

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 1538

H.P. 1127

House of Representatives, April 10, 2003

### **An Act To Clarify the Appointment of Coguardians and Coconservators under the Probate Code**

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Submitted by the Department of Human Services 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 NORBERT of Portland.  
Cosponsored by Senator PENDLETON of Cumberland and  
Representatives: BRANNIGAN of Portland, CHURCHILL of Orland, WALCOTT of  
Lewiston.

2  
3 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 18-A MRSA §5-304, sub-§(b),** as enacted by PL 1985, c.  
5 440, §§2 and 13, is amended to read:

6 (b) The court may appoint a guardian or coguardians as  
7 requested if it is satisfied that the person for whom a guardian  
8 is sought is incapacitated, that the appointment is necessary or  
9 desirable as a means of providing continuing care and supervision  
10 of the person of the incapacitated person and, if the allegedly  
11 incapacitated person has not attended the hearing, that an  
12 inquiry has been made as to whether he that person wished to  
13 attend the hearing. Alternatively, the court may dismiss the  
14 proceeding or enter any other appropriate order.

15 **Sec. 2. 18-A MRSA §5-401, first ¶,** as enacted by PL 1979, c.  
16 540, §1, is amended to read:

17  
18 Upon petition and after notice and hearing in accordance  
19 with the provisions of this Part, the court may appoint a  
20 conservator, coconservator or make other protective order for  
21 cause as follows+.

22  
23  
24 **SUMMARY**

25  
26 The purpose of this bill is to ensure flexibility for the  
27 courts and families of incapacitated adults. This bill clarifies  
28 that the Probate Court has the authority to appoint coguardians  
29 or coconservators under Part 3 and Part 4 of Article 5 of the  
30 Probate Code by explicitly stating that this authority exists.