

MAINE STATE LEGISLATURE

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L.D. 536
(Filing No. S-149)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 220, L.D. 536, Bill, "An Act to Authorize Designation of Department of Mental Health and Mental Retardation Employees to Appear in Probate Court on Behalf of the Department of Mental Health and Mental Retardation"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 4 MRSA §807, first ¶, as repealed and replaced by PL 1987, c. 737, Pt. C, §§4 and 106; and as amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

1. Prohibition. No person may practice law or hold that person out to practice law within the State or before its courts, or demand or receive any remuneration for those services rendered in this State, unless that person has been admitted to the bar of this State and has complied with section 806-A, or unless that person has been admitted to try cases in the courts of this State under section 802.

2. Violation. Any person who practices law in violation of these requirements is guilty of the unauthorized practice of law, which is a Class E crime.

3. Application. This section shall not be construed to apply to:

A. Practice before any Federal Court by any person admitted to practice therein;

B. A person pleading or managing that person's own cause in court;

C. The officer or employee of a corporation, partnership, sole proprietorship or governmental entity, who is not an attorney, but is appearing for that organization in an action cognizable as a small claim under Title 14, chapter 738;

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- 3 D. A person who is not an attorney, but is representing a
municipality under:
- 5 (1) Title 30-A, section 2671, subsection 3;
- 7 (2) Title 30-A, section 4221, subsection 2;
- 9 (3) Title 30-A, section 4452, subsection 1; or
- 11 (4) Title 38, section 441, subsection 2;
- 13 E. A person who is not an attorney, but is representing the
Department of Environmental Protection under Title 38,
15 section 342, subsection 7;
- 17 F. A person who is not an attorney, but is representing the
Bureau of Employment Security or the Bureau of Taxation
19 under section 807-A;
- 21 G. A person who is not an attorney, but is representing a
party in any hearing, action or proceeding before the
23 Workers' Compensation Commission as provided in Title 39,
section 110-A; or
- 25 H. A person who is not an attorney, but has been designated
under Title 34-B, section 1204, subsection 7, to represent
27 the Department of Mental Health and Mental Retardation in
29 Probate Court.
- 31 4. Evidence. In all proceedings, the fact, as shown by the
records of the Board of Overseers of the Bar, that that person is
33 not recorded as a member of the bar shall be prima facie evidence
that that person is not a member of the bar licensed to practice
35 law in the State.
- 37 **Sec. 2. 34-B MRSA §1204, sub-§7 is enacted to read:**
- 39 7. Appearance of designated employees in Probate Court.
The commissioner may designate employees of the department to
41 represent the department in Probate Court only in:
- 43 A. Matters relating to the performance of duties in
uncontested guardianship proceedings; and
- 45 B. Requests for emergency guardianships arising from the
47 need for emergency medical treatment.'

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STATEMENT OF FACT

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This amendment amends the Maine Revised Statutes, Title 4, section 807, which defines the persons other than an attorney who may represent another party in court to include employees of the Department of Mental Health and Mental Retardation in specific circumstances. It also revises the language to indicate more clearly the very limited nature of the representation. An employee of the department who is not an attorney may represent the department only in uncontested guardianship proceedings and in emergency guardianship proceedings for emergency medical treatment.

Reported by Senator Hobbins for the Committee on Judiciary.
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