

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2220

S. P. 773

In Senate, January 2, 1974

Referred to the Committee on State Government. Sent down for concurrence and ordered printed.

HARRY N. STARBRANCH, Secretary

Presented by Senator Shute of Franklin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

**AN ACT Relating to Guardianship of Incapacitated Adults in Need of
Protective Service.**

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

Sec. 1. R. S., T. 18, § 3638, amended. Section 3638 of Title 18 of the Revised Statutes, as enacted by section 1 of chapter 631 of the public laws of 1973, is amended to read as follows:

§ 3638. Public guardian; Department of Health and Welfare

The ~~Bureau of Social Welfare of the~~ Department of Health and Welfare shall act as public guardian for incapacitated adults as provided in this subchapter and whenever the term "public guardian" is used in this subchapter it shall mean and refer to ~~the Bureau of Social Welfare the~~ Department of Health and Welfare.

Sec. 2. R. S., T. 18, § 3639, amended. The last sentence of section 3639 of Title 18 of the Revised Statutes, as enacted by section 1 of chapter 631 of the public laws of 1973, is amended to read as follows:

The authority of the public guardian shall be exercised by the ~~Director of the Bureau of Social Welfare~~ Commissioner of the Department of Health and Welfare and by any person duly delegated by said ~~Director of the Bureau of Social Welfare~~ Commissioner of the Department of Health and Welfare to exercise such authority.

Sec. 3. R. S., T. 18, § 3644, amended. The last 2 sentences of the first paragraph of section 3644 of Title 18 of the Revised Statutes, as enacted by

section 1 of chapter 631 of the public laws of 1973, are amended to read as follows:

Like notice in hand, or by certified mail, shall be served upon the ~~Bureau of Social Welfare~~ **Department of Health and Welfare**, upon the guardian ad litem and upon such other persons as the court may direct. The ~~Bureau of Social Welfare~~ **Department of Health and Welfare** and the guardian ad litem may waive service.

STATEMENT OF FACT

The Department of Health and Welfare rather than the Bureau of Social Welfare is designated as the public guardian for incapacitated adults.

This is to be done because the bureau is established on an administrative basis and its nature and functions may be so changed. If this were to happen there would probably be legal technical problems with any guardianships assumed by it.