

131st MAINE LEGISLATURE

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Legislative Document

No. 1414

H.P. 910

House of Representatives, March 30, 2023

An Act to Ensure Involvement of Adopted Youth in the Determination of Continuing Financial Support Under the Adoption Assistance Program

Reference to the Committee on Judiciary suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative PERRY of Calais. Cosponsored by Senator BALDACCI of Penobscot and Representatives: BRENNAN of Portland, GATTINE of Westbrook, MADIGAN of Waterville, RECKITT of South Portland, Senator: MOORE of Washington.

1	Be it enacted by the People of the State of Maine as follows:
2 3	Sec. 1. 18-C MRSA §9-204, sub-§4, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:
4 5 6 7	4. Guardian ad litem for child. The court may <u>shall</u> appoint a guardian ad litem for a child who is the subject of a petition for termination of parental rights under subsection 1. The appointment must be made as soon as possible after the petition for termination of parental rights is initiated.
8	A. The court shall pay reasonable costs and expenses for the guardian ad litem.
9 10 11 12	B. In general, the guardian ad litem shall act in pursuit of the best interest of the child. The guardian ad litem must be given access to all reports and records relevant to the case and investigate to ascertain the facts. The investigation must include, when possible and appropriate:
13 14	(1) Reviewing records of psychiatric, psychological or physical examinations of the child, parents or other persons having or seeking care or custody of the child;
15	(2) Review of relevant school records and other pertinent materials;
16	(3) Interviewing the child with or without other persons present; and
17 18	(4) Interviews with parents, guardians, teachers and other persons who have been involved in caring for or treating the child.
19 20	The guardian ad litem may subpoena, examine and cross-examine witnesses and shall make recommendations to the court.
21	Sec. 2. 18-C MRSA §9-204, sub-§5 is enacted to read:
22 23	5. Adoptee upon termination or annulment. Upon termination of parental rights under this section or annulment of the adoption decree under section 9-315:
24 25	A. The court shall inform the adoptee of applicable laws and rules and the duration, source and amounts of adoption assistance under section 9-402;
26 27	B. For an adoptee who is a minor, custody and control of the adoptee revert to the department under section 9-203;
28 29 30	C. To the extent allowed by federal law, the adoptee is eligible for assistance under United States Social Security Act, Title IV if the adoptee is adopted by another parent or is placed with a guardian; and
31 32 33	D. For an adoptee who is a minor and has not been adopted subsequent to termination of parental rights, within 60 months of the termination the court shall determine a permanency plan for the adoptee pursuant to Title 22, section 4038-B.
34 35 36	Sec. 3. 18-C MRSA §9-315, sub-§1, ¶A, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended by enacting at the end a new last blocked paragraph to read:
37	If the court annuls the decree, the provisions of section 9-204, subsection 5 apply.
38 39	Sec. 4. 18-C MRSA §9-401, sub-§7, as amended by PL 2021, c. 348, §22, is further amended to read:

1 2 3 4 5 6 7 8 9 10	7. Duration of assistance. The duration of assistance under the program may continue until the cessation of legal parental responsibility or until the parents are no longer supporting the child, at which time the adoption assistance ceases. However, if the child has need of educational benefits or has a physical, mental or emotional disability, adoption assistance may continue until the adoptee has attained 21 years of age if the adoptee, the parents and the department agree that the need for care and support exists. The department shall ensure that an adoptee 16 years of age or older: A. Meets and is represented by a guardian ad litem who is present in all proceedings regarding the assistance, including the redetermination of assistance under section 9-403, subsection 2;
11 12 13	B. Is physically present or represented by a guardian ad litem during the discussion and determination processes to continue or not continue adoption assistance under this subsection;
14 15	C. Understands the determination to continue or not continue adoption assistance under this subsection;
16 17 18	D. Is fully informed of the adoptee's rights in making the determination to continue or not continue adoption assistance under this subsection and other rights that may be affected by the determination;
19 20 21	E. If the determination is made to continue adoption assistance under this subsection, including any specific terms or conditions of the continued assistance, provides written consent to the determination; and
22 23	<u>F.</u> Is fully informed of the responsibility of the recipient of the assistance to declare the assistance as income.
24 25	Sec. 5. 18-C MRSA §9-403, sub-§2, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:
26 27 28 29 30 31	2. Annual determination. If assistance under the program continues for more than one year, the need for assistance must be annually redetermined. Adoption assistance continues regardless of the state in which the adoptive parents <u>or legal guardian and child</u> reside, or the state to which the adoptive parents <u>or legal guardian and child</u> move, as long as the adoptive parents <u>or legal guardian and child</u> continue to be eligible based on the annual redetermination of need.
32 33	Sec. 6. 18-C MRSA §9-403, sub-§3, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is amended to read:
34 35 36 37 38 39 40	3. Transfer to legal guardian; new agreement. Upon the death of all adoptive parents <u>or termination of the parental rights under section 9-204 or the adoptive parents'</u> <u>guardianship</u> , adoption assistance under the program may <u>must</u> be transferred to the legal guardian <u>or guardian ad litem</u> as long as the child continues to be eligible for adoption assistance pursuant to the terms of the most recent adoption assistance agreement with the adoptive parents. The department shall enter into a new assistance agreement with the legal guardian <u>or, if guardianship is not being sought, the guardian ad litem</u> .
41	SUMMARY
42	This bill amends the laws regarding adopted minors, including:

- 1 1. Upon a petition of termination of parental rights by adoptive parents or annulment 2 of an adoption decree, requiring a guardian ad litem to be appointed for the adoptee and for 3 the adoptee to be informed about adoption assistance; to be placed into the care of the State; 4 to the extent allowed by federal law continue to receive federal adoption assistance after 5 being subsequently adopted or placed with a guardian; and to receive a permanency plan 6 within 60 months of the termination of parental rights or annulment of the decree;
- 2. Requiring the Department of Health and Human Services to ensure that an adoptee
 16 years of age or older who meets the definition of a special needs child is physically
 present or is represented by a guardian ad litem for any discussion or determination of
 whether to continue adoption assistance, understands the determination and the adoptee's
 rights in making the determination and provides written consent to a determination to
 continue the assistance;
- Allowing the participation of a legal guardian in the annual redetermination of
 adoption assistance and requiring transfer of adoption assistance to the legal guardian or
 guardian ad litem upon the death or termination of parental rights of the adoptive parents;
 and
- 4. Requiring adoption assistance to continue regardless of the state the child and legal
 guardian may reside in or move to as long as the legal guardian and child remain eligible
 under redetermination.