

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1783

S. P. 676

In Senate, January 9, 1980

Referred to the Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Najarian of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Assure Advocacy Services for Children Committed to the Custody of the State of Maine.

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

Sec. 1. 22 MRSA § 3553, sub-§ 9, as enacted by PL 1979, c. 553, § 2, is amended to read:

9. Serve as surrogate parent. Serve as the surrogate parent for developmentally disabled children committed to the care and custody of the State ~~as may be required by other state and federal laws at the request of either the Department of Human Services, the Department of Educational and Cultural Services or the Department of Mental Health and Corrections.~~ The agency may also serve as the surrogate parent upon referral from any other person, if it deems that to be in the best interest of the developmentally disabled child.

Sec. 2. 22 MRSA § 3554, sub-§ 2, last sentence, as enacted by PL 1979, c. 553, § 2, is amended to read:

If the ~~developmentally~~ developmentally disabled person has not been judged incompetent, then the agency must first receive his written consent to the investigation, **unless the person is the ward of a state agency, in which case an investigation may be conducted without the guardian's permission.** Wherever appropriate the agency shall secure the ward's permission to investigate.

Sec. 3. 22 MRSA § 3555, sub-§ 3, ¶ A, as enacted by PL 1979, c. 553, § 2, is amended to read:

A. The parent or guardian of a developmentally disabled person who is under 18 years old **unless the person is a ward of the State, in which case the agency may have access to records and other information without permission of the public guardian;**

STATEMENT OF FACT

Currently the Protection and Advocacy Agency can assist wards of the State only with the written permission of the state agency. This has made it difficult to assure that the legal rights of developmentally disabled children committed to the care of the State are protected.

These changes would assure the right of the Protection and Advocacy Agency to intervene where the state agency may not be fulfilling its responsibility as the public guardian. A 3rd party whose sole interest is the developmentally disabled person is frequently necessary to facilitate the delivery of service which might otherwise be denied.