

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

January 5, 1977 to July 25, 1977

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 164, SUBSECTION 6.

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PORTLAND LITHOGRAPH COMPANY  
PORTLAND, MAINE  
1977

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PUBLIC LAWS  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
**FIRST REGULAR SESSION**

of the  
ONE HUNDRED AND EIGHTH LEGISLATURE

1977

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~~month~~ based on actual expenditures in the most recent fiscal year. The total amount paid from all sources shall not exceed 100% of audited unit cost. Notwithstanding the other provisions of this paragraph, when placements in so-called private schools have been exhausted or are otherwise unavailable for any child, the commissioner is authorized to negotiate with other appropriate facilities, including private schools, for placement of the child on the basis of a flat-rate method of payment.

**Sec. 3. Boarding care payments.** Except as otherwise provided in the Revised Statutes, Title 22, section 7906, the Department of Human Services shall reimburse all boarding care facilities with 6 or fewer beds at a rate of at least \$200 per month.

Effective October 24, 1977

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## CHAPTER 528

### AN ACT Relating to Guardianship of Incapacitated Adults in Need of Protective Services.

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

**Sec. 1.** 18 MRSA § 3639, 1st sentence, as enacted by PL 1973, c. 631, § 1, is amended to read:

The public guardian may be nominated and appointed as guardian of the person, ~~and~~ estate or both of those adults who have been determined under this subchapter to be incapacitated and in need of guardianship.

**Sec. 2.** 18 MRSA § 3642, 1st sentence, as repealed and replaced by PL 1975, c. 105, § 2, is amended to read:

Pursuant to its nomination the public guardian shall, or in its discretion in any other case may, petition for its appointment to act as guardian of the person ~~and~~, estate or both of an alleged incapacitated person by filing a written petition in the probate court for the county in which the alleged incapacitated person resides or in which his estate is located.

**Sec. 3.** 18 MRSA § 3642, sub-§ 1, as enacted by PL 1975, c. 105, § 2, is amended to read:

1. A detailed written guardianship plan which, **where relevant**, shall include but not be limited to the type of proposed living arrangement; how financial needs will be met; how medical and other remedial needs will be met; how social needs will be met; the plan for continuing contact with relatives and friends; and

**Sec. 4.** 18 MRSA § 3644, last ¶, as enacted by PL 1973, c. 631, § 1, is amended to read:

At such hearing, the burden shall be upon the petitioner to establish that the person for whom a guardian is sought to be appointed is so incapacitated by reason of advanced age, physical or mental illness or incapacity or other causes that he is incapable of managing himself and his affairs independently, and requires care and supervision of his person and, estate or both.

Sec. 5. 18 MRSA § 3646, as enacted by PL 1973, c. 631, § 1, is repealed and the following enacted in its place:

§ 3646. Duties of public guardian

Except as otherwise specifically provided in this subchapter, the general provisions of this chapter relating to the powers and duties of guardians of adult persons are applicable to the public guardian acting under this subchapter.

When the public guardian is appointed the guardian of the person of an incapacitated adult, the public guardian shall have custody of the person of the ward and shall determine the ward's place of residence. The public guardian may apply for and effect the placement of any ward in accordance with law, in an appropriate home, hospital or institution having facilities and staff adequate to provide care and supervision consistent with the need of the ward. Any placement, if in a facility described in Title 22, sections 5 and 1811, shall be made only if such facility is duly licensed. In the event that the license of any such facility shall be suspended or revoked, the public guardian having any ward placed therein shall remove such ward and effect an appropriate placement of the ward as soon as practicable after knowledge of the suspension or revocation of the license.

When the public guardian is appointed guardian of the estate of an incapacitated adult, the public guardian may apply for and receive on behalf of the ward any benefits, grants or public aid to which such ward is entitled. The public guardian shall keep books of account or other records showing separately the principal amount received, increments thereto and disbursements therefrom for the benefit of any ward, together with the name of the ward, the source from which the money was received and the purpose for which the money was expended. The public guardian shall settle the account of its ward in accordance with section 3901.

Upon termination of the guardianship, the public guardian shall file with the court its final accounting and shall make disposition of any assets of any such ward then in its hands as ordered by the court. This section shall not abrogate any powers or duties vested by law in the head of any public institution, or vested by the settlor of a trust in the trustee thereof, for the benefit of any ward under the guardianship of the public guardian.

Effective October 24, 1977

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## CHAPTER 529

AN ACT to Appropriate Money for Revolutionary War Veterans Grave  
Markers.