

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 536

S.P. 220

In Senate, March 3, 1989

Submitted by the Department of Mental Health and Mental Retardation pursuant to Joint Rule 24.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

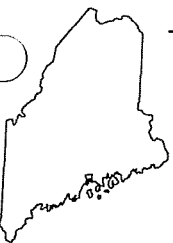
Presented by Senator HOLLOWAY of Lincoln.

Cosponsored by Representative FARNSWORTH of Hallowell, Senator TITCOMB of Cumberland and Representative BURKE of Vassalboro.

STATE OF MAINE

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

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.



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

3 **34-B MRSA §1204, sub-§7 is enacted to read:**

5 7. Appearance of designated employees in Probate Court.
7 Notwithstanding Title 4, section 807, the commissioner may
9 designate employees of the department to represent the department
11 in Probate Court only in uncontested guardianship proceedings and
13 only in matters relating to the performance of duties in
15 guardianship or in requests for emergency guardianships arising
17 from the need for emergency medical treatment. This
19 representation is not an unauthorized practice of law and is not
21 subject to any criminal sanction.

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STATEMENT OF FACT

19 This bill grants caseworkers or medical staff of the
21 Department of Mental Health and Mental Retardation statutory
23 authority to appear before the Probate Court without involving
25 the Department of the Attorney General in matters relating to
27 performance of duties in guardianship or in requests for
29 emergency medical treatment guardianships. The Attorney
General's involvement is only practicable and essential in
contested guardianship proceedings and, according to State v.
Simanonok, when performance of guardianship responsibilities
includes representation of the ward's estate's interests against
3rd parties.