

MAINE FAMILY LAW ADVISORY COMMISSION

Report to Maine Legislature Joint Standing Committee on Judiciary On LD 492

“Resolution, Proposing an Amendment to the Constitution of Maine to Provide for Parental Rights”

Introduction

The Maine Family Law Advisory Commission hereby reports to the Maine Legislature, Joint Standing Committee on Judiciary on LD 492, “Resolution, Proposing an Amendment to the Constitution of Maine to Provide for Parental Rights.” This resolution proposes to amend the Constitution of Maine to provide that the natural, inherent and unalienable rights of minor children are held by their parents or guardians until the age of majority or a grant of emancipation and that this State, its political subdivisions and all governmental entities may not infringe on the authority of parents to direct the upbringing, education and care for the physical, mental and spiritual health of their children, absent abuse or neglect by the parent or guardian or criminal acts by the minor.

Pursuant to 19-A MRS § 354(2) and in furtherance of its statutory mandate to examine, evaluate, and recommend to the Legislature changes in family law that it considers advisable, FLAC has reviewed and considered the proposed legislation. For the reasons set out below, FLAC’s position on LD 492 is as follows:

Discussion

To its credit, Maine already has constitutional rights far greater for parents than any other state. Maine’s Law Court also has a long series of decisions that protect and show great deference to the fundamental right of a parent to parent their children. The consequence of passing this amendment is that it may result in litigation revisiting many laws previously passed by the legislature, including, but not limited to, laws passed to protect substance abuse and mental health records of minors under Titles 22 and 32.

In summary, this amendment may potentially result in significant high stakes and costly litigation that may undo years of pre-existing protections given to many groups, namely minors.

Conclusion

For all these reasons, FLAC does not support LD 492.

Dated: March 3, 2025

Respectfully submitted:

Maine Family Law Advisory Commission
Hon. John Wm. Martin, District Court Judge (Chair)
Hon. Stephen Nelson, Superior Court Justice

Hon. Steven Chandler, Family Law Magistrate
Hon. Scott Houde, Probate Court Judge
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