

# MAINE STATE LEGISLATURE

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D. OF R.

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L.D. 1847  
(Filing No. S-414)

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STATE OF MAINE  
SENATE  
110TH LEGISLATURE  
SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to S.P. 779, L.D. 1847, Bill,  
"AN ACT to Require Mandatory Reporting of Elderly Abuse."

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Amend the Bill by striking out all of the title and  
inserting in its place the following:

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'AN ACT to Require Reporting of Abuse of Elderly or  
Incapacitated Adults.'

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Further amend the Bill by striking out everything after  
the enacting clause and inserting in its place the follow-  
ing:

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'Sec. 1. 22 MRSA §3475, as enacted by PL 1981, c. 527,  
§2, is amended by adding at the end a new sentence to read:

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Any licensed, registered, accredited or certified profes-  
sional who has been adjudged to have violated a provision of  
this chapter shall, in addition to any financial penalty, be  
reported by the court to the appropriate professional  
licensing, registration board, accrediting unit or facility.

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Sec. 2. 22 MRSA c. 958-A, sub-c. 1-A is enacted to  
read:

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SUBCHAPTER 1-A

25

REPORTING OF ABUSE, NEGLECT OR EXPLOITATION

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§3477. Application

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1. Endangered, incapacitated persons. This subchapter  
applies to endangered, incapacitated persons 18 years of age  
or older, in which case reporting by those persons listed in  
section 3478 is mandatory.

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2. Endangered, dependent persons. This subchapter  
applies to endangered, dependent persons 18 years of age or

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2 older, in which case reporting by those listed in section  
3 3478 is optional, based on whether the endangered, dependent  
4 person has given his consent to a report.

5 3. Information. Whether or not a person listed in  
6 section 3478 makes a report, he shall inform the affected  
7 endangered person of the services available to him through  
8 the Department of Human Services.

9 4. Endangerment. For purposes of this subchapter, the  
10 term endangered includes, but is not limited to, abuse,  
11 neglect or exploitation.

12 §3478. Persons mandated to report suspected abuse, neglect  
13 or exploitation

14 1. Reasonable cause to suspect. When, while acting in  
15 his professional capacity, an allopathic or osteopathic  
16 physician, intern, medical examiner, physician's assistant,  
17 dentist, chiropractor, podiatrist, registered or licensed  
18 practical nurse, Christian Science practitioner, social  
19 worker, psychologist, pharmacist, physical therapist, speech  
20 therapist, occupational therapist, mental health profes-  
21 sional, law enforcement official or coroner suspects that an  
22 adult covered under this subchapter has been abused,  
23 neglected or exploited, he shall immediately report or cause  
24 a report to be made to the department.

25 Whenever a person is required to report in his capacity as a  
26 member of the staff of a medical, public or private institu-  
27 tion, agency or facility, he shall immediately notify the  
28 person in charge of the institution, agency or facility, or  
29 his designated agent, who shall then cause a report to be  
30 made. The staff person shall also make a report directly to  
31 the department.

32 2. Reports. Reports regarding abuse, neglect or  
33 exploitation shall be made immediately by telephone to the  
34 department and shall be followed by a written report within  
35 48 hours if requested by the department. The reports shall  
36 contain the name and address of the involved adult; informa-  
37 tion regarding the nature and extent of the abuse, neglect  
38 or exploitation; the source of the report; the person making  
39 the report; his occupation; and where he can be contacted.  
40 The report may contain any other information which the

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2 reporter believes may be helpful.

3 3. Confidentiality in case of treatment. This section  
4 does not require any person acting in their professional  
5 capacity to report when:

6 A. The factual basis for knowing or suspecting abuse,  
7 neglect or exploitation of an adult covered under this  
8 subchapter derives from the professional's treatment of  
9 the individual suspected of causing the abuse, neglect  
10 or exploitation;

11 B. The treatment was sought by the individual for a  
12 problem relating to the abuse, neglect or exploitation;  
13 and

14 C. In the opinion of the person required to report,  
15 the abused, neglected or exploited adult's life or  
16 health is not immediately threatened.

17 §3479. Mandatory reporting to medical examiner for  
18 post-mortem investigation

19 A person required to report cases of known or suspected  
20 abuse or neglect, who knows or has reasonable cause to sus-  
21 pect that an adult has died as a result of abuse or neglect,  
22 shall report that fact to the appropriate medical examiner.  
23 The medical examiner shall accept the report for investiga-  
24 tion and shall report his findings to the police, the appro-  
25 priate district attorney, the department and, if the insti-  
26 tution making the report is a hospital, the hospital.

27 §3479-A. Optional reporting

28 Any person may make a report if that person knows or  
29 has reasonable cause to suspect that an adult covered under  
30 this subchapter has been abused, neglected or exploited.

31 §3479-B. Immunity from liability

32 1. Reporting and proceedings. A person participating  
33 in good faith in reporting under this subchapter, or in a  
34 related adult protection investigation or proceeding, is  
35 immune from any civil liability that might otherwise result  
36 from these actions.

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2 2. Presumption of good faith. In a proceeding regard-  
3 ing immunity from liability, there shall be a rebuttable  
4 presumption of good faith.

5 Sec. 3. Report. The Department of Human Services  
6 shall make a report to the joint standing committee of the  
7 Legislature having jurisdiction over health and institu-  
8 tional services on or before January 15, 1983 as to the cost  
9 to the department of mandatory reporting of abuse of adults  
10 covered under the Revised Statutes, Title 22, chapter 958-A,  
11 subchapter 1-A. The report shall identify the number of  
12 complaints that were a result of optional reporting, the  
13 number of investigations made as a result of these com-  
14 plaints and the personnel and resources used to respond to  
15 these complaints.'

16 FISCAL NOTE

17 HUMAN SERVICES, DEPARTMENT OF

18	Positions	(3)
19	Personal Services	\$55,740
20	All other	7,000
21	Capital Expenditures	<u>1,000</u>
22	Total	\$63,740

23 Personal Services is for 3 caseworkers  
24 at range 20, step C which includes  
25 retirement, pay raises and medical and  
26 hospital insurance. All Other  
27 includes \$6,000 for travel and \$1,000  
28 for other (chairs, etc.). Capital is  
29 for 3 desks.

30 STATEMENT OF FACT

31 This amendment, which essentially redrafts the bill,  
32 clarifies that the reporting requirement applies only to  
33 incapacitated or dependent persons 18 years of age or older  
34 who are endangered. In the category of those required to  
35 report, it removes nursing and boarding home operators, who  
36 have this obligation under the Residents' Rights Act. Those

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2 professionals who do not fulfill their obligations will be  
3 reported to the appropriate licensing board, and may also  
4 have to pay a fine. It adds a provision exempting profes-  
5 sionals from reporting in certain circumstances and makes  
6 separate notice that any person may make a report. Immunity  
7 is provided for those reporting in good faith.

8 Finally, an unallocated section requires a report to  
9 the joint standing committee of the Legislature having  
10 jurisdiction over health and institutional services from the  
11 Department of Human Services.

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Reported by the Majority of the Committee on Health and  
Institutional Services.

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