



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2079

H.P. 1480

House of Representatives, January 28, 2020

**An Act To Implement the Recommendations of the Family Law
Advisory Commission Concerning Adoption and Minor
Guardianship**

Reported by Representative BAILEY of Saco for the Joint Standing Committee on
Judiciary pursuant to Joint Rule 353.

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 **PART A**

3 **Sec. A-1. 18-C MRSA §9-302**, as enacted by PL 2017, c. 402, Pt. A, §2 and
4 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

5 **§9-302. Consent for adoption**

6 **1. Written consent.** Before an adoption is granted, written consent to the adoption
7 must be given by:

8 A. The adoptee, if the adoptee is 14 12 years of age or older;

9 B. Each of the adoptee's living parents, except as provided in subsection 2;

10 C. A person or agency having legal custody or guardianship of the adoptee if the
11 adoptee is a child or to whom the child has been surrendered and released, except that
12 the person's or agency's lack of consent, if adjudged unreasonable by a court, may be
13 overruled by the court. In order for the court to find that the person or agency acted
14 unreasonably in withholding consent, the petitioner must prove, by a preponderance
15 of the evidence, that the person or agency acted unreasonably. The court shall
16 determine whether the person or agency acted unreasonably in withholding consent
17 prior to any hearing on whether to grant the adoption. The court may hold a pretrial
18 conference to determine who will proceed. The court may determine that even
19 though the burden of proof is remains on the petitioner, the person or agency should
20 ~~proceed if the person or agency has important facts necessary to the petitioner in~~
21 ~~presenting the petitioner's case~~ present its reasons for withholding consent and the
22 facts supporting the decision before the petitioner presents its evidence. The court
23 shall consider the following:

24 (1) Whether the person or agency determined the needs and interests of the child;

25 (2) Whether the person or agency determined the ability of the petitioner and
26 other prospective families to meet the child's needs;

27 (3) Whether the person or agency made the decision consistent with the facts;

28 (4) Whether the harm of removing the child from the child's current placement
29 outweighs any inadequacies of that placement; ~~and~~

30 (4-A) Whether an agency withholding consent to the petitioner consented to the
31 adoption of the child by a person who is a preadoptive parent as defined in Title
32 22, section 4002, subsection 9-A or who was identified as an appropriate
33 permanency placement in a court-approved permanency plan pursuant to Title
34 22, section 4038-B; and

35 (5) All other factors that have a bearing on a determination of the reasonableness
36 of the person's or agency's decision in withholding consent; and

37 D. A guardian appointed by the court, if the adoptee is a child, when the child has no
38 living parent, guardian or legal custodian who may consent.

1 A petition for adoption must be pending before a consent is executed.

2 **2. Consent not required.** Consent to adoption is not required of:

3 A. A putative parent if the putative parent:

4 (1) Received notice and failed to respond to the notice within the prescribed time
5 period;

6 (2) Waived the right to notice under section 9-201, subsection 3;

7 (3) Does not establish parentage of the child under section 9-201, subsection 9;
8 or

9 (4) Holds no parental rights regarding the adoptee under the laws of the foreign
10 country in which the adoptee was born;

11 B. A parent whose parental rights have been terminated under Title 22, chapter 1071,
12 subchapter 6;

13 C. A parent who has executed a surrender and release pursuant to section 9-202;

14 D. A parent whose parental rights have been voluntarily or judicially terminated and
15 transferred to a public agency or a duly licensed private agency pursuant to the laws
16 of another state or country; or

17 E. A parent of an adoptee who is 18 years of age or older.

18 ~~**3. Consent by department; notice.** When the department consents to the adoption
19 of a child in its custody, the department shall immediately notify:~~

20 ~~A. The District Court in which the action under Title 22, chapter 1071 is pending;
21 and~~

22 ~~B. The guardian ad litem for the child.~~

23 **4. Consent by department; notice.** This subsection applies when the department
24 consents to the adoption of a child in its custody.

25 A. When the department consents to the adoption of a child in its custody, the
26 department shall immediately notify:

27 (1) The District Court in which the action under Title 22, chapter 1071 is
28 pending; and

29 (2) The guardian ad litem for the child.

30 B. The department may consent to more than one person petitioning to adopt a child
31 in its custody. In such cases, the court may request that the department provide
32 information and a recommendation regarding petitioners.

33 **PART B**

34 **Sec. B-1. 18-C MRS §9-204, sub-§3,** as amended by PL 2019, c. 417, Pt. A,
35 §105, is further amended to read:

36 **3. Grounds for termination.** The court may order termination of parental rights if:

1 A. The parent consents to the termination. ~~Consent must be after a judge has fully~~
2 ~~explained the effects of a termination order and the consent is written and voluntarily~~
3 ~~and knowingly executed in court before a judge. The judge shall explain the effects~~
4 ~~of a termination order;~~ or

5 B. The court finds, based on clear and convincing evidence, that:

6 (1) Termination is in the best interest of the child; and

7 (2) Either:

8 (a) The parent is unwilling or unable to protect the child from jeopardy, as
9 defined by Title 22, section 4002, subsection 6, and these circumstances are
10 unlikely to change within a time that is reasonably calculated to meet the
11 child's needs;

12 (b) The parent has been unwilling or unable to take responsibility for the
13 child within a time that is reasonably calculated to meet the child's needs; or

14 (c) The parent has abandoned the child, as described in Title 22, section
15 4002, subsection 1-A.

16 ~~In making findings pursuant to this paragraph, the court may consider the extent to~~
17 ~~which the parent had opportunities to rehabilitate and to reunify with the child,~~
18 ~~including actions by the child's other parent to foster or to interfere with a~~
19 ~~relationship between the parent and child or services provided by public or nonprofit~~
20 ~~agencies.~~

21 **Sec. B-2. 18-C MRSA §9-204, sub-§3-A** is enacted to read:

22 **3-A. Required findings.** The court shall make specific written findings addressing
23 the standards in subsection 3, paragraph B and the court shall consider the following:

24 A. With respect to subsection 3, paragraph B, subparagraph (1), the background and
25 qualities of the prospective adoptive parent; and

26 B. With respect to subsection 3, paragraph B, subparagraph (2), the extent to which
27 the parent who is the subject of the petition had opportunities to rehabilitate and to
28 reunify with the child or to maintain a relationship with the child, including actions
29 by the child's other parent to foster or to interfere with a relationship between the
30 parent and the child or services provided by public or nonprofit entities.

31 PART C

32 **Sec. C-1. 18-C MRSA §9-308**, as enacted by PL 2017, c. 402, Pt. A, §2 and
33 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

34 **§9-308. Final decree; dispositional hearing; effect of adoption; post-adoption**
35 **contact with siblings**

36 **1. Final decree of adoption; requirements.** The court shall grant a final decree of
37 adoption if the petitioner who filed the petition has been heard or has waived hearing and
38 the court is satisfied from the hearing or record that:

- 1 A. All necessary consents, relinquishments or terminations of parental rights have
- 2 been duly executed and filed with the court;
- 3 B. An adoption study, when required by section 9-304, has been filed with the court;
- 4 C. A list of all disbursements as required by section 9-306 has been filed with the
- 5 court;
- 6 D. The petitioner is a suitable adopting parent and desires to establish a parent-child
- 7 relationship with the adoptee;
- 8 E. The best interest of the adoptee, described in subsection 2, ~~are~~ is served by the
- 9 adoption;
- 10 F. The petitioner has acknowledged that the petitioner understands that the transfer
- 11 of the long-term care and custody of an adoptee who is a minor child without a court
- 12 order is prohibited under Title 17-A, section 553, subsection 1, paragraphs C and D;
- 13 and
- 14 G. All requirements of this Article have been met.

15 **2. Best interest of adoptee.** In determining the best interest of an adoptee, the court
16 shall consider and evaluate the following factors to give the adoptee a permanent home at
17 the earliest possible date:

- 18 A. The love, affection and other emotional ties existing between the adoptee and the
- 19 adopting person or persons, a parent or a putative parent;
- 20 B. The capacity and disposition of the adopting person or persons, the parent or
- 21 parents or the putative parent to educate and give the adoptee love, affection and
- 22 guidance and to meet the needs of the adoptee. An adoption may not be delayed or
- 23 denied because the adoptive parent and the adoptee do not share the same race, color
- 24 or national origin; and
- 25 C. The capacity and disposition of the adopting person or persons, the parent or
- 26 parents or the putative parent to provide the adoptee with food, clothing and other
- 27 material needs, education, permanence and medical care or other remedial care
- 28 recognized and permitted in place of medical care under the laws of this State.

29 **3. Findings; decree; confidentiality.** The court shall enter its findings in a written
30 final decree that includes the new name of the adoptee. The final decree must further
31 order that from the date of the decree the adoptee is the child of the petitioner and must be
32 accorded the status set forth in section 9-105. If the court determines that it is in the best
33 interest of the adoptee, the court may require that the names of the adoptee and of the
34 petitioner be kept confidential.

35 **4. Notice to parents.** Upon completion of an adoption proceeding, the parents who
36 consented to an adoption or who executed a surrender and release must be notified by the
37 court of the completion by regular mail at their last known address. Notice under this
38 subsection is not required to a parent who is also a petitioner. When the parents' rights
39 have been terminated pursuant to Title 22, section 4055, the notice must be given to the
40 department and the department shall notify the parents of the completion by regular mail
41 at their last known address. Actual receipt of the notice is not a precondition of

1 completion and does not affect the rights or responsibilities of adoptees or adoptive
2 parents.

3 **5. Notice to grandparents and siblings.** The department shall notify the
4 grandparents of a child when the child is placed for adoption if the department has
5 received notice that the grandparents were granted reasonable rights of visitation or
6 access under Title 19-A, chapter 59 or Title 22, section 4005-E and shall notify any
7 siblings of the child who have visitation or other contact with the child pursuant to an
8 agreement or order under Title 22, section 4068.

9 **6. Effect of adoption.** An order granting the adoption has the following ~~effect:~~
10 effects.

11 A. An order granting the adoption of the child by the petitioner divests the parent and
12 child of all legal rights, powers, privileges, immunities, duties and obligations to each
13 other as parent and child, except an adoptee inherits from the adoptee's former
14 parents if provided in the adoption decree.

15 B. An adoption order may not disentitle a child to benefits due the child from any
16 3rd person, agency or state or the United States and may not affect the rights and
17 benefits that a Native American derives from descent from a member of a federally
18 recognized Indian tribe.

19 **7. Post-adoption contact agreements regarding siblings; inquiry of minor**
20 **adoptee.** If the adoptee is the subject of an existing agreement or order pursuant to Title
21 22, section 4068, the agreement or order must be referenced in and attached to the
22 adoption decree unless the court finds the agreement or order is no longer in the adoptee's
23 best interest. The court may modify the existing agreement or order before referencing it
24 in and attaching it to the decree. A person's failure to follow the agreement after the
25 adoption decree has been entered may not be a basis to set aside the decree.

26 If a minor adoptee is or will be separated from a sibling as a result of the adoption and
27 there is no existing agreement for post-adoption contact between siblings, a court entering
28 an adoption decree may, at that time, order the adoptive parents to provide specific post-
29 adoption communication or contact, including, but not limited to, visits, written
30 correspondence or calls, for an adopted child who lived with a sibling for at least 2 years
31 if:

32 A. The court determines that the post-adoption contact would serve the best interests
33 of the adoptee and the adoptee's sibling; and

34 B. Each sibling's parent, guardian or custodian has consented to the court's order for
35 post-adoption sibling contact privileges. If the adoptee is 12 years of age or older, the
36 court may not approve or order an agreement for post-adoption contact if the adoptee
37 does not consent to the agreement. If the adoptee is under 12 years of age, the court
38 shall determine the preference of the adoptee, if the adoptee is old enough to express
39 a meaningful preference. The determination may be made with assistance of a
40 guardian ad litem.

41 **Sec. C-2. 22 MRSA §4002, sub-§11-A** is enacted to read:

1 **11-A. Sibling.** "Sibling" means a person with whom a child shares at least one
2 parent.

3 **Sec. C-3. 22 MRSA §4068**, as enacted by PL 2005, c. 526, §2, is amended to
4 read:

5 **§4068. Sibling visitation; post-adoption contact**

6 **1. Visitation.** If the court determines that it is reasonable, practicable and in the best
7 interests of the children involved, the court shall order the custodian of the child who is
8 the subject of the child protection proceeding and any party who is the custodian of a
9 sibling of the child to make the children available for visitation with each other. The
10 court may order a schedule and conditions pursuant to which the visits are to occur.

11 **2. Siblings separated through adoption.** ~~The~~ Before the adoption occurs, the
12 department shall make reasonable efforts to establish agreements with prospective
13 adoptive parents that provide for reasonable contact between an adoptive child and the
14 child's siblings when the department believes that the contact will be in the children's best
15 interests. These agreements may allow for communication or contact, including, but not
16 limited to, visits, written correspondence or calls, between an adoptive child and one or
17 more of the child's siblings.

18 The court may approve an agreement for post-adoption communication or contact,
19 including, but not limited to, visits, written correspondence or calls, between an adoptive
20 child and one or more of the child's siblings based on a finding that it is in the best
21 interests of the adoptive child and the child's sibling and a determination that the parent,
22 guardian or custodian of each sibling has consented to the agreement. If the adoptive
23 child is 12 years of age or older, the court may not approve the agreement unless the child
24 consents to the agreement. If the adoptive child is under 12 years of age, the court shall
25 determine the preference of the child, if the child is old enough to express a meaningful
26 preference. The determination may be made with assistance of a guardian ad litem.

27 An adoptive parent is not required to make such an agreement but, if such an agreement
28 is made and approved by the court at the time it is made, it is judicially enforceable, as
29 long as the court finds it in the best interest of the siblings to enforce the agreement.
30 Revocation of the adoption is not a remedy for failure to honor the agreement for post-
31 adoption contacts.

32 **3. Request of child; inquiry of child; appointment of attorney for child.** In a
33 child protection proceeding or a related adoption proceeding, a child may request
34 visitation, communication or contact rights pursuant to subsection 1 or 2 with a sibling
35 from whom the child has been separated as a result of the ~~child protection~~ proceeding. If
36 a child is or will be separated from a sibling as a result of a placement or permanency
37 outcome and no order is in place pursuant to subsection 1 and no agreement is in place
38 pursuant to subsection 2, the court shall inquire of the child whether the child would like
39 visitation, communication or contact with the sibling. The inquiry may be made with
40 assistance of a guardian ad litem. The court may appoint counsel for a child requesting
41 visitation, communication or contact with a sibling.

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PART D

Sec. D-1. 22 MRSA §4038-C, sub-§2, as amended by PL 2017, c. 402, Pt. C, §66 and affected by PL 2019, c. 417, Pt. B, §14, is further amended to read:

2. Powers and duties of permanency guardian. A permanency guardian has all of the powers and duties of a guardian of a minor pursuant to Title 18-C, sections 5-207 and 5-208. A permanency guardianship terminates upon the minor's death, adoption or attainment of majority or as ordered by the court pursuant to this section.

Sec. D-2. 22 MRSA §4038-E, as amended by PL 2017, c. 402, Pt. C, §67 and Pt. D, §1 and c. 411, §12 and affected by PL 2019, c. 417, Pt. B, §14, is repealed and the following enacted in its place:

§4038-E. Adoption from permanency guardianship

A permanency guardian may petition the District Court to adopt the child in the permanency guardian's care and to change the child's name upon the issuance of the adoption decree. The petition must be filed and adjudicated in accordance with Title 18-C, Article 9, except that the adoption may not be granted unless each living parent identified in the child protection action whose rights have not been terminated has executed a consent to the adoption pursuant to Title 18-C, section 9-202 or the court finds that such consent is not required pursuant to Title 18-C, section 9-302, subsection 2. A permanency guardian may not seek an order terminating the parental rights of a parent as part of a petition to adopt the child.

PART E

Sec. E-1. 18-C MRSA §5-211, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by PL 2019, c. 417, Pt. B, §14, is repealed and the following enacted in its place:

§5-211. Transitional arrangement for minors; continued contact with former guardian after termination

1. Transitional arrangements. In issuing, modifying or terminating an order of guardianship for a minor, the court may enter an order providing for transitional arrangements for the minor if the court determines that such arrangements will assist the minor with a transition of custody and are in the best interest of the minor. Orders providing for transitional arrangements may include, but are not limited to, rights of contact, housing, counseling or rehabilitation. Such orders must be time-limited and expire not later than 6 months after the entry of the order or at the conclusion of the minor's current school year, whichever is later. In determining the best interest of the minor, a court may consider the minor's relationship with the guardian and need for stability.

2. Continued contact with former guardian after termination. On timely motion of a parent or a guardian, the court terminating a guardianship may enter an order at the time of the termination or the expiration of a transitional arrangement pursuant to

1 subsection 1 providing for communication or contact, including overnight visitation,
2 between a minor and the former guardian after the termination of the guardianship if:

3 A. The parent and guardian consent to the order; or

4 B. The court finds by clear and convincing evidence that ordering such continued
5 communication or contact over the objection of the minor's parent:

6 (1) Is necessary to avoid a likelihood of harm to the minor resulting from
7 severing the legal relationship with the former guardian;

8 (2) Would not significantly interfere with any parent-child relationship or with
9 the parent's rightful authority over the minor; and

10 (3) Is in the best interest of the minor due to the existing relationship between the
11 minor and the former guardian because the former guardian was a primary
12 caregiver and custodian of the minor for a significant period of time.

13 Before ordering communication or contact pursuant to paragraph B the court shall grant
14 due consideration to the specific objections of the parent to the entry of an order and
15 determine whether ordering a period of transitional arrangements pursuant to subsection 1
16 is sufficient to mitigate harm to the minor. Except as Title 4, section 152, subsection 5-A
17 may otherwise require, the court issuing the order for post-guardianship contact has
18 continuing jurisdiction to modify, enforce or terminate the order and shall follow the
19 procedure set forth in section 5-210.

20 **SUMMARY**

21 This bill implements the recommendations of the Family Law Advisory Commission
22 as submitted to the Joint Standing Committee on Judiciary on December 1, 2019,
23 pursuant to Public Law 2019, chapter 417, Part A, section 111.

24 Part A addresses the consent to an adoption by a minor adoptee and the person or
25 agency having legal custody or guardianship of a minor adoptee. It amends the statute to
26 make clear that courts are to take a bifurcated approach to the adoption proceeding if a
27 petitioner is challenging the lack of consent from the person or agency, such as the
28 Department of Health and Human Services. This change ensures that the court resolves
29 the question of whether the person or agency unreasonably withheld its consent before
30 the court makes findings regarding the requirements for the adoption itself, such as those
31 set out in the Maine Revised Statutes, Title 18-C, section 9-308. The changes clarify that
32 the court may alter the order of presentation of evidence if the person or agency has facts
33 that the petitioner would need to include to prove the petitioner's contention that the
34 person or agency unreasonably withheld its consent. Part A enables a court to require the
35 person or agency to present its reasons for withholding consent and the facts supporting
36 the decision before the petitioner presents evidence while the petitioner retains the burden
37 of proof on the question of the person's or agency's alleged unreasonableness.

38 Part A amends the factors a court must consider when reviewing the reasonableness
39 of an agency's withholding of consent to include a new factor: whether the agency
40 granted consent to another petitioner who was previously approved by the agency or the
41 court as the child's permanency placement.

1 Part A eliminates the ambiguity in the statute regarding whether the Department of
2 Health and Human Services may consent to more than one petitioner by explicitly
3 allowing the department to consent to more than one petitioner if the department
4 concludes that multiple petitioners could each provide a suitable adoptive home for the
5 child. The language gives the court authority to request the department to provide
6 information and to make recommendations regarding the petitioners.

7 Part A amends the Adoption Act to lower the age of a minor's consent to the minor's
8 adoption from 14 years of age to 12 years of age. Currently, a child 12 years of age or
9 older must consent to the child's adoption by a permanency guardian.

10 Part B addresses the termination of parental rights in the context of adoption. The
11 Adoption Act permits an adoption petitioner to file a petition to terminate the parental
12 rights of the child's parent if that parent does not consent to the adoption or join the
13 petition. The termination of parental rights standard in Title 18-C, section 9-204,
14 subsection 3 is consistent with the Title 22 standard used in child protection cases, except
15 that it does not include the language regarding the parent's failure to make a good faith
16 effort to follow a reunification plan. Such plans are features of child protection matters
17 but not adoption proceedings. The Adoption Act instead permits the court to consider the
18 extent to which the parent had opportunities to rehabilitate and to reunify with the child,
19 including actions by the child's other parent to foster or to interfere with a relationship
20 between the parent and child or services provided by public or nonprofit agencies. This
21 recent change to the termination of parental rights standard, however, does not entirely
22 address the concerns about private termination of parental rights noted by the Law Court
23 in Adoption of Isabelle T., 2017 ME 220, a stepparent adoption case in which a child's
24 mother and stepfather successfully petitioned to terminate the parental rights of the child's
25 father. The Law Court vacated the termination and emphasized the importance of
26 considering the merits of the adoption petitioner who would be added as a parent as part
27 of the best interests determination when ruling on a petition to terminate parental rights.
28 Part B includes language expressly requiring courts terminating parental rights to make
29 specific written findings. Title 18-C, section 9-204 is amended to require that the
30 findings address the background and qualities of the prospective adoptive parent. In
31 addition, Part B requires a court to consider the parent's attempts to reunify or maintain a
32 relationship with a child as part of its analysis of the parent's alleged unfitness. Finally,
33 Part B revises the consent to termination provision to make clear that a judge's
34 explanation of the effects of a termination order must be provided to the parent prior to
35 the parent's execution of the consent.

36 Part C addresses post-adoption contact rights for siblings separated by adoption. Part
37 C amends Title 22, section 4068, which gives certain contact rights to siblings separated
38 as a part of a child protection proceeding, to permit courts to approve post-adoption
39 contact agreements between families who provide care for such siblings. Part C
40 authorizes the court to approve an agreement for post-adoption contact based on a finding
41 of the siblings' best interest if all siblings' parents, guardians or custodians consent and
42 the siblings also consent, if they are 12 years of age or older. In the case of younger
43 children, the court is required to determine the preference of the child regarding contact,
44 if the child is old enough to express a meaningful preference. These court-approved
45 agreements are enforceable as long as the court finds that such enforcement is in the best

1 interest of the siblings. A person's failure to follow an agreement does not permit a party
2 to seek revocation of the adoption itself. Part C also requires the court to ask a child
3 whether the child would like visitation, communication or contact with a sibling. The
4 inquiry may be made with the assistance of a guardian ad litem, and the court may
5 appoint counsel for a child seeking sibling contact. Part C also adds a definition of
6 "sibling" to the Child and Family Services and Child Protection Act.

7 Part C requires the court to provide notice of an adoption to any sibling of the child
8 who has visitation or contact with the child under Title 22, section 4068. The court is
9 required to reference in and attach to the adoption decree any post-adoption sibling
10 contact agreement unless the court finds the agreement is no longer in the best interest of
11 the child. The court may modify the agreement before referencing it in and attaching it to
12 the decree.

13 Part C amends the Adoption Act to authorize an adoption court to order post-adoption
14 sibling contact for adoptees who lived with a sibling for 2 or more years if such contact
15 would be in the adoptee's and sibling's best interests and each sibling's parent, guardian or
16 custodian has consented to the order. This language permits certain rights in Title 22,
17 section 4068 to be extended potentially to any child separated from siblings by adoption,
18 not only those in the child protection system.

19 Part D addresses adoptions from permanency guardianship. The parental consent
20 requirement that is now in Title 22, section 4038-E, subsection 8, paragraph B is retained
21 but amended to provide that the adoption petition must be filed and adjudicated in
22 accordance with the Adoption Act. It clarifies that a permanency guardian may not seek
23 an order terminating the parental rights of a parent as part of a petition to adopt the child.
24 With this change, if a parent whose rights have not been terminated does not consent to
25 the adoption, the adoption cannot proceed so long as the permanency guardianship is in
26 place.

27 Part D amends the permanency guardianship provisions to clearly state that the
28 appointment terminates when the child is no longer a minor or upon the minor's death or
29 adoption.

30 Part E addresses post-guardianship contact for former guardians and minors. It gives
31 courts an additional tool to mitigate or avoid harm or unnecessary trauma to a minor who
32 has a strong relationship with the minor's guardian by providing some rights of contact
33 between the former guardian and the minor after the guardianship is terminated.
34 Specifically, the new provision permits a court, on timely motion of a parent or guardian,
35 to order, at the time of the termination of the guardianship or the expiration of any
36 transitional arrangement, rights of communication or contact, including overnight
37 visitation, between a minor and the former guardian after the termination of the
38 guardianship. The court may award such rights only if the parent and guardian consent or
39 the court finds by clear and convincing evidence that the order is necessary to avoid a
40 likelihood of harm to the minor resulting from severing the legal relationship with the
41 former guardian; would not significantly interfere with any parent-child relationship or
42 with the parent's rightful authority over the minor; and is in the best interest of the minor
43 due to the existing relationship between the minor and the former guardian because the
44 former guardian was a primary caregiver and custodian of the minor for a significant

1 period of time. The court is required to give due consideration to the specific objections
2 of the parent to the entry of an order and to determine whether ordering a period of
3 transitional arrangements is sufficient to mitigate harm to the minor. The language also
4 makes clear that a court terminating a guardianship has jurisdiction to enter an order and
5 that the court has continuing jurisdiction unless a different court has exclusive jurisdiction
6 under the so-called Home Court Act.