

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend 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-§9-B, as enacted by PL 1997, c. 715, Pt. B, §3, is amended to read:

9-B. Relative. "Relative ~~providing care~~" means the biological or adoptive parent of the child's biological or adoptive parent, or the biological or adoptive sister, brother, aunt, uncle or cousin of the child with whom the child lives and who has taken responsibility for the child.

Sec. 2. 22 MRSA §4005-E, as amended by PL 2005, c. 366, §6, is further amended to read:

§ 4005-E.Relatives; visitation and access; placement

1. Grandparent visitation and access. A grandparent who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request the court to grant reasonable rights of visitation or access. When a child is placed in a prospective adoptive home and the prospective adoptive parents have signed an adoptive placement agreement, a grandparent's right to contact or have access to the child that was granted pursuant to this chapter is suspended. If the adoption is not final within 18 months of adoptive placement, then the grandparent whose rights of contact or access were suspended pursuant to this subsection may resume, as a matter of right and without further court order, contact with the child in accordance with the order granting that contact or access, unless the court determines after a hearing that the contact is not in the child's best interests. A grandparent's rights of visitation or access terminate when the adoption is finalized pursuant to Title 18-A, section 9-308. Nothing in this section prohibits prospective adoptive parents from independently facilitating or permitting contact between a child and a grandparent, especially when a court has previously ordered rights of contact.

2. Placement. A grandparentrelative who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request the court to order that the child be placed with the grandparentrelative. A grandparentrelative who has not been designated as a participant under section 4005-D may make the request for placement in writing. In making a decision on the request, the court shall give the grandparentsmake placement with a relative a priority for consideration for placement if that placement is in the best interests of the child and consistent with section 4003.

3. Conviction or adjudication for certain sex offenses; presumption. There is a rebuttable presumption that the grandparentrelative would create a situation of jeopardy for the child if any contact were to be permitted and that contact is not in the best interest of the child if the court finds that the grandparentrelative:

- A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the grandparentrelative was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual

assault under Title 17-A, section 253, subsection 1, paragraph B or C and the minor victim submitted as a result of compulsion, the presumption applies regardless of the ages of the grandparentrelative and the minor victim at the time of the offense; or

B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing a person who was a minor at the time of the abuse.

The grandparentrelative seeking visitation with or access to the child may produce evidence to rebut the presumption.

Sec. 3. 22 MRSA §4008, sub-§2, ¶E-1, as enacted by PL 2005, c. 300, §6, is repealed.

Sec. 4. 22 MRSA §4008, sub-§3, ¶I, as enacted by PL 2003, c. 673, Pt. Z, §4, is amended to read:

I. Any government entity that needs such information in order to carry out its responsibilities under law to protect children from abuse and neglect. For purposes of this paragraph, "government entity" means a federal entity, a state entity of any state, a local government entity of any state or locality or an agent of a federal, state or local government entity; and

Sec. 5. 22 MRSA §4008, sub-§3, ¶J, as enacted by PL 2003, c. 673, Pt. Z, §4, is amended to read:

J. To a juvenile court when the child who is the subject of the records has been brought before the court pursuant to Title 15, Part 6.; and

Sec. 6. 22 MRSA §4008, sub-§3, ¶K is enacted to read:

K. A relative or other person whom the department is investigating for possible custody or placement of the child.

Effective September 20, 2007