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Legislative Document

No. 1842

S.P. 725

In Senate, April 30, 2025

An Act to Establish Stepparent Visitation Rights

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in dark ink, appearing to read "D M Grant", is positioned above the printed name of the Secretary of the Senate.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator ROTUNDO of Androscoggin.
Cosponsored by Representative CLOUTIER of Lewiston and
Representative: MCCABE of Lewiston.

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

Sec. 1. 19-A MRSA c. 59, headnote is amended to read:

CHAPTER 59

VISITATION RIGHTS OF GRANDPARENTS AND GREAT-GRANDPARENTS AND STEPPARENTS

Sec. 2. 19-A MRSA §1801, first ¶, as amended by PL 2019, c. 197, §1, is further amended to read:

This chapter is known and may be cited as the "Grandparents and Great-grandparents and Stepparents Visitation Act."

Sec. 3. 19-A MRSA §1802, sub-§1-A is enacted to read:

1-A. Stepparent. "Stepparent" means a person who is married to a parent of a child but who is not the child's biological or adoptive parent.

Sec. 4. 19-A MRSA §1802, sub-§2, as enacted by PL 2017, c. 328, §1, is amended to read:

2. Sufficient existing relationship. "Sufficient existing relationship" means a relationship involving extraordinary contact between a grandparent or stepparent and a child, including but not limited to circumstances in which the grandparent or stepparent has been a primary caregiver and ~~eustodian~~ legal guardian of the child for a significant period of time.

Sec. 5. 19-A MRSA §1804, first ¶, as amended by PL 2017, c. 328, §5, is further amended to read:

The court may refer the parties to mediation at any time after a court determination pursuant to section 1803, subsection 2, paragraph C that the grandparent or stepparent has standing and may require that the parties have made a good faith effort to mediate the issue before holding a hearing. If the court finds that either party failed to make a good faith effort to mediate, the court may order the parties to submit to mediation, dismiss the action or any part of the action, render a decision or judgment by default, assess attorney's fees and costs or impose any other sanction that is appropriate in the circumstances. The court may also impose an appropriate sanction upon a party's failure without good cause to appear for mediation after receiving notice of the scheduled time for mediation.

Sec. 6. 19-A MRSA §1806, first ¶, as corrected by RR 2021, c. 2, Pt. A, §39, is amended to read:

This chapter does not limit a grandparent's or stepparent's ability to file any action not governed by the provisions of this chapter with respect to a child, including but not limited to an action to establish de facto parentage of a child under section 1891, an action for guardianship of a child under Title 18-C, Article 5 and a child protection petition under Title 22, section 4032, subsection 1, paragraph C.

Sec. 7. 19-A MRS §1807 is enacted to read:

1 **§1807. Petition to assert stepparent visitation rights**

2 **1. Standing to seek stepparent visitation rights.** A stepparent of a child has standing
3 to initiate and maintain an action for reasonable rights of visitation or action if:

4 A. The parent of the child to whom the stepparent was married is deceased;

5 B. The child's parent and the stepparent are divorced or are in the process of seeking a
6 divorce;

7 C. The whereabouts of the child's parent to whom the stepparent is married are
8 unknown;

9 D. The court of another state has ordered the visitation between the child and the
10 stepparent;

11 E. The child and stepparent maintained a sufficient relationship for a substantial period
12 of time preceding severance or severe reduction of contact and the contact was severed
13 or severely reduced by the child's parent or legal guardian for reasons other than abuse
14 or presence of danger of substantial mental, emotional or physical harm to the child,
15 and severance or severe reduction of this contact is likely to cause substantial mental,
16 emotional or physical harm to the child; or

17 F. There has been an unreasonable denial of visitation by the child's parent or legal
18 guardian and the denial has caused the child severe mental, emotional or physical harm.

19 **2. Procedures.** The following procedures apply to petitions for rights of visitation or
20 access under subsection 1.

21 A. A stepparent seeking rights of visitation or access shall file with the initial pleadings
22 an affidavit alleging under oath sufficient facts to support the stepparent's standing
23 under subsection 1. The pleadings and affidavit must be served upon all parents and
24 legal guardians of the child.

25 B. A parent or legal guardian of the child who files a pleading in response to the
26 pleadings in paragraph A shall also file an affidavit in response, serving all parties to
27 the proceeding with a copy.

28 C. The court shall determine on the basis of the pleadings and affidavits under
29 paragraphs A and B whether the stepparent has presented prima facie evidence of
30 standing under subsection 1. The court may in its sole discretion, if necessary and on
31 an expedited basis, hold a hearing to determine disputed facts that are necessary and
32 material to the issue of standing.

33 D. If the court's determination under paragraph C is in the affirmative, the court may
34 appoint a guardian ad litem as provided in section 1507. The court shall hold a hearing
35 on the stepparent's petition for reasonable rights of visitation or access and shall
36 consider any objections the parents or legal guardians may have concerning the award
37 of rights of visitation or access to the stepparent. If the court has appointed a guardian
38 ad litem, the court shall also consider the report of the guardian ad litem. The standard
39 for the award of reasonable rights of visitation or access is provided in subsection 3.

40 E. In considering a petition or motion for stepparent visitation, the court shall first
41 determine the presence of a danger of substantial mental, emotional or physical harm
42 to the child if the requested visitation is not permitted by the court.

1 (1) A finding of substantial harm may be based upon cessation or severe reduction
2 of the contact between a child and the stepparent only if the court determines by a
3 preponderance of the evidence that the child had a sufficient existing relationship
4 with the stepparent and that loss of or severe reduction in contact is likely to cause
5 substantial mental, emotional or physical harm to the child or presents the danger
6 of other direct and substantial harm to the child.

7 (2) A stepparent is not required to present the testimony of an expert witness to
8 establish a sufficient existing relationship with a child or that the loss or severe
9 reduction of the contact is likely to cause substantial mental, emotional or physical
10 harm to the child.

11 (3) There is a rebuttable presumption that a parent's or legal guardian's actions and
12 decisions regarding the petitioner's requested visitation are not harmful to the
13 child's mental, emotional or physical health. The burden is on the stepparent to
14 prove that a parent's or legal guardian's actions and decisions regarding visitation
15 will cause substantial harm to the child's mental, emotional or physical health.

16 (4) Upon an initial finding of the presence of a danger of substantial mental,
17 emotional, or physical harm to the child, the court shall then determine whether the
18 stepparent's visitation would be in the best interest of the child based on the factors
19 in subsection 3. Upon a determination that visitation would be in the best interest
20 of the child, reasonable visitation may be ordered.

21 **3. Best interest of child.** The court may grant a stepparent reasonable rights of
22 visitation or access to a child upon finding that the stepparent has standing under subsection
23 1 and that granting the stepparent reasonable rights of visitation or access is in the best
24 interest of the child and would not significantly interfere with the parent's or legal
25 guardian's rightful authority over the child. In making a determination under this
26 subsection, the court shall consider the following factors:

27 A. The age of the child;

28 B. The length and quality of the prior relationship between the child and the stepparent
29 and the role performed by the stepparent;

30 C. The duration and adequacy of the child's current living arrangements and the
31 desirability of maintaining continuity;

32 D. The stability of any proposed living arrangements for the child;

33 E. The good faith of the stepparent in filing the petition or motion and the motivation
34 of the parties involved and their capacities to give the child love, affection and
35 guidance;

36 F. The child's adjustment to the child's present home, school and community;

37 G. The capacity of a parent or legal guardian and stepparent to cooperate, or to learn
38 to cooperate, in child care;

39 H. Methods of assisting cooperation and resolving disputes and each of the parties'
40 willingness to use those methods;

41 I. The existing emotional ties of the child to the stepparent;

1 J. The preference of the child if the child is determined to be of sufficient maturity to
2 express a preference;

3 K. The effect of hostility between the stepparent and the parent or legal guardian of
4 the child manifested before the child, and the willingness of the stepparent, except in a
5 case of abuse, to encourage a close relationship between the child and the parent or
6 legal guardian of the child;

7 L. If one parent or legal guardian is deceased or missing, that the stepparent requesting
8 visitation is or was the spouse of the deceased or missing parent or legal guardian;

9 M. Any unreasonable deprivation of the stepparent's opportunity to visit with the child
10 by the child's parent or legal guardian;

11 N. Whether the stepparent is seeking to maintain a sufficient existing relationship with
12 the child;

13 O. Whether awarding the stepparent visitation would interfere with the parent-child
14 relationship or the legal guardian-child relationship;

15 P. The child's interactions and relationships with siblings, half-siblings, other relatives
16 and step-relatives;

17 Q. Any court finding that the child's parent or legal guardian is unfit;

18 R. Any other factors the court determines relevant; and

19 S. The existence of the stepparent's conviction for a sex offense under Title 34-A,
20 section 11203, subsection 6 or a sexually violent offense as defined in Title 34-A,
21 section 11203, subsection 7.

22 **4. Modification or termination.** The court may modify or terminate any rights
23 granted under this section as circumstances require. Modification or termination of rights
24 must be consistent with this section.

25 **5. Enforcement.** The court may issue any orders necessary to enforce orders issued
26 under this section or to protect the rights of parties.

27 **6. Supervision required; convictions for sexual offenses.** Notwithstanding any
28 provision of this chapter to the contrary, the court may award a stepparent who is convicted
29 of a child-related sexual offense visitation with a child only if the court finds that contact
30 between the stepparent and the child is in the best interest of the child and that adequate
31 provision for the safety of the child can be made. For purposes of this subsection, "child-
32 related sexual offense" has the same meaning as in section 1653, subsection 6-A, paragraph
33 A.

34 The court may require that visitation may occur only if there is another person or agency
35 present to supervise visitation. If the court allows a family or household member to
36 supervise stepparent-child contact, the court shall establish conditions to be followed
37 during that contact. Conditions include, but are not limited to, those that:

38 A. Minimize circumstances when the family of the stepparent who committed a sex
39 offense or sexually violent offense as defined in Title 34-A, section 11203, subsection
40 7 would be supervising visits;

41 B. Ensure the safety and well-being of the child; and

1 C. Require that supervision be provided by a person who is physically and mentally
2 capable of supervising a visit and who does not have a criminal history record as
3 defined by Title 25, section 1703, subsection 5 or history of inflicting abuse or neglect
4 on another person.

5 **7. Conviction or adjudication for certain sex offenses; presumption.** There is a
6 rebuttable presumption that the stepparent would create a situation of jeopardy for the child
7 if any contact were to be permitted and that contact is not in the best interest of the child if
8 the court finds that the stepparent:

9 A. Has been convicted of an offense listed in section 1653, subsection 6-A, paragraph
10 A in which the victim was a minor at the time of the offense and the stepparent was at
11 least 5 years older than the minor at the time of the offense except that, if the offense
12 was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or
13 C, or an offense in another jurisdiction that involves conduct that is substantially
14 similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C,
15 and the minor victim submitted as a result of compulsion, the presumption applies
16 regardless of the ages of the stepparent and the minor victim at the time of the offense;
17 or

18 B. Has been adjudicated in an action under Title 22, chapter 1071 of sexually abusing
19 a person who was a minor at the time of the abuse.

20 The stepparent seeking contact with the child may present evidence to rebut the
21 presumption.

22 SUMMARY

23 This bill allows a stepparent to petition a court for visitation and access rights to a
24 stepchild of the stepparent if the visitation and access is in the best interest of the child and
25 would not significantly interfere with the parent's or legal guardian's rightful authority over
26 the child.