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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 911, L.D. 1342, Bill, “An Act To Prohibit Unauthorized Custody Transfers of Children”

Amend the bill by striking out all of section 1 and inserting the following:

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.'

COMMITTEE AMENDMENT

1 Amend the bill in section 2 in subsection (a) in paragraph (10) in the last line (page 2,
2 line 3 in L.D.) by striking out the following: "533-A" and inserting the following: '553,
3 subsection 1, paragraphs C and D'

4 Amend the bill in section 3 in subsection (h) in the last line (page 2, line 7 in L.D.) by
5 striking out the following: "533-A" and inserting the following: '553, subsection 1,
6 paragraphs C and D'

7 Amend the bill in section 4 in subsection (a) in paragraph (5-A) in the last line (page
8 2, line 24 in L.D.) by striking out the following: "533-A" and inserting the following:
9 '553, subsection 1, paragraphs C and D'

10 Amend the bill in section 5 in §9-313 in subsection 2 in the first line (page 3, line 3 in
11 L.D.) by striking out the following: "Except as provided in subsection 3, a" and inserting
12 the following: 'A'

13 Amend the bill in section 5 in §9-313 in subsection 2 in paragraph D in the first line
14 (page 3, line 11 in L.D.) by inserting after the following: "adopt" the following: 'or
15 otherwise take into permanent custody'

16 Amend the bill in section 5 in §9-313 by striking out all of subsection 3 (page 3, lines
17 12 to 17 in L.D.)

18 Amend the bill in section 5 in §9-313 in subsection 5 in the first line (page 3, line 23
19 in L.D.) by striking out the following: "or 3"

20 Amend the bill in section 5 in §9-313 in subsection 5 in the last line (page 3, line 24
21 in L.D.) by striking out the following: "\$10,000" and inserting the following: '\$5,000'

22 Amend the bill in section 5 in §9-313 by renumbering the subsections to read
23 consecutively.

24 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
25 section number to read consecutively.

26 SUMMARY

27 This amendment deletes from the bill the proposed new crime of unlawful transfer of
28 long-term care and custody of a child and replaces it with amendments to the existing
29 crime of abandonment of a child, prohibiting substantially the same conduct. This
30 amendment adds to the crime of abandonment of a child a prohibition on placing a child
31 with or transferring the physical custody of a child to a nonrelative without court
32 approval. If the child is less than 6 years of age, the crime is a Class C crime and if the
33 child is less than 18 years of age, the crime is a Class D crime. This amendment creates
34 an affirmative defense that the placement or transfer of custody of the child is due to the
35 incarceration, military service, medical treatment or incapacity of the person and is
36 temporary and for a designated short-term period with a specific intent and time period
37 for the return of the child.

38 This amendment clarifies that a person is prohibited from advertising for the purpose
39 of finding a person to take into permanent custody a particular child; current law provides
40 that a person is prohibited from advertising for the purpose of finding a person to adopt a
41 child. This amendment removes from the provision in the bill prohibiting advertising the

1 prohibition on publication and reduces the penalty for advertising to a maximum of
2 \$5,000. The bill provides an exemption from the advertising prohibitions for the
3 Department of Health and Human Services and licensed child-placing agencies, as well
4 as attorneys advertising their availability to provide legal services relating to adoption.

5

FISCAL NOTE REQUIRED

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(See attached)