



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 531

H.P. 388

House of Representatives, January 31, 2019

**An Act To Provide Counsel for a Person Who Is the Subject of an
Adult Guardianship, Conservatorship or Other Protective
Arrangement Proceeding**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative CARDONE of Bangor.
Cosponsored by Senator CARPENTER of Aroostook and
Representatives: BRADSTREET of Vassalboro, MOONEN of Portland, Senator: KEIM of
Oxford.

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

2 **Sec. 1. 18-C MRSA §5-305, sub-§1**, as enacted by PL 2017, c. 402, Pt. A, §2
3 and affected by Pt. F, §1, is amended to read:

4 **1. Appointment of attorney required.** ~~The~~ If a respondent is not represented by an
5 attorney, the court shall appoint an attorney to represent the respondent in a proceeding
6 on a petition under section 5-302 ~~if:~~

7 ~~A. Requested by the respondent;~~

8 ~~B. Recommended by the visitor;~~

9 ~~C. The court determines that the respondent needs representation; or~~

10 ~~D. It comes to the court's attention that the respondent wishes to contest any aspect~~
11 ~~of the proceeding or to seek any limitation on the proposed guardian's powers.~~

12 **Sec. 2. 18-C MRSA §5-318, sub-§4**, as enacted by PL 2017, c. 402, Pt. A, §2
13 and affected by Pt. F, §1, is amended to read:

14 **4. Attorney for the adult.** An adult subject to guardianship who seeks to remove
15 the guardian and have a successor appointed has a right to choose an attorney to represent
16 the adult. If the adult subject to guardianship is not represented by an attorney, the court
17 shall appoint an attorney ~~under the same conditions as in section 5-305~~. The court shall
18 award reasonable attorney's fees to the attorney for the adult as provided in section 5-119.

19 **Sec. 3. 18-C MRSA §5-319, sub-§7**, as enacted by PL 2017, c. 402, Pt. A, §2
20 and affected by Pt. F, §1, is amended to read:

21 **7. Attorney for the adult.** An adult subject to guardianship who seeks to terminate
22 or modify the terms of the guardianship has a right to choose an attorney to represent the
23 adult in this matter. If the adult is not represented by an attorney, the court shall appoint
24 an attorney ~~under the same conditions as in section 5-305~~. The court shall award
25 reasonable attorney's fees to the attorney for the adult as provided in section 5-119.

26 **Sec. 4. 18-C MRSA §5-406, sub-§1**, as enacted by PL 2017, c. 402, Pt. A, §2
27 and affected by Pt. F, §1, is amended to read:

28 **1. Attorney for respondent.** ~~The~~ If a respondent is not represented by an attorney,
29 the court shall appoint an attorney to represent a the respondent in a proceeding on a
30 petition under section 5-402 ~~if:~~

31 ~~A. Requested by the respondent;~~

32 ~~B. Recommended by the visitor;~~

33 ~~C. The court determines that the respondent needs representation; or~~

34 ~~D. It comes to the court's attention that the respondent wishes to contest any aspect~~
35 ~~of the proceeding or to seek any limitation on the proposed conservator's powers.~~

