

§4033. Service and notice

1. Petition service. A child protection petition shall be served as follows:

A. The petition and a notice of hearing must be served on the parents, legal guardian and custodians, the guardian ad litem for the child and any other party at least 10 days prior to the hearing date. A party may waive this time requirement if the waiver is written and voluntarily and knowingly executed in court before a judge. Service must be made in accordance with the Maine Rules of Civil Procedure. [PL 2015, c. 501, §3 (AMD).]

B. If the department is not the petitioner, the petitioner shall serve a copy of the petition and notice of hearing on the State. [PL 1979, c. 733, §18 (NEW).]

[PL 2015, c. 501, §3 (AMD).]

2. Notice of preliminary protection order. If there is to be a request for a preliminary protection order, the petitioner shall, by any reasonable means, notify the parents, legal guardian and custodians of the intent to request that order and of the court in which counsel for the parents, legal guardian or custodians may file motions, including motions to modify or vacate any preliminary protection order issued. This notice is not required if the petitioner includes in the petition a sworn statement detailing a sufficient factual basis that:

A. The child would suffer serious harm during the time needed to notify the parents, legal guardian or custodians; or [PL 2015, c. 501, §4 (AMD).]

B. Prior notice to the parents, legal guardian or custodians would increase the risk of serious harm to the child or petitioner. [PL 2015, c. 501, §4 (AMD).]

Failure to provide the notice required by this section, after a good faith attempt to do so, does not constitute grounds for denial of a preliminary protection order.

[PL 2015, c. 501, §4 (AMD).]

3. Service of preliminary protection order. If the court makes a preliminary protection order, a copy of the order must be served on the parents, legal guardian and custodians by:

A. In-hand delivery by the judge or court clerk to any parent, legal guardian, custodian or their counsel who is present when the order is made; [PL 2015, c. 501, §5 (AMD).]

B. Service in accordance with the Maine Rules of Civil Procedure. Notwithstanding the Maine Rules of Civil Procedure, the court may waive service by publication of a preliminary protection order for a party whose whereabouts are unknown if the department shows by affidavit that diligent efforts have been made to locate the party; or [PL 1989, c. 819, §5 (AMD).]

C. Another manner ordered by the court. [PL 1979, c. 733, §18 (NEW).]

[PL 2015, c. 501, §5 (AMD).]

3-A. Information provided to parents. When the court makes a preliminary protection order on a child who is physically removed from the child's parents, legal guardian or custodians, the following information must be provided to the parents, legal guardian or custodians in written form by the petitioner at the time of removal of the child:

A. The assigned caseworker's name and work telephone number; [PL 1987, c. 395, Pt. A, §90 (NEW).]

B. The placement with a relative or other location where the child will be taken; and [PL 2015, c. 501, §6 (AMD).]

C. A copy of the complete preliminary protection order. [PL 1987, c. 395, Pt. A, §90 (NEW).]

This information is not required if the petitioner includes in the petition a sworn statement of the petitioner's belief that providing the information would cause the threat of serious harm to the child, the substitute care giver, the petitioner or any other person.

[PL 2015, c. 501, §6 (AMD).]

4. Service of final protection order. The court shall deliver in-hand at the court, or send by ordinary mail promptly after it is entered, a copy of the final protection order to the parent's, legal guardian's or custodian's counsel or, if no counsel, to the parents, legal guardian or custodians. The copy of the order must include a notice to them of their rights under section 4038. Lack of compliance with this subsection does not affect the validity of the order.

[PL 2015, c. 501, §7 (AMD).]

5. Notice to foster parents, preadoptive parents and relatives providing care. The department shall provide written notice of all proceedings in advance of the proceeding to foster parents, preadoptive parents and relatives providing care. The notice must be dated and signed, must include a statement that foster parents, preadoptive parents and relatives providing care are entitled to notice of and a right to be heard in any proceeding held with respect to the child and must contain the following language:

"The right to be heard includes only the right to testify and does not include the right to present other witnesses or evidence, to attend any other portion of the proceeding or to have access to pleadings or records."

A copy of the notice must be filed with the court prior to the proceeding.

[PL 2007, c. 255, §5 (AMD).]

6. Notice to legal guardians. When notice is required to be given to the legal guardian of a child, the department shall provide notice to all of the child's legal guardians that are known to the department.

[PL 2015, c. 501, §8 (NEW).]

SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1987, c. 395, §A90 (AMD). PL 1989, c. 819, §5 (AMD). PL 1997, c. 715, Pt. B, §6 (AMD). PL 2007, c. 255, §5 (AMD). PL 2015, c. 501, §§3-8 (AMD).

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