

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 724

H.P. 569

House of Representatives, February 13, 2001

An Act to Implement the Recommendations of the Courts' Guardian ad Litem Committee.

Submitted by the Judicial Department pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MADORE of Augusta.
Cosponsored by Senator LaFOUNTAIN of York and
Representatives: JACOBS of Turner, LaVERDIERE of Wilton, NASS of Acton, O'BRIEN of
Augusta, SCHNEIDER of Durham, WATSON of Farmingdale, Senator: TREAT of Kennebec.

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

2 **Sec. 1. 4 MRSA §1503**, as enacted by PL 1985, c. 581, §1, is
4 amended to read:

6 **§1503. Court appointed special advocates**

8 The Director of the Court Appointed Special Advocate Program
10 shall recruit the services of qualified persons to serve as
12 volunteer court appointed special advocates. ~~The volunteer court
14 appointed special advocates shall not be considered employees of
16 the State for any purpose~~ are considered employees of the State
18 only for the purposes of the Maine Tort Claims Act and shall be
19 not entitled to receive no compensation, but shall be are
20 reimbursed for their actual, necessary and reasonable expenses
21 incurred in the performance of their duties, consistent with
22 policies established by the Administrative Office of the Courts.

23 **Sec. 2. 4 MRSA §1506**, as amended by PL 1997, c. 393, Pt. C,
24 §2, is further amended to read:

25 **§1506. Immunity from civil liability**

26 A person serving as a court appointed special advocate for
27 the Judicial Department or as Director, deputy director or
28 regional volunteer coordinator of the Court Appointed Special
29 Advocate Program is immune from any civil liability, as are
30 employees of governmental entities, under the Maine Tort Claims
31 Act, Title 14, chapter 741, for acts performed within the scope
32 of that person's administrative duties, and is entitled to
33 quasi-judicial immunity for acts performed within the scope of
34 the person's duties as a guardian ad litem.

35 **Sec. 3. 19-A MRSA §1507, sub-§5**, as enacted by PL 1995, c.
36 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the
37 following enacted in its place:

38 **5. Written report.** A guardian ad litem shall make a final
39 written report to the parties and the court reasonably in advance
40 of the hearing. The report is admissible as evidence and subject
41 to cross-examination and rebuttal, whether or not objected to by
42 a party.

43 **Sec. 4. 22 MRSA §4005, sub-§1, ¶G** is enacted to read:

44 **G.** A person serving as a guardian ad litem under this
45 section acts as the court's agent and is entitled to
46 quasi-judicial immunity for acts performed within the scope
47 of the duties of the guardian ad litem.

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SUMMARY

4 Public Law 1995, chapter 405, "An Act to Implement the
6 Recommendations Resulting from the Study Concerning Parental
8 Rights and Responsibilities When Domestic Abuse is Involved,"
10 requested the Supreme Judicial Court to develop a program to
12 train, certify and supervise guardians ad litem. The court
14 appointed a committee to oversee these tasks and the committee
16 proposed rules and standards for guardians ad litem to the court,
18 which were adopted in 1999.

20 In the course of its work, the committee identified a number
22 of provisions of law that it felt needed to be corrected by
24 appropriate legislation to harmonize existing provisions of the
26 Maine Revised Statutes, Title 19-A and Title 22. This bill makes
28 those corrections by:

30 1. Amending the laws governing the Court Appointed Special
32 Advocate Program, or "CASA," to clarify that court appointed
34 special advocates have quasi-judicial immunity as do other
guardians ad litem, and that, if a CASA volunteer is sued the
volunteer is entitled to a defense by the Department of the
Attorney General;

2. Clarifying Title 19-A to provide that a guardian ad
litem's report in domestic relation cases is fully admissible and
subject to a party's rights to cross-examine the guardian ad
litem or call rebuttal witnesses as in cases arising under Title
22; and

3. Amending Title 22 to clarify that guardians ad litem in
child abuse cases have quasi-judicial immunity, as in cases
arising under Title 19-A.