

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

S.P. 714 - L.D. 1832

An Act to Clarify Available Relief for the Protection of At-risk Children

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 4 MRSA §152, sub-§16, as enacted by PL 2019, c. 366, §3, is amended to read:

16. At-risk noncitizen children; petitions and motions. Jurisdiction over petitions and motions regarding the protection, well-being, care and custody of unmarried noncitizens ~~18 years of age or older and~~ under 21 years of age pursuant to Title 19-A, section 1511 and Title 22, chapter 1071, subchapter 17.

Sec. 2. 18-C MRSA §5-104, sub-§1-A, as enacted by PL 2019, c. 366, §4, is amended to read:

1-A. At-risk noncitizen petitions children; motions. The court has ~~original~~ jurisdiction over a ~~petition~~ motion regarding the protection, well-being, care and custody of an unmarried noncitizen pursuant to Title 22, chapter 1071, subchapter 17 who has not attained 18 years of age.

Sec. 3. 19-A MRSA §1511 is enacted to read:

§1511. At-risk noncitizen children

In a court action under this Title involving parental rights and responsibilities, a court may adjudicate a motion under Title 22, section 4099-I, subsection 9 for special findings for at-risk noncitizen children.

Sec. 4. 22 MRSA §4099-I, as enacted by PL 2019, c. 366, §5, is amended to read:

§4099-I. At-risk noncitizen children

1. Definitions. As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

A. "At-risk" means there is reasonable cause to suspect that a child's health, safety and welfare ~~is in jeopardy~~ has been affected due to abuse, neglect, abandonment or similar circumstances and that return to the child's or the child's parent's country of ~~origin~~

nationality or country of last habitual residence would not be in the best interest of the child.

B. Notwithstanding section 4002, subsection 2, "child" means an unmarried person who has not attained 21 years of age.

C. "Court" ~~includes~~ or "juvenile court" means any court in the State with jurisdiction to make judicial determinations about the dependency, custody or care of children or parental rights and responsibilities with regard to children, including, but is not limited to, the Probate Court and District Court, ~~or any other state court with juvenile jurisdiction.~~

D. "Dependent on the court" means subject to the jurisdiction of a court competent to make decisions concerning the protection, well-being, care and custody of a child for findings, orders or referrals to support the health, safety and welfare of a child or to remedy the effects on a child of abuse, neglect, abandonment or similar circumstances.

E. "Noncitizen" means any person who is not a United States citizen.

F. "Similar circumstances" means conditions that have an effect on a child comparable to abuse, neglect or abandonment, including, but not limited to, the death of a parent.

2. Petition for special findings and rulings relief for certain at-risk noncitizen children. An at-risk noncitizen child may petition the court for special findings and relief. Upon reviewing the petition or complaint seeking special findings and relief, any supporting affidavits and other evidence presented, the court shall order relief to redress the effects of the abuse, neglect, abandonment or similar circumstances, including but not limited to relief under subsection 6, and issue findings of fact and rulings of law that must determine whether the child who is the subject of the proceeding:

A. Is dependent on the court;

B. Has suffered from abuse, neglect, abandonment or similar circumstances;

C. May not be viably reunified with one or both parents due to abuse, neglect, abandonment or similar circumstances; and

D. May not be returned to the child's or the child's parent's country of ~~origin~~ nationality or country of last habitual residence because it is not in the best interest of the child.

~~A court making a decision under this subsection is acting as a juvenile court in that it has jurisdiction over a child.~~

~~The health and safety of the child must be of paramount concern. When considering the child's health and safety, the court shall consider whether present or past living conditions will adversely affect the child's physical, mental or emotional health.~~

All proceedings and records related to this subsection are confidential and closed to the public. Only the parties to the proceeding, including, but not limited to, the petitioner, the noncitizen child and the child's parents, the attorneys of the petitioner and the noncitizen child and the child's parents, the attorneys' authorized agents and the child's designee, may have access to the proceedings or records.

2-A. Motion for special findings for at-risk noncitizen children. In addition to or in lieu of filing a petition for relief under subsection 2, an at-risk noncitizen child may request the court for a special finding to be made in actions under Title 18-C, Title 19-A or

this Title or any other action before a juvenile court. When it is in the best interest of the child who is the subject of the proceedings, and upon review of a motion or other request, any supporting affidavits and other evidence presented, the court shall issue findings of fact and rulings of law that must determine whether the child who is the subject of the proceeding:

A. Is dependent on the court;

B. Has suffered from abuse, neglect, abandonment or similar circumstances;

C. May not be viably reunified with one or both parents due to abuse, neglect, abandonment or similar circumstances; and

D. May not be returned to the child's or the child's parent's country of nationality or country of last habitual residence because it is not in the best interest of the child.

3. Notice. If the identity or location of the child's parents is unknown or if the parents reside outside of the United States, the court may serve notice using any alternative method of service the court determines is appropriate or waive service when the child is described in 8 United States Code, Section 1101(a)(27)(J)(2019) and 8 United States Code, Section 1357(h)(2019).

4. Expeditious adjudication. A court shall hear, adjudicate and issue findings of fact and rulings of law on any petition ~~or~~, complaint, motion or other request for special findings under this section as soon as it is administratively feasible and prior to the child reaching 21 years of age to serve the best interest of the child.

~~**5. Availability of special findings.** Special findings are available under subsection 2 for the protection, well-being, care and custody of an at-risk noncitizen child for whom a remedy is not otherwise available or appropriate under Title 18-C, Title 19-A or this Title.~~

6. Referral for services or protection. A child who is the subject of a petition for special findings under subsection 2 may be referred for psychiatric, psychological, educational, occupational, medical, dental or social services or for protection against human trafficking or domestic violence. Participation in any referred services is voluntary.

~~**7. Additional available remedies; similar findings of fact and rulings of law.** Nothing in this This section prevents does not prevent a petitioner from filing a complaint court from ordering relief under Title 18-C, Title 19-A or this Title or ~~for~~ any other remedy available under the laws of this State to protect the at-risk noncitizen child from further abuse or other harm, or to provide support. ~~Nothing in this section prevents the court from issuing similar findings of fact and rulings of law to those in subsection 2 in any other proceeding concerning a noncitizen child.~~~~

8. Construction. This section must be liberally construed to promote the best interest of the child.

9. Reunification not viable. A finding under this section that reunification is not viable does not require termination of parental rights. Visitation or contact with a parent, including by court order, does not preclude the court from finding that reunification with that parent is not viable due to abuse, neglect, abandonment or similar circumstances.

10. Juvenile court. A court that issues a decision pursuant to this subchapter is acting as a juvenile court.

11. Health and safety. The health and safety of the child must be of paramount concern to a court issuing a decision pursuant to this subchapter. When considering the child's health and safety, the court shall consider whether present or past living conditions will adversely affect the child's physical, mental or emotional health.