

§4005-H. Relatives; visitation or access; placement by court

1. Grandparent visitation or access. A grandparent who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request the court to grant reasonable rights of visitation or access. When a child is placed in a prospective adoptive home and the prospective adoptive parents have signed an adoptive placement agreement, a grandparent's rights of visitation or access that were granted pursuant to this chapter are suspended unless a court determines that it is in the best interest of the child to continue the grandparent's rights of visitation or access. A grandparent's rights of visitation or access terminate when the adoption is finalized pursuant to Title 18-A, section 9-308. Nothing in this section prohibits prospective adoptive parents from independently facilitating or permitting contact between a child and a grandparent, especially when a court has previously ordered rights of visitation or access.

For the purposes of this subsection, "grandparent" includes a parent of a child's parent whose parental rights have been terminated, but only until the child is adopted.

[PL 2017, c. 411, §11 (NEW).]

2. Placement by court. A relative may request that the court order that the department place a child with that relative in accordance with this subsection.

A. A relative who is designated as an interested person or a participant under section 4005-D or who has been granted intervenor status under the Maine Rules of Civil Procedure, Rule 24 may request either orally or in writing that the court order that the child be placed with that relative. A relative who has not been designated as an interested person, a participant or an intervenor may request in writing that the child be placed with that relative. [PL 2017, c. 411, §11 (NEW).]

B. If one or more relatives request placement under paragraph A, the court may by order refer the relatives to mediation with the foster parents, if the child has been placed with foster parents, and the guardian ad litem. The court may order the department to attend the mediation. The order must designate the mediator and specify responsibility for the costs of mediation. An agreement reached by the parties through mediation involving placement or visitation must be reduced to writing, signed by all parties and presented to the court. The court shall consider but is not bound by an agreement under this paragraph. [PL 2017, c. 411, §11 (NEW).]

C. In making a decision on a request under paragraph A, the court shall, consistent with section 4003, place the child with a relative who made a request if that placement is in the best interest of the child. [PL 2017, c. 411, §11 (NEW).]

D. If a court order placing a child with a relative under paragraph C is made part of a permanency planning order entered pursuant to section 4038-B, subsection 3, placement with that relative is the preferred placement in all future proceedings on the child protection petition with respect to the child unless evidence is presented that remaining in that placement will negatively affect the child's emotional or physical health, safety, stability or well-being. [PL 2017, c. 411, §11 (NEW).]

[PL 2017, c. 411, §11 (NEW).]

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

A. Has been convicted of an offense listed in Title 19-A, section 1653, subsection 6-A, paragraph A in which the victim was a minor at the time of the offense and the relative was at least 5 years older than the minor at the time of the offense except that, if the offense was gross sexual assault under Title 17-A, section 253, subsection 1, paragraph B or C, or an offense in another jurisdiction that involves conduct that is substantially similar to that contained in Title 17-A, section 253, subsection 1, paragraph B or C, and the minor victim submitted as a result of compulsion, the

presumption applies regardless of the ages of the relative and the minor victim at the time of the offense; or [PL 2017, c. 411, §11 (NEW).]

B. Has been adjudicated in an action under this chapter of sexually abusing a person who was a minor at the time of the abuse. [PL 2017, c. 411, §11 (NEW).]

The relative seeking visitation with or access to the child may produce evidence to rebut the presumption.

[PL 2017, c. 411, §11 (NEW).]

SECTION HISTORY

PL 2017, c. 411, §11 (NEW).

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