



# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

---

Legislative Document

No. 136

---

H.P. 82

House of Representatives, January 10, 2023

**An Act to Clarify Court Jurisdiction of Actions Involving Children  
Brought Under the Maine Uniform Probate Code**

---

Reported by Representative MOONEN of Portland for the Family Law Advisory Commission pursuant to the Maine Revised Statutes, Title 19-A, section 354, subsection 2.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

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

2 **Sec. 1. 4 MRSA §152, sub-§5-A**, as amended by PL 2017, c. 402, Pt. C, §3 and  
3 affected by PL 2019, c. 417, Pt. B, §14, is further amended to read:

4 **5-A. Actions involving minors under Title 18-C.** ~~Exclusive~~ Except as provided in  
5 paragraph C, exclusive, continuing jurisdiction of actions for guardianship, adoption,  
6 change of name or other matters involving custody or other parental rights with respect to  
7 a minor child brought under Title 18-C under the following circumstances: if proceedings  
8 under the Maine Juvenile Code brought against the minor child are pending in the District  
9 Court; if proceedings involving custody or other parental rights with respect to a the minor  
10 child, including but not limited to adoption, divorce, parental rights and responsibilities,  
11 grandparents' rights, protective custody, change of name, guardianship, paternity, or  
12 termination of parental rights and protection from abuse or harassment, are pending in the  
13 District Court; or if the minor child is or was the subject of an order issued by the District  
14 Court terminating parental rights, appointing a guardian, including a permanency,  
15 emergency or interim guardian, awarding parental rights to a 3rd party or granting an  
16 adoption. This subsection does not apply if the only proceedings pending in the District  
17 Court involving custody or other parental rights with respect to the minor child are  
18 protection from abuse or protection from harassment proceedings unless one of the other  
19 grounds for exclusive, continuing jurisdiction are met under this subsection. For purposes  
20 of this subsection, a proceeding is pending if a complaint, petition or post-judgment motion  
21 has been filed and the final judgment or final order on that complaint, petition or post-  
22 judgment motion has not yet been issued.

23 A. The District Court presiding over any matter involving custody or other parental  
24 rights with respect to a minor child shall require all parties to disclose whether they  
25 have knowledge of:

26 (1) Any interim or final order then in effect concerning custody or other parental  
27 rights with respect to the minor child;

28 (2) Any proceeding under the Maine Juvenile Code brought against the minor  
29 child pending in the District Court or any proceeding involving custody or other  
30 parental rights with respect to the minor child ~~currently filed or~~ pending before any  
31 court of this State or another state, including before a probate court in this State; or

32 (3) Any other related action ~~currently filed or~~ pending before any court of this  
33 State or another state, including before a probate court in this State.

34 B. ~~If~~ Except as provided in paragraph C, if the District Court presiding over any matter  
35 under the Maine Juvenile Code brought against a minor child and any matter involving  
36 custody or other parental rights with respect to a minor child becomes aware that a  
37 proceeding for guardianship, adoption or change of name or another matter involving  
38 custody or other parental rights with respect to the minor child under Title 18-C is  
39 pending in a probate court in this State, the District Court shall notify the Probate Court  
40 and take appropriate action to facilitate a transfer of the matter from the Probate Court;  
41 If a matter is transferred to the District Court under this paragraph, the District Court  
42 has continuing, exclusive jurisdiction over the matter and over any future proceedings  
43 for guardianship, adoption or change of name or other matter involving custody or  
44 other parental rights with respect to the minor child brought under Title 18-C, except

1 to the extent that the District Court's jurisdiction is precluded by the Uniform Child  
2 Custody Jurisdiction and Enforcement Act.

3 C. Notwithstanding any provision of law to the contrary, a probate court shall retain  
4 jurisdiction over an action for guardianship, adoption, change of name or other matter  
5 involving custody or other parental rights with respect to a minor child brought under  
6 Title 18-C that would otherwise be within the exclusive, continuing jurisdiction of the  
7 District Court under this subsection and may not transfer that matter to the District  
8 Court under paragraph B if:

9 (1) At the time the proceeding under the Maine Juvenile Code or the proceeding  
10 involving custody or other parental rights with respect to the minor child that would  
11 otherwise trigger the District Court's continuing, exclusive jurisdiction is initiated,  
12 the testimonial hearing on the Title 18-C matter has concluded and the Probate  
13 Court has that matter under advisement; and

14 (2) The Probate Court has not determined that the District Court is the more  
15 appropriate forum for the Title 18-C proceeding;

16 **Sec. 2. 4 MRSA §251-A**, as enacted by PL 2015, c. 460, §4, is amended to read:

17 **§251-A. Other proceedings involving parental rights; transfer to District Court**

18 **1. Disclosure of orders and proceedings.** The judge of probate presiding over any  
19 matter involving guardianship, adoption or change of name or another matter involving  
20 custody or other parental rights with respect to a minor child shall require all parties to  
21 disclose whether they have knowledge of:

22 A. Any interim or final order then in effect concerning custody or other parental rights  
23 with respect to the minor child, including any order of the District Court terminating  
24 parental rights; appointing a guardian, including a permanency, emergency or interim  
25 guardian; awarding parental rights to a 3rd party; or granting an adoption;

26 B. Any proceeding under the Maine Juvenile Code brought against the minor child  
27 pending in District Court or any proceeding involving custody or other parental rights  
28 with respect to the minor child ~~currently filed~~ or pending before any court of this State  
29 or another state, including the District Court; or

30 C. Any other related action ~~currently filed~~ or pending before any court of this State or  
31 another state, including the District Court.

32 **2. Transfer to District Court.** If Except as provided in subsection 3, if in a matter  
33 before the Probate Court concerning a minor child a judge of probate becomes aware that  
34 a proceeding involving custody or other parental rights with respect to the minor child is  
35 pending in the District Court or that the minor child is or was the subject of a District Court  
36 order terminating parental rights, appointing a guardian, including a permanency,  
37 emergency or interim guardian, awarding parental rights to a 3rd party or granting an  
38 adoption, the judge shall notify the District Court and take appropriate action to facilitate a  
39 transfer of the matter to the District Court. If a matter is transferred to the District Court  
40 under this subsection, the District Court has continuing, exclusive jurisdiction over the  
41 matter and over any future proceedings for guardianship, adoption or change of name or  
42 other matter involving custody or other parental rights with respect to the minor child  
43 brought under Title 18-C, except to the extent that the District Court's jurisdiction is  
44 precluded by the Uniform Child Custody Jurisdiction and Enforcement Act.

