

MAINE STATE LEGISLATURE

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OF R.
STATE OF MAINE
SENATE (Filing No. S-283)
108TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 337, L.D. 1122, Bill, "AN ACT to Amend the Child Abuse and Neglect Laws."

Amend the Bill in section 2 by striking out in the 4th line (3rd in L.D.) the underlined words "ordered a change in" and inserting in their place the following: 'made an order concerning'

Further amend the Bill in section 2 by striking out in the 3rd line from the end (2nd in L.D.) after the underlined word "public" the underlined word "property"

Further amend the Bill in section 3 in the first line of that part designated "§3794." by striking out the underlined word "education" and inserting in its place the following: 'care'

Further amend the Bill in section 5 by striking out that part designated "§3853." and inserting in its place the following: '§3853. Persons mandated to report suspected child abuse or neglect'

1. Reasonable cause. When any medical physician, resident, intern, medical examiner, dentist, osteopathic physician, chiropractor, podiatrist, registered or licensed practical nurse, Christian Science practitioner, teacher, school official, social worker, homemaker, home health aide, medical or social service worker for families and children, psychologist, child care personnel, mental health professional or law enforcement official knows or has reasonable cause

to suspect that a child has been subjected to abuse or neglect or observes the child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, when such individual is acting in his professional capacity, he shall immediately report or cause a report to be made to the department.

Whenever such person, is required to report under this section, in his capacity as a member of the staff of a medical or public or private institution, school, facility or other agency, he shall immediately notify the person in charge of such institution, school, facility or other agency or his designated agent, who shall then become responsible for making a report or cause such a report to be made.

Any person may make a report if such person knows or has reasonable cause to suspect that a child has been abused or neglected.

This subsection does not require any person to report when the factual basis for knowing or suspecting child abuse or neglect came from treatment of the individual for a problem relating to child abuse or neglect, and, in the opinion of the person required to report, the child's life or health is not immediately threatened.

Further amend the Bill in section 7 by striking out that part designated "§3856-A." and inserting in its place the following:

'§3856-A. Privileged communications

The privileged quality of communications between husband and wife and between any professional person and his patient or his client, except that between attorney and client, is hereby abrogated with respect to the following aspects of known or suspected child abuse or neglect. Such privileged communications, excluding those of attorney and client, shall not constitute grounds for failure to: report as required or permitted by law; cooperate with the department in its child protective activities pursuant to law; or give or accept evidence in any judicial proceeding relating to the child abuse or neglect.'

Further amend the Bill in section 10 by striking out all of subsection 3 and inserting in its place the following:

'3. Complete investigation. To enable the department to perform complete investigations, the commissioner, his delegate, or the legal counsel for the department are authorized to:

A. Issue subpoenas requiring persons to disclose or provide to the department any information or records in their possession, which are necessary and relevant to the investigation of a report of child abuse or neglect and which will aid the department in the performance of its duties in this area;

(1) the department may apply to the District Court to enforce a subpoena; and

(2) any person who complies with such a subpoena shall be immune from civil or criminal liability that otherwise might result from such compliance. Compliance here means the act of turning over information or records to the department pursuant to a subpoena; and

B. Obtain criminal history record information which he deems relevant to a child abuse or neglect case. Such relevant criminal history record information may include information regarding a crime for which a person has been:

(1) convicted;

(2) arrested or charged by complaint, indictment or information, but without disposition within one year and where no active prosecution for the crime is pending; or

(3) charged by complaint, indictment or information which subsequently has been dismissed under circumstances precluding the State from reinitiating the criminal charge.

Any information or records disclosed or provided to the department pursuant to this subsection shall be confidential, and shall be treated in accordance with section 3859.'

Statement of Fact

These changes will clarify and correct parts of the Bill. The last change would clarify the confidentiality requirements regarding any information or records obtained under subsection 3 of section 3860 by making the information or records subject to the same rules of confidentiality that govern other records or reports.

Reported by the Committee on Human Resources.

Reproduced and distributed pursuant to Senate Rule 11-A.

June 13, 1977

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