapter 340 provides that, except as provided in Title 19-A, section 1658 and the adoption laws in Title 18-C, a court may not terminate the parental rights and responsibilities of a parent on a petition filed by another parent or the parent or guardian of a child's parent who is a minor.

Chapter 340 amends the child protection laws to make consistent who may file a petition to terminate the parental rights to a child. The requirements apply when a parent or the parent or guardian of a minor parent is petitioning to terminate another parent's parental rights and responsibilities, but if the petitioner is also petitioning to adopt the child, the requirements of the adoption laws in Title 18-C, Article 9 apply.