

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 292

H. P. 229

House of Representatives, February 9, 1977

On motion of Mr. Curran of South Portland, referred to the Committee on State Government. Sent up for concurrence and 1,800 copies ordered printed.

EDWIN H. PERT, Clerk

Presented by Ms. Goodwin of Bath.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN.

AN ACT to Amend the Powers and Duties of the Maine Committee on Aging.

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

Sec. 1. 22 MRSA § 5112, sub-§ 2, 2nd ¶, 1st sentence, as enacted by PL 1975, c. 530, is amended to read:

In order to serve as advocate and ombudsman for older people, the committee shall have the power to enter onto the premises of any ~~residential board-~~
ing care facility licensed according to ~~section 5~~ **section 7801** and **any nursing home facility licensed according to section 1817** in order to investigate complaints concerning such facilities.

Sec. 2. 22 MRSA § 5112, sub-§ 2, 2nd ¶, as enacted by PL 1975, c. 530, is amended by adding at the end a new paragraph to read:

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this subsection about an act or practice in a boarding care facility or a nursing home licensed according to sections 7801 or 1817, respectively, or who participates in a judicial proceeding resulting from such a complaint, shall be immune from any liability, civil or criminal, that otherwise might result by reason of such actions. For the purpose of any proceedings, civil or criminal, there shall be a rebuttable presumption that any person acting pursuant to this subsection did so in good faith.

STATEMENT OF FACT

Section 1 of this bill clarifies references to sections of the law which have been amended since the law was enacted.

The Maine Committee on Aging is mandated to serve as an ombudsman on behalf of older people and has statutory authority (22 MRSA § 5112, sub-§ 2) to enter onto the premises of nursing and boarding homes to investigate complaints. It has been the experience of the Maine Committee on Aging's Ombudsman Program that many complainants and potential complainants are fearful of being sued and this discourages the registering of complaints about harmful acts and practices in nursing and boarding homes.

Section 2 of this bill will provide immunity from liability for any person, official or institution who in good faith, registers a complaint about acts or practices in licensed nursing and boarding homes to the Maine Committee on Aging or participates in a judicial proceeding as a result of that complaint. Such immunity from liability is consistent with the immunity provision in the child abuse statutes (22 MRSA § 3856).