

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 217

S. P. 98

In Senate, January 12, 1981

Submitted by the Department of Human Services pursuant to Joint Rule 24.

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

Presented by Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Conform Confidentiality Requirements of the Maine Committee on Aging with the 1978 Older Americans Act.

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

Sec. 1. 22 MRSA § 5112, sub-§ 2, 2nd paragraph, as repealed and replaced by PL 1977, c. 696, § 192, is amended to read:

In order to serve as advocate and ombudsman for older people, the committee ~~shall have the power to enter onto the premises of~~ may receive and investigate complaints concerning any boarding care facility licensed according to section 7801 as defined in section 7901 and any nursing home facility licensed according to section 1817 in order to investigate complaints concerning those facilities as defined in section 1812-A. To carry out this function, the committee shall have the authority to enter onto the premises of any boarding care facility or nursing home during the course of an investigation, to speak privately with any individual therein and inspect and copy the records of the facility or home. The committee may authorize up to 25 persons, including committee members, staff of the committee and other citizens, to carry out this function of the committee pursuant to this subsection. Appropriate identification shall be issued to all such persons. The committee shall renew the authorization and reissue identification annually. The findings of the committee shall be available to the public upon request.

Sec. 2. 22 MRSA § 5112, sub-§ 2, as repealed and replaced by PL 1977, c. 696, § 192, is amended by adding after the 2nd paragraph, a new paragraph to read:

No information or records maintained by the committee relating to complaints about boarding care facilities or nursing homes may be disclosed unless:

- A. The information does not contain any information which would identify residents or complainants;**
- B. The resident or complainant or a legal representative of either consents in writing and specifies to whom the identity may be disclosed; or**
- C. A court orders the disclosure.**

Sec. 3. 22 MRSA § 5112, sub-§ 2, last paragraph, as repealed and replaced by PL 1977, c. 696, § 192, is amended to read:

Any person, official or institution who in good faith participates in the registering of a complaint pursuant to this subsection about an act or practice in a boarding care facility or a nursing home licensed according to section ~~7901~~ 7901 or ~~1817~~ 1812-A, respectively, or who participates in a judicial proceeding resulting from that complaint, shall be immune from any civil or criminal liability that otherwise might result by reason of these actions. For the purpose of any civil or criminal proceedings, there shall be a rebuttable presumption that any person acting pursuant to this subsection did so in good faith.

STATEMENT OF FACT

The purpose of the bill is to amend the Maine Committee on Aging legislation to comply with 1978 amendments to the Older Americans Act, 42 U.S.C.A., § 3001 et seq., regarding confidentiality and access of the nursing home ombudsman program. The bill would also permit the program to investigate complaints about unlicensed facilities and provide immunity identical with the child abuse reporting system.