

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 1154

6  
7 H.P. 889

House of Representatives, March 10, 1983

8 On Motion of Representative Hobbins of Saco, referred to the Committee  
9 on Judiciary. Sent up for concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Thompson of So. Portland.

Cosponsors: Representative Foster of Ellsworth, Representative Hobbins  
of Saco and Senator Gill of Cumberland.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Establish Clearer Guidelines  
18 for Guardians Ad Litem Appointed under the  
19 Child and Family Services and Child  
20 Protection Act.  
21

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

24 22 MRSA §4005, sub-§1, as enacted by PL 1979, c.  
25 733, §18, is repealed and the following enacted in  
26 its place:

27 1. Child; guardian ad litem. The following  
28 provisions shall govern guardians ad litem.

29 A. The court, in every child protection proceed-  
30 ing except a request for a preliminary protection  
31 order under section 4034 or a petition for medi-  
32 cal treatment under section 4071, shall appoint a  
33 guardian ad litem for the child. His reasonable

1 costs and expenses shall be paid by the District  
2 Court. The appointment shall be made as soon as  
3 possible after the proceeding is initiated.

4 B. The guardian ad litem shall act in pursuit of  
5 the best interests of the child. He shall be  
6 given access to all reports and records relevant  
7 to the case. He shall investigate to ascertain  
8 the facts. His investigation shall include,  
9 where possible and appropriate, the following:

10 (1) Review of relevant mental health  
11 records and materials;

12 (2) Review of relevant medical records;

13 (3) Review of relevant school records and  
14 other pertinent materials;

15 (4) Interviews with the child with or with-  
16 out other persons present; and

17 (5) Interviews with parents, foster par-  
18 ents, teachers, caseworkers and other per-  
19 sons who have been involved in caring for or  
20 treating the child.

21 C. The guardian ad litem may subpoena, examine  
22 and cross-examine witnesses and shall make a  
23 recommendation to the court.

24 D. The guardian ad litem shall make a written  
25 report of his investigation, findings and recom-  
26 mendations, and shall provide a copy of his  
27 report to each of the parties reasonably in  
28 advance of the hearing, and to the court on con-  
29 sent of all parties, except that he need not pro-  
30 vide a written report prior to a hearing on a  
31 preliminary protection order.

32 E. The guardian ad litem shall make the wishes  
33 of the child known to the court if the child has  
34 expressed his wishes, regardless of the recom-  
35 mendation of the guardian ad litem.

1 STATEMENT OF FACT

2 This bill changes the provisions concerning the  
3 appointment of guardians ad litem in child protection  
4 proceedings.

5 The bill makes the guardian ad litem responsible  
6 for only that role, eliminating the requirement under  
7 present law that he also be the legal representative  
8 of the child.

9 The bill mandates investigation by the guardian,  
10 rather than making such investigation optional as  
11 current law does.

12 Finally, the bill requires the guardian to pro-  
13 vide the parties in the child protection proceeding  
14 with a written report of his investigation, except  
15 that a written report need not be presented prior to  
16 a hearing on a preliminary protection order. Present  
17 law does not require this.

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