

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

Legislative Document

No. 2183

S.P. 859

In Senate, January 21, 1992

Submitted by the Department of Human Services 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".

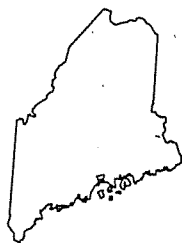
JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator HOLLOWAY of Lincoln  
Cosponsored by Senator GAUVREAU of Androscoggin, Representative PENDEXTER of  
Scarborough and Senator GILL of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-TWO

**An Act to Clarify Adult Protective and Guardianship Responsibilities.**



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

2  
4       **Sec. 1. 22 MRSA §3471, first ¶,** as enacted by PL 1981, c. 527,  
§2, is amended to read:

6       The Legislature recognizes that many adult citizens of the  
8       State, because of incapacitation or dependency, are unable to  
manage their own affairs or to protect themselves from abuse,  
neglect, or exploitation or physical danger. Often these persons  
10       cannot find others able or willing to render assistance. The  
Legislature intends, through this Act, to establish a program of  
12       protective services designed to fill this need and to assure its  
availability to all incapacitated and dependent adults who are  
14       faced with abuse, neglect, exploitation or physical danger the  
substantial risk of abuse, neglect or exploitation. It is also  
16       the intent of the Legislature to authorize only the least  
possible restriction on the exercise of personal and civil rights  
18       consistent with the person's need for services and to require  
that due process be followed in imposing those restrictions.

20       **Sec. 2. 22 MRSA §3473, sub-§1, ¶¶A and B,** as enacted by PL  
22       1981, c. 527, §2, are amended to read:

24       A. Protect abused, neglected or exploited incapacitated and  
dependent adults and incapacitated and dependent adults in  
26       circumstances which present a substantial risk of abuse,  
neglect or exploitation;

28       B. Prevent further abuse, neglect or exploitation;

30       **Sec. 3. 22 MRSA §3473, sub-§2, ¶A,** as enacted by PL 1981, c.  
32       527, §2, is amended to read:

34       A. Receive, promptly investigate and determine the validity  
of reports of alleged abuse, neglect or exploitation or the  
36       substantial risk of abuse, neglect or exploitation;

38       **Sec. 4. 22 MRSA §3473, sub-§3, ¶¶A and B,** as enacted by PL  
40       1989, c. 858, §5, are amended to read:

42       A. Matters relating to the performance of duties in  
uncontested guardianship, conservatorship or termination of  
44       guardianship or conservatorship proceedings; and

46       B. Requests for emergency guardianships arising from the  
need for emergency medical treatment or placement in adult  
48       foster homes, boarding homes or nursing homes or for orders  
necessary to apply for or preserve an estate in emergency  
50       situations.

2           **Sec. 5. 34-B MRSA §1204, sub-§7, ¶¶A and B, as enacted by PL**  
1989, c. 265, §2, are amended to read:

4           A. Matters relating to the performance of duties in  
6           uncontested guardianship, conservatorship or termination of  
            guardianship or conservatorship proceedings; and

8           B. Requests for emergency guardianships arising from the  
10           need for emergency medical treatment or placement in adult  
12           foster homes, boarding homes or nursing homes or for orders  
            necessary to apply for or preserve an estate in emergency  
            situations.

14  
16    **STATEMENT OF FACT**

18           This bill clarifies the authority of the Department of Human  
20           Services and the Department of Mental Health and Mental  
22           Retardation under the Adult Protective Services Act to  
24           investigate when an incapacitated or dependent adult is reported  
            to be at substantial risk of abuse, neglect or exploitation and  
            to protect these adults at substantial risk whether or not prior  
            abuse, neglect or exploitation has occurred.

26           This bill also allows designated employees of the Department  
28           of Human Services and the Department of Mental Health and Mental  
30           Retardation to represent the department in Probate Court in  
32           uncontested conservatorship and termination of guardianship or  
            conservatorship proceedings and also in emergency guardianship  
            for placement in adult foster homes, boarding homes or nursing  
            homes or for orders necessary to apply for or preserve an estate  
            in emergency situations.