

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 21

H.P. 22

House of Representatives, January 10, 2017

An Act To Amend the Law Regarding the Execution of Temporary Powers of Attorney

Reference to the Committee on Judiciary suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative SANDERSON of Chelsea.
Cosponsored by Representatives: GINZLER of Bridgton, GUERIN of Glenburn, HARVELL of Farmington, MALABY of Hancock.

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

2 **Sec. 1. 18-A MRSA §5-104, sub-§(c), ¶(4),** as enacted by PL 2015, c. 467, §2,
3 is amended to read:

4 (4). An organization, other than an organization whose primary purpose is to provide
5 free legal services or to provide hospital services, that is exempt from federal income
6 taxation under Section 501(a) of the United States Internal Revenue Code of 1986 as
7 an organization described by Section 501(c)(3) and that assists parents or guardians
8 with the process of executing a power of attorney for the temporary care of a minor
9 shall ensure that a background check is conducted for the agent and any adult
10 members of the agent's household, whether by completing the background check
11 directly or by verifying that a current background check has already been conducted.
12 The background check must include the following sources, and the results must be
13 shared with the parent or guardian and the proposed agent:

14 (i) A screening for child and adult abuse, neglect or exploitation cases in the
15 records of the Department of Health and Human Services; and

16 (ii) A criminal history record check that includes information obtained from the
17 Federal Bureau of Investigation.

18 The organization shall maintain records on the training and background checks of
19 agents, including the content and dates of training and full transcripts of background
20 checks, for a period of not less than 5 years after the minor attains 18 years of age.
21 The organization shall make the records available to a parent or guardian executing a
22 power of attorney under this subsection and to the ombudsman under Title 22, section
23 4087-A and any local, state or federal authority conducting an investigation involving
24 the agent, the parent or guardian or the minor.

25 **SUMMARY**

26 Under current law, nonprofit legal services providers whose primary purpose is to
27 provide free legal services are exempt from the requirement that organizations that assist
28 parents or guardians with the process of executing a power of attorney for the temporary
29 care of a minor ensure that a background check is completed for the agent and any adult
30 members of the agent's household. This bill extends that exemption to nonprofit
31 hospitals.