

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

SECOND REGULAR SESSION-2022

Legislative Document

No. 1774

H.P. 1325

House of Representatives, December 2, 2021

An Act Clarifying the Right to Legal Representation for Individuals Subject to Guardianship

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on November 30, 2021. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative HARNETT of Gardiner.
Cosponsored by Senator BAILEY of York and
Representatives: MORIARTY of Cumberland, STOVER of Boothbay.

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

2 **Sec. 1. 18-C MRSA §5-310, sub-§2**, as amended by PL 2019, c. 417, Pt. A, §35,
3 is repealed and the following enacted in its place:

4 **2. Rights retained.** An adult subject to guardianship retains the following rights:

5 A. The right to vote, unless the court orders otherwise. A court order removing the right
6 to vote must include a finding that the adult cannot communicate, with or without
7 support, a specific desire to participate in the voting process;

8 B. The right to marry, unless the court orders otherwise. A court order removing the
9 right to marry or placing conditions on the right to marry must include findings that
10 support the removal of the right to marry or support conditions on the right to marry;
11 and

12 C. The right to retain an attorney for any reason and to communicate freely with
13 counsel, the court, an ombudsman or any advocate for the adult subject to guardianship,
14 including an advocate of the adult subject to guardianship's choosing or a person
15 authorized by law to advocate for the adult subject to guardianship. A person may not
16 interfere with the right of an adult subject to guardianship to retain an attorney or
17 communicate as described in this paragraph.

18 **SUMMARY**

19 Under the probate code, an adult subject to guardianship is entitled to retain counsel or
20 seek court-appointed counsel in a proceeding to terminate a guardianship. This bill
21 specifies that an adult subject to guardianship is entitled to retain counsel and to
22 communicate with other advocates and the court for any reason.