

§251-A. Other proceedings involving parental rights; transfer to District Court

1. Disclosure of orders and proceedings. The judge of probate presiding over any matter involving guardianship, adoption or change of name or another matter involving custody or other parental rights with respect to a minor child shall require all parties to disclose whether they have knowledge of:

A. Any interim or final order then in effect concerning custody or other parental rights with respect to the minor child, including any order of the District Court terminating parental rights; appointing a guardian, including a permanency, emergency or interim guardian; awarding parental rights to a 3rd party; or granting an adoption; [PL 2023, c. 63, §2 (AMD).]

B. Any proceeding under the Maine Juvenile Code brought against the minor child pending in District Court or any proceeding involving custody or other parental rights with respect to the minor child pending before any court of this State or another state, including the District Court; or [PL 2023, c. 63, §2 (AMD).]

C. Any other related action pending before any court of this State or another state, including the District Court. [PL 2023, c. 63, §2 (AMD).]
[PL 2023, c. 63, §2 (AMD).]

2. Transfer to District Court. Except as provided in subsection 3, if in a matter before the Probate Court concerning a minor child a judge of probate becomes aware that a proceeding under the Maine Juvenile Code brought against the minor child or a proceeding involving custody or other parental rights with respect to the minor child is pending in the District Court or that the minor child is or was the subject of a District Court order terminating parental rights, appointing a guardian, including a permanency, emergency or interim guardian, awarding parental rights to a 3rd party or granting an adoption, the judge shall notify the District Court and take appropriate action to facilitate a transfer of the matter to the District Court. If a matter is transferred to the District Court under this subsection, the District Court has continuing, exclusive jurisdiction over the matter and over any future proceedings for guardianship, adoption or change of name or other matter involving custody or other parental rights with respect to the minor child brought under Title 18-C, except to the extent that the District Court's jurisdiction is precluded by the Uniform Child Custody Jurisdiction and Enforcement Act.
[PL 2023, c. 63, §2 (AMD).]

3. Exception to transfer. Notwithstanding any provision of law to the contrary, a probate court shall retain jurisdiction over an action for guardianship, adoption, change of name or other matter involving custody or other parental rights with respect to a minor child brought under Title 18-C that would otherwise be within the exclusive, continuing jurisdiction of the District Court under section 152, subsection 5-A and may not transfer that matter to the District Court under subsection 2 if:

A. At the time the proceeding under the Maine Juvenile Code or the proceeding involving custody or other parental rights with respect to the minor child that would otherwise trigger the District Court's continuing, exclusive jurisdiction is initiated, the testimonial hearing on the Title 18-C matter has concluded and the Probate Court has that matter under advisement; and [PL 2023, c. 63, §2 (NEW).]

B. The Probate Court has not determined that the District Court is the more appropriate forum for the Title 18-C proceeding. [PL 2023, c. 63, §2 (NEW).]
[PL 2023, c. 63, §2 (NEW).]

For purposes of this section, a proceeding is pending if a complaint, petition or post-judgment motion has been filed and the final judgment or final order on that complaint, petition or post-judgment motion has not yet been issued. [PL 2023, c. 63, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 460, §4 (NEW). PL 2023, c. 63, §2 (AMD).

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