

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 911 - L.D. 1342

An Act To Prohibit Unauthorized Custody Transfers of Children

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

Sec. 1. 17-A MRSA §553, sub-§1, as amended by PL 2001, c. 383, §68 and affected by §156, is further amended to read:

1. A person is guilty of abandonment of a child if, being a parent, guardian or other person legally charged with the long-term care and custody of a child ~~under 14 years of age~~, or being a person to whom the long-term care and custody of a child ~~under 14 years of age~~ has been expressly delegated:

A. The person leaves the child who is less than 14 years of age in a place with the intent to abandon the child. Violation of this paragraph is a Class D crime; ~~or~~

B. The person leaves the child who is less than 6 years of age in a place with the intent to abandon the child. Violation of this paragraph is a Class C crime; ~~;~~

C. The person, with the intent to avoid or divest the person of permanent parental responsibility, places the child who is less than 18 years of age with or transfers the physical custody of the child to a nonrelative without court approval. Violation of this paragraph is a Class D crime; or

D. The person, with the intent to avoid or divest the person of permanent parental responsibility, places the child who is less than 6 years of age with or transfers the physical custody of the child to a nonrelative without court approval. Violation of this paragraph is a Class C crime.

Sec. 2. 17-A MRSA §553, sub-§5 is enacted to read:

5. It is an affirmative defense to a prosecution under subsection 1, paragraph C or D that the person, due to the incarceration, military service, medical treatment or incapacity of the person, temporarily placed the child or transferred the physical custody of the child for a designated short-term period with a specific intent and time period for the return of the child.

Sec. 3. 18-A MRSA §9-303, sub-§(a), as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is amended to read:

- (a). A petition for adoption must be sworn to by the petitioner and must include:
- (1). The full name, age and place of residence of the petitioner and, if married, the place and date of marriage;
 - (2). The date and place of birth of the adoptee, if known;
 - (3). The birth name of the adoptee, any other names by which the adoptee has been known and the adoptee's proposed new name, if any;
 - (4). The residence of the adoptee at the time of the filing of the petition;
 - (5). The petitioner's intention to establish a parent and child relationship between the petitioner and the adoptee and a statement that the petitioner is a fit and proper person able to care and provide for the adoptee's welfare;
 - (6). The names and addresses of all persons or agencies known to the petitioner that affect the custody, visitation or access to the adoptee;
 - (7). The relationship, if any, of the petitioner to the adoptee;
 - (8). The names and addresses of the department and the licensed child-placing agency, if any; ~~and~~
 - (9). The names and addresses of all persons known to the petitioner at the time of filing from whom consent to the adoption is required; and
 - (10). A statement that the petitioner acknowledges that after the adoption is finalized, the transfer of the long-term care and custody of the child without a court order is prohibited under Title 17-A, section 553, subsection 1, paragraphs C and D.

Sec. 4. 18-A MRSA §9-304, sub-§(h) is enacted to read:

(h). Before the adoption is decreed, the court shall ensure that the petitioners are informed that the transfer of the long-term care and custody of the child without a court order is prohibited under Title 17-A, section 553, subsection 1, paragraphs C and D.

Sec. 5. 18-A MRSA §9-308, sub-§(a), as amended by PL 2013, c. 137, §1, is further amended to read:

- (a). The court shall grant a final decree of adoption if the petitioner who filed the petition has been heard or has waived hearing and the court is satisfied from the hearing or record that:
- (1). All necessary consents, relinquishments or terminations of parental rights have been duly executed and filed with the court;
 - (2). An adoption study, when required by section 9-304, has been filed with the court;
 - (3). A list of all disbursements as required by section 9-306 has been filed with the court;

(4). The petitioner is a suitable adopting parent and desires to establish a parent and child relationship with the adoptee;

(5). The best interests of the adoptee are served by the adoption; ~~and~~

(5-A). The petitioner has acknowledged that the petitioner understands that the transfer of the long-term care and custody of the child without a court order is prohibited under Title 17-A, section 553, subsection 1, paragraphs C and D; and

(6). All other requirements of this article have been met.

Sec. 6. 18-A MRSA §9-313, as enacted by PL 1995, c. 694, Pt. C, §7 and affected by Pt. E, §2, is repealed and the following enacted in its place:

§9-313. Advertisement

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Advertise" means to communicate by any public medium that originates within this State, including by newspaper, periodical, telephone book listing, outdoor advertising sign, radio or television or by any computerized communication system, including by e-mail, website, Internet account or any similar medium of communication provided via the Internet.

B. "Internet account" means an account created within a bounded system established by an Internet-based service that requires a user to input or store access information in an electronic device in order to view, create, use or edit the user's account information, profile, display, communications or stored data.

2. Advertising prohibited. A person may not:

A. Advertise for the purpose of finding a child to adopt or to otherwise take into permanent physical custody;

B. Advertise that the person will find an adoptive home or any other permanent physical placement for a child or arrange for or assist in the adoption, adoptive placement or any other permanent physical placement of a child;

C. Advertise that the person will place a child for adoption or in any other permanent physical placement; or

D. Advertise for the purpose of finding a person to adopt or otherwise take into permanent custody a particular child.

3. Exceptions. This section does not prohibit:

A. The department or a child placing agency from advertising in accordance with rules adopted by the department; or

B. An attorney licensed to practice in this State from advertising the attorney's availability to practice or provide services relating to the adoption of children.

4. Violation. A person who violates subsection 2 commits a civil violation for which a fine of not more than \$5,000 may be adjudged.

Sec. 7. 22 MRSA §4011-A, sub-§8 is enacted to read:

8. Required report of residence with nonfamily. A person required to make a report under subsection 1 shall report to the department if the person knows or has reasonable cause to suspect that a child is not living with the child's family. Although a report may be made at any time, a report must be made immediately if there is reason to suspect that a child has been living with someone other than the child's family for more than 6 months or if there is reason to suspect that a child has been living with someone other than the child's family for more than 12 months pursuant to a power of attorney or other nonjudicial authorization.