

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1085

6 H.P. 827

House of Representatives, March 7, 1983

7 Submitted by the Department of Human Services pursuant to Joint Rule
8 24.

9 Speaker laid before the House and on Motion of Representative Nelson of
Portland, referred to the Committee on Judiciary. Sent up for concurrence
10 and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Nelson of Portland.

11 Cosponsors: Representative Pines of Limestone, Representative Manning
of Portland and Representative Melendy of Rockland.

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT to Amend the Child and Family
18 Services and Child Protection Act.
19

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

22 Sec. 1. 22 MRSA §4008, sub-§2, ¶¶E and F, as
23 enacted by PL 1979, c. 733, §18, are amended to read:

24 E. A person having the legal responsibility or
25 authorization to educate, care for, evaluate,
26 treat or supervise a child, parent or custodian
27 who is the subject of a record. This shall
28 include a member of a treatment team or group
29 convened to plan for or treat a child or family
30 which is the subject of a record; and

31 F. Any person engaged in bona fide research,
32 provided that no personally identifying informa-
33 tion is made available, unless it is essential to

1 the research and the commissioner or his designee
2 gives prior approval. If the researcher desires
3 to contact a subject of a record, the subject's
4 consent shall be obtained by the department prior
5 to the contact; and

6 Sec. 2. 22 MRSA §4008, sub-§2, ¶G is enacted to
7 read:

8 G. Any agency involved in approving homes for the
9 placement of children, with protection for iden-
10 tity of reporters and other persons when appro-
11 priate.

12 Sec. 3. 22 MRSA §4011, sub-§1, as enacted by PL
13 1979, c. 733, §18, is amended to read:

14 1. Reasonable cause to suspect. When, while act-
15 ing in his professional capacity, a medical or
16 osteopathic physician, resident, intern, emergency
17 medical technician, medical examiner, physician's
18 assistant, dentist, dental hygienist, dental assis-
19 tant, chiropractor, podiatrist, registered or li-
20 censed practical nurse, Christian Science practi-
21 tioner, teacher, guidance counselor, interpreter for
22 the deaf, school official, social worker, homemaker,
23 home health aide, medical or social service worker,
24 psychologist, child care personnel, mental health
25 professional or law enforcement official knows or has
26 reasonable cause to suspect that a child has been or
27 is likely to be abused or neglected, he shall immedi-
28 ately report or cause a report to be made to the
29 department.

30 A. Whenever a person is required to report in
31 his capacity as a member of the staff of a medi-
32 cal or public or private institution, agency or
33 facility, he shall immediately notify the person
34 in charge of the institution, agency or facility,
35 or his designated agent, who shall then cause a
36 report to be made. The staff may also make a
37 report directly to the department.

38 B. Any person may make a report if that person
39 knows or has reasonable cause to suspect that a
40 child has been or is likely to be abused or
41 neglected.

1 C. A person shall not be required to report when
2 the factual basis for knowing or suspecting abuse
3 or neglect comes from treatment of a person
4 responsible for the child, the treatment was
5 sought by that person for a problem of abuse or
6 neglect and there is little threat of serious
7 harm to the child.

8 Sec. 4. 22 MRSA §§4016 and 4017 are enacted to
9 read:

10 §4016. Confidentiality of employee records

11 Notwithstanding Title 5, section 554, subsection
12 2, paragraph E or any other provision of law, the
13 confidentiality of employee records is abrogated in
14 relation to required reporting, cooperating with the
15 department or guardian ad litem in an investigation
16 or other child protective activity or giving evidence
17 in a child protective proceeding.

18 §4017. Discrimination

19 No person may be discriminated against by any
20 employer in any way for participating in good faith
21 in reporting under this subchapter or in a related
22 child protection investigation or proceeding.

23 Sec. 5. 22 MRSA §4023, sub-§4, ¶A, as enacted by
24 PL 1979, c. 733, §18, is amended to read:

25 A. Prior to or on initiating short-term emer-
26 gency services, the department or agency shall
27 take reasonable steps to notify a custodian that
28 the child will receive or is receiving the ser-
29 vices.

30 Sec. 6. 22 MRSA §4061, sub-§1, as enacted by PL
31 1979, c. 733, §18, is amended to read:

32 1. Department. The department shall care for a
33 child ordered into its custody in licensed or
34 approved family foster homes ~~or other appropriate~~
35 ~~facilities for children~~, in other residential child
36 care facilities or in other living arrangements as
37 appropriate to meet the child's individual needs.

1 STATEMENT OF FACT

2 The purpose of this bill is to amend the Child
3 and Family Services and Child Protection Act as fol-
4 lows: To allow optional disclosure of information
5 contained in child protective records to child plac-
6 ing agencies; to include emergency medical techni-
7 cians, dental hygienists, dental assistants, guidance
8 counselors and interpreters for the deaf as mandatory
9 reporters of child abuse; to abrogate the confiden-
10 tiality of information contained in employee records
11 for purposes of reporting, complying with an investi-
12 gation or testifying under this Act; to prevent
13 employment discrimination against any person compl-
14 ing in good faith with the reporting requirements of
15 this Act; to provide that when an agency has con-
16 tracted with the department to provide short-term
17 emergency services to a child, it may notify the par-
18 ents that short-term emergency services are being
19 provided by the agency; and to expand placement
20 alternatives for children in foster care.

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