

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-D** is enacted to read:

**9-D. Resource family.** "Resource family" means a person or persons who provide care to a child in the child welfare system and who is a foster parent, adoptive parent or a member of the child's extended birth family.

**Sec. 2. 22 MRSA §4036-B, sub-§3-A** is enacted to read:

**3-A. Notification to relatives.** Except as required by family or domestic violence safety precautions, the department shall exercise due diligence to identify and provide notice to all known grandparents and other adult relatives within 30 days after the removal of a child from the custody of a parent or custodian.

**Sec. 3. 22 MRSA §4037-A** is enacted to read:

**§ 4037-A. Extended care**

A person who is 18, 19 or 20 years of age and who attained the age of 18 years while in the care and custody of the State may continue to receive care and support if the person:

**1. School enrollment.** Is enrolled in secondary school or its equivalent or is enrolled in postsecondary or vocational school;

**2. Removal of barriers to employment.** Is participating in a program or activity that promotes employment or removes barriers to employment;

**3. Employment.** Is employed for at least 80 hours per month; or

**4. Special circumstances.** Is found to be in special circumstances, including but not limited to being incapable of qualifying under subsection 1, 2 or 3 due to a documented medical or behavioral health condition.

A person who qualifies for care and support under this section may be placed in a supervised setting in which the person lives independently, in a foster home or in a group residential setting. The District Court shall hold a judicial review in accordance with the procedures under section 4038, subsections 5 and 6 for each person who qualifies for care and support under this section at least once every 12 months.

**Sec. 4. 22 MRSA §4038, sub-§5,** as amended by PL 2003, c. 408, §6, is further amended to read:

**5. Hearing.** The court shall hear evidence and shall consider the original reason for the adjudication and disposition under sections 4035 and 4036, the events that have occurred since then ~~and~~, the efforts of the parties as set forth under section 4041 and the provision of extended care under section 4037-A. After hearing or by agreement, the court shall make written findings that determine:

- A. The safety of the child in the child's placement;
- B. The continuing necessity for and appropriateness of the child's placement;
- C. The effect of a change in custody on the child;
- D. The extent of the parties' compliance with the case plan and the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care;
- E. A likely date by which the child may be returned to and safely maintained in the home or placed for adoption or legal guardianship; and
- F. If the child is 16 years of age or older, whether or not the child is receiving instruction to aid the child in independent living.

**Sec. 5. 22 MRSA §4038-C, sub-§1**, as enacted by PL 2005, c. 372, §6, is amended to read:

**1. Criteria.** The District Court may appoint a person to be a permanency guardian only if the court finds that the prospective permanency guardian:

- A. Has the ability to provide a safe home for the child;
- B. Has a close emotional bond with the child and that the child has a close emotional bond with the prospective permanency guardian;
- C. Is willing and able to make an informed, long-term commitment to the child; ~~and~~
- D. Has the skills to care for the child ~~and to obtain needed information about and assistance with any special needs of the child; and~~
- E. Has submitted to having fingerprints taken for the purposes of a national criminal history record check.

**Sec. 6. 22 MRSA §4038-C, sub-§13** is enacted to read:

**13. Resource family license.** The department shall issue a resource family license in accordance with standards adopted by the department to a resource family that meets the requirements and standards for permanency guardianship of children in foster care under subsection 1 and for a license fee established by the department.

**Sec. 7. 22 MRSA §4038-D, sub-§2**, as enacted by PL 2005, c. 372, §6, is amended to read:

**2. Eligibility for guardianship subsidy payments.** Subject to rules adopted to implement this section, the department may provide subsidies for a ~~special-needs~~ child who is placed in a permanency guardianship or in a similar status by a Native American tribe, when reasonable but unsuccessful efforts have been made to place the child without guardianship subsidies and if the child would not be placed in a permanency guardianship without the assistance of the program.

**Sec. 8. 22 MRSA §4038-D, sub-§3,** as enacted by PL 2005, c. 372, §6, is repealed.

**Sec. 9. 22 MRSA §4038-D, sub-§4,** as enacted by PL 2005, c. 372, §6, is amended to read:

**4. Amount of guardianship subsidy.** The amount of a guardianship subsidy is determined according to this subsection.

A. The amount may vary depending upon the resources of the permanency guardian, the ~~special~~ needs of the child and the availability of other resources.

B. The amount may not exceed the total cost of caring for the child if the child were to remain in the care or custody of the department, without regard to the source of the funds.

C. ~~Except as provided in paragraph D, assistance may be provided only for special needs.~~

D. Subject to rules adopted by the department, ~~the amount may include up to \$400 for expenses up to \$2,000 per child may be reimbursed. This reimbursement is for legal expenses required to complete the permanency guardianship, including attorney's fees, incurred by the permanency guardian to complete the permanency guardianship in Indian tribal court cases and travel expenses.~~

**Sec. 10. 22 MRSA §4038-D, sub-§5,** as enacted by PL 2005, c. 372, §6, is amended to read:

**5. Duration of guardianship subsidy.** A guardianship subsidy may be provided for a period of time based on the ~~special~~ needs of a child. The subsidy may continue until the termination of the permanency guardianship or until the permanency guardian is no longer caring for the child, at which time the guardianship subsidy ceases. If the child has need of educational benefits or has a physical, mental or emotional handicap, the guardianship subsidy may continue until the child has attained 21 years of age if the child, the parents and the department agree that the need for care and support exists.

**Sec. 11. 22 MRSA §4038-D, sub-§8,** as enacted by PL 2005, c. 372, §6, is repealed.

**Sec. 12. 22 MRSA §4038-E** is enacted to read:

**§ 4038-E. Adoption from permanency guardianship**

The District Court in a judicial review of a permanency guardianship appointment may accept a petition for the adoption of the subject of the permanency guardianship appointment. The District Court's decision regarding adoption must be guided by the best interest of the child, and an adoption is subject to the agreement of all parties to the review. The District Court is granted jurisdiction over adoptions under this section.

**Sec. 13. 22 MRSA §4059** is enacted to read:

## **§ 4059. Reinstatement of parental rights**

The department may petition the District Court to reinstate the parental rights of a parent who has an order terminating parental rights in effect. The child must have been in the custody of the department for at least 12 months after the termination of parental rights. The petition must indicate evidence of a material change in circumstances since the termination of parental rights that can be reasonably expected to provide for safety for the child, the initial reasons for termination of parental rights and verification of the willingness and capacity of the parent and child to have parental rights reinstated. The department shall develop and attach to the petition a permanency plan that provides transition services to the family, which may include a trial home visit by the child to the family. The department may assess the trial home visit and may dismiss the petition if it is in the child's best interest without leave of the court. The court may hold a preliminary hearing and issue a temporary order in which the child may be conditionally placed with the parent for up to 3 months. The court shall hold a final hearing after the child has been placed with the parent for 3 months. At the final hearing, the court may issue an order of reinstatement of parental rights and terminate jurisdiction if the court finds that reinstatement is in the child's best interest, taking into account whether the parent has remedied conditions, the age and maturity of the child, the child's ability to express a preference and any likelihood of future risk to the child. Both the parent and child must consent to reinstatement. Reinstatement of parental rights may include both parents.

### **SUMMARY**

This bill makes the following changes to the Child and Family Services and Child Protection Act.

1. It requires that the Department of Health and Human Services, within 30 days of the removal of a child from the custody of the child's parents, exercise due diligence to identify and provide notice to all grandparents and other adult relatives of the child, except in cases of family or domestic violence. This legislation is required under the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351.

2. It provides services for youth who are in foster care at 18 years of age and are at risk of leaving care without a permanent family or sufficient life skills and supports to manage independence. This legislation is consistent with provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, Public Law 110-351 that allow states to draw federal funds to support older youth but require judicial oversight and support by a state agency.

3. It amends language in the statutes governing permanency guardianship. It removes the requirement that a child must be identified as a special needs child to receive a guardianship subsidy. It amends the law to allow permanency guardians the option of receiving nonrecurring reimbursement for expenses associated with becoming permanency guardians. It removes language that allows the guardianship subsidy to be transferred to a new permanency guardian upon death or disability of the original permanency guardian. It provides that a permanency guardian is subject to a fingerprint-based background check.

4. It establishes a new category of licensure in child welfare services, the resource family license. This license is for a person or persons who are foster parents, adoptive parents or members of a child's extended birth family who provide care to a child.

5 It provides for the adoption of a child who was previously in foster care and is the subject of a permanency guardianship order when the permanency guardian and the child determine adoption is in the best interest of the child.

6. It allows for the reinstatement of parental rights for a parent after a period of 12 months after a termination of parental rights upon a finding that there has been a material change in circumstances that indicate the parent is now able to provide a safe home and is willing to care for the child. The bill allows the court to hold a hearing to determine reinstatement in accordance with the best interest of the child, whether the parent has remedied conditions and the child's wishes. The bill provides that only the department may petition to reinstate parental rights.