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Date: (Filing No. S- )

**JUDICIARY**

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**STATE OF MAINE  
SENATE  
132ND LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 628, L.D. 1544, “An Act to Support Families by Improving the Court Process for Child Protection Cases”

Amend the bill by striking out all of section 4 and inserting the following:

**'Sec. 4. 22 MRSA §4034, sub-§4,** as amended by PL 2015, c. 501, §10, is further amended to read:

**4. Summary preliminary hearing.** The court shall schedule a summary preliminary hearing on a preliminary protection order within 14 days but not less than 7 days after issuance of the preliminary protection order, except that counsel for a parent may request that the hearing take place sooner. Upon request of counsel, the court may conduct the summary preliminary hearing as expeditiously as the court determines the interests of justice require. If a parent, custodian or legal guardian appears for the summary preliminary hearing and does not consent to the preliminary protection order, the court shall conduct a hearing at which the petitioner bears the burden of proof. At a summary preliminary hearing, the court shall consider the trauma to the child of removal from the child's home in determining whether to continue the preliminary protection order and whether the department has exhausted the options to mitigate the immediate risk of serious harm to the child and avoid the removal of the child from the child's home. The court may limit testimony to the testimony of the caseworker, parent, custodian, legal guardian, guardian ad litem, foster parent, preadoptive parent or relative providing care and may admit evidence, including reports and records, that would otherwise be ~~inadmissible~~ inadmissible as hearsay evidence. If after the hearing the court finds by a preponderance of the evidence that returning the child to the child's custodian would place the child in immediate risk of serious harm, it shall make findings explaining why the risk of harm to the child is outweighed by the trauma of the child's removal from the child's home and that the department has exhausted the options to mitigate the immediate risk of serious harm and avoid the removal of the child from the child's home and continue the order or make another disposition under section 4036. If the court's preliminary protection order includes a finding of an aggravating factor, the court may order the department not to commence reunification or to cease reunification, in which case the court shall conduct a hearing on

**COMMITTEE AMENDMENT**

1 jeopardy and conduct a permanency planning hearing. The hearings must commence  
2 within 30 days of entry of the preliminary protection order.

3 If the petitioner has not been able to serve a parent, custodian or legal guardian before the  
4 scheduled summary preliminary hearing, the parent, custodian or legal guardian may  
5 request a subsequent summary preliminary hearing within 10 days after receipt of the  
6 petition.'

7 Amend the bill in section 5 in paragraph E-1 in the last line (page 2, line 18 in L.D.)  
8 by inserting after the following: "parent" the following: 'or an explanation why reasonable  
9 efforts were not required'

10 Amend the bill in section 8 in division (c) in the first 2 lines (page 2, lines 28 and 29  
11 in L.D.) by striking out the following: "the Legislature's intent set out in section 4003,  
12 subsection 3 and the department's obligations under" and inserting the following: 'the  
13 department's obligations under section 4036-B, subsection 4 and'

14 Amend the bill by striking out all of section 9 and inserting the following:

15 '**Sec. 9. Appropriations and allocations.** The following appropriations and  
16 allocations are made.

17 **HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

18 **IV-E Foster Care/Adoption Assistance 0137**

19 Initiative: Provides funding for child welfare cycle payments.

20 <b>GENERAL FUND</b>	<b>2025-26</b>	<b>2026-27</b>
21 All Other	\$1,220,167	\$1,220,167
22		
23 GENERAL FUND TOTAL	<u>\$1,220,167</u>	<u>\$1,220,167</u>

25 <b>FEDERAL EXPENDITURES FUND</b>	<b>2025-26</b>	<b>2026-27</b>
26 All Other	\$1,220,167	\$1,220,167
27		
28 FEDERAL EXPENDITURES FUND TOTAL	<u>\$1,220,167</u>	<u>\$1,220,167</u>

29 '  
30 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
31 number to read consecutively.

32 **SUMMARY**

33 This amendment, which is the majority report of the committee, clarifies that a court  
34 must make findings explaining why the risk of harm to a child is outweighed by the trauma  
35 of the child's removal from the child's home and that the department has exhausted the  
36 options to mitigate the immediate risk of serious harm and avoid the removal of the child  
37 from the child's home after a summary preliminary hearing only if the court finds in favor  
38 of the Department of Health and Human Services and upholds the removal. It also clarifies  
39 that, when the department files a petition to terminate parental rights, it must provide a  
40 detailed statement of the specific reasonable efforts the department has made to reunify the

COMMITTEE AMENDMENT “ ” to S.P. 628, L.D. 1544

1 child with the child's parent or an explanation why reasonable efforts were not required.  
2 The amendment also adds an appropriations and allocations section.

3

**FISCAL NOTE REQUIRED**

4

**(See attached)**