

MAINE STATE LEGISLATURE

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L.D. 1179

DATE: 5.25.05

(Filing No. S-248)

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STATE OF MAINE
SENATE
122ND LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S.P. 407, L.D. 1179, Bill, "An Act To Establish Duties for Persons Who Hold Durable Powers of Attorney or Act as Responsible Parties for Residents of Long-term Care Facilities"

Amend the bill by striking out the title and substituting the following:

'An Act Concerning Persons Who Hold Durable Powers of Attorney or Act as Responsible Parties for Residents of Long-term Care Facilities'

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the improper management of the property and financial affairs of principals by individuals with actual or apparent management authority jeopardizes the ability of principals to live in nursing homes and other supported-living settings when costs of care or rent remain unpaid; and

Whereas, this jeopardy may be removed and proper financial management secured if improper behavior by an agent is brought to the attention of the Probate Court; and

Whereas, financial exploitation may be discouraged, the welfare of elderly persons with physical or mental challenges and

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to S.P. 407, L.D. 1179

2 of disabled adults may be enhanced and their ability to remain in
nursing homes and other supported-living settings may be
improved; and

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6 **Whereas**, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
8 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

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Sec. 1. 18-A MRSA §5-404, sub-§(c) is enacted to read:

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16 (c) A petition for a protective order made under oath may
be used to initiate court consideration, accounting and
remediation of the actions of any individual responsible for the
management of the property or affairs of another. In the case of
an emergency, the petition must be given priority scheduling by
the court.

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(1) The petition must include the following information and
may include other information required by rule:

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(i) Name, address and telephone number of the
petitioner;

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(ii) Name, address and telephone number of the
principal;

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(iii) Name, address and telephone number of the person
with actual or apparent authority to manage the
property or affairs of the principal;

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(iv) Facts concerning the extent and nature of the
principal's inability to manage the principal's
property or affairs effectively and any facts
supporting an allegation that an emergency exists;

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(v) Facts concerning the extent and nature of the
principal's inability to manage the principal's
property or affairs effectively and any facts
supporting an allegation that an emergency exists;

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(v) Facts concerning the extent and nature of the
actual or apparent agent's lack of management of the
principal's property or affairs. If applicable, facts
describing how the petitioner has already been
adversely affected by the lack of management of the
principal's property or affairs; and

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(vi) Names, addresses and relationships of all persons
who are required to receive notice of the petition.

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