

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2225

H.P. 1609

House of Representatives, January 25, 1990

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

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script, reading "Ed Pert".

EDWIN H. PERT, Clerk

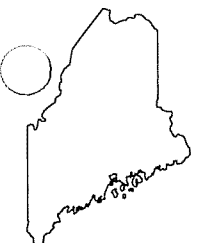
Presented by Representative HEPBURN of Skowhegan.

Cosponsored by Representative CLARK of Brunswick, Senator GILL of
Cumberland and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act Concerning Investigation of Allegations by the Office of
Advocacy.



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

2 **Sec. 1. 34-B MRSA §1205, sub-§1**, as repealed and replaced by
4 PL 1989, c. 7, Pt. N, §3, is amended to read:

6 **1. Establishment.** The Office of Advocacy is established
8 within the department solely to investigate the claims and
10 grievances of clients of the department, to investigate with the
12 Department of Human Services, as appropriate, all allegations of
14 adult and child abuse in state institutions and to advocate on
behalf of clients for compliance by any institution, other
facility or agency administered, licensed or funded by the
department with all laws, administrative rules and institutional
and other policies relating to the rights and dignity of clients.

16 **Sec. 2. 34-B MRSA §1205, sub-§3, ¶B**, as repealed and replaced
18 by PL 1989, c. 7, Pt. N, §3, is amended to read:

20 B. Intercede on behalf of these clients with officials of
22 the institutions, facilities and agencies administered,
24 licensed or funded by the department, except that the Office
of Advocacy may refuse to take action on any complaint which
it deems to be trivial or moot or for which there is clearly
another remedy available;

26 **Sec. 3. 34-B MRSA §1205, sub-§4**, as repealed and replaced by
28 PL 1989, c. 7, Pt. N, §3, is amended to read:

30 **4. Access to files and records.** The Office of Advocacy,
32 through the chief advocate and the other advocates, has access,
34 limited only by the law, to the files, records and personnel of
any institution, facility or agency administered, licensed or
funded by the department. All persons with knowledge about an
incident related to client care, including client-to-client
assault, staff-to-client assault, client-to-staff assault,
excessive use of seclusion or mechanical or chemical restraint,
incidents stemming from questionable psychiatric and medical
practice or any other alleged abuse or neglect, shall immediately
report the details of that incident to the Office of Advocacy. A
copy of any incident report shall be provided to the Office of
Advocacy by the person making the report.

STATEMENT OF FACT

46 The purpose of this bill is to make it clear that the Office
48 of Advocacy may investigate allegations pertaining to facilities
and agencies licensed and funded, as well as administered, by the
Department of Mental Health and Mental Retardation. It makes the
50 enabling law of the Office of Advocacy consistent with the
definition of "client" in the Maine Revised Statutes, Title 34-B,

2 section 1001, subsection 2, which already uses the "licensed or
funded" language. The effect is to make clear that an agency
4 licensed or funded by the department may cooperate with the
Office of Advocacy in the course of an investigation without
6 subjecting itself to the risk of violating the confidentiality
rights of clients.