

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 373

H.P. 261

House of Representatives, February 23, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative ANTHONY of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Further Protect Child Victims of Abuse.

SECTION 1. The purpose of this act is to provide for the protection of child victims of abuse.	1
SECTION 2. The Legislature hereby enacts the following:	2
SECTION 3. The Legislature hereby enacts the following:	3
SECTION 4. The Legislature hereby enacts the following:	4
SECTION 5. The Legislature hereby enacts the following:	5
SECTION 6. The Legislature hereby enacts the following:	6
SECTION 7. The Legislature hereby enacts the following:	7
SECTION 8. The Legislature hereby enacts the following:	8
SECTION 9. The Legislature hereby enacts the following:	9
SECTION 10. The Legislature hereby enacts the following:	10



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

3 Sec. 1. 19 MRSA 764-A is enacted to read:

5 §764-A. Representation of children

7 1. Guardian ad litem. The court may appoint a guardian ad
9 litem for children involved in actions under this chapter. The
11 term "guardian ad litem" includes lay court appointed special
13 advocates under Title 4, chapter 31. The District Court shall
pay reasonable costs and expenses of the guardian ad litem. The
appointment shall be made as soon as possible after the
proceeding is initiated.

15 2. Best interests of child. The guardian ad litem shall
17 act in pursuit of the best interests of the child. The guardian
19 ad litem shall be given access to all reports and records
21 relevant to the case and shall investigate to ascertain the
facts. The investigation may include, when possible and
appropriate, the following:

23 A. Review of relevant mental health records and materials;

25 B. Review of relevant medical records;

27 C. Review of relevant school records and other pertinent
materials;

29 D. Interviews with the child with or without other persons
present; and

31 E. Interviews with parents, foster parents, teachers,
33 caseworkers and other persons who have been involved in
caring for or treating the child.

35 3. Authority. The guardian ad litem may subpoena, examine
37 and cross-examine witnesses and shall make a recommendation to
the court.

39 4. Report. The guardian ad litem shall make a written
41 report of the investigation, findings and recommendations, and
43 shall provide a copy of the report to each of the parties
reasonably in advance of the hearing, and to the court on consent
45 of all parties, except that the guardian ad litem need not
provide a written report prior to a hearing on an order under
section 765, subsection 2.

47 5. Child's wishes. The guardian ad litem shall make any
49 expressed wishes of the child known to the court regardless of
the recommendation of the guardian ad litem.

51

1 6. Legal counsel. The guardian ad litem may request that
2 the court appoint legal counsel. The District Court shall pay
3 reasonable costs and expenses of the legal counsel.

5 Sec. 2. 19 MRSA §765, sub-§1-A is enacted to read:

7 1-A. Interviewing children. The court may interview a
8 child witness in chambers, with only the guardian ad litem and
9 counsel present, provided that the statements made are a matter
10 of record. The court may admit and consider oral or written
11 evidence of out-of-court statements made by a child and may rely
12 on that evidence to the extent of its probative value.

15 **STATEMENT OF FACT**

17
18 This bill allows judges to appoint guardians ad litem for
19 children whose parents are involved in protection-from-abuse
20 proceedings. In addition, this bill enables judges to hear
21 out-of-court statements by children under certain circumstances.
22 Both provisions parallel similar provisions in the laws regarding
23 child protection hearings.