

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 1996

7 S.P. 724

In Senate, January 24, 1984

8 Submitted by the Department of Human Services pursuant to Joint Rule  
9 24.

10 Reference to the Committee on Judiciary is suggested and ordered  
printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Bustin of Kennebec.

11 Cosponsored by Representative Melendy of Rockland and Representative  
Carroll of Gray.

12 STATE OF MAINE  
13

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

17 AN ACT Amending 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22 Sec. 1. 22 MRSA §4005, sub-§1, ¶A, as repealed  
23 and replaced by PL 1983, c. 183, is amended to read:

24 A. The court, in every child protection proceed-  
25 ing except a request for a preliminary protection  
26 order under section 4034 or a petition for medi-  
27 cal treatment order under section 4071, but in-  
28 cluding hearings on those orders, shall appoint a  
29 guardian ad litem for the child. His reasonable  
30 costs and expenses shall be paid by the District  
31 Court. The appointment shall be made as soon as  
32 possible after the proceeding is initiated.

33 Sec. 2. 22 MRSA §4005, sub-§2, as enacted by PL  
34 1979, c. 733, §18, is amended to read:

1           2. Parents. Parents and custodians are entitled  
2 to legal counsel in child protection proceedings, ex-  
3 cept a request for a preliminary protection order un-  
4 der section 4034 or a petition for medical treatment  
5 order under section 4071, but including hearings on  
6 those orders. They may request the court to appoint  
7 legal counsel for them. The court, if it finds them  
8 indigent, shall appoint and pay the reasonable costs  
9 and expenses of their legal counsel.

10           Sec. 3. 22 MRSAs §4008, sub-§1, as enacted by PL  
11 1979, c. 733, §18, is amended to read:

12           1. Confidentiality of records. All department  
13 records which contain personally identifying informa-  
14 tion and are created or obtained in connection with  
15 the department's child protective activities and ac-  
16 tivities related to a child while in the care or cus-  
17 tody of the department are confidential and subject  
18 to release only under the conditions of subsections 2  
19 and 3. Within the department, the records shall be  
20 available only to and used by appropriate departmen-  
21 tal personnel and legal counsel for the department in  
22 carrying out their functions. Any person who permits  
23 or encourages the unauthorized dissemination of their  
24 contents is guilty of a Class E crime, provided that  
25 notwithstanding Title 17-A, section 4-A, subsection  
26 4, no imprisonment may be imposed.

27           Sec. 4. 22 MRSAs §4014, sub-§1, as enacted by PL  
28 1979, c. 733, §18, is amended to read:

29           1. Reporting and proceedings. A person partici-  
30 pating in good faith in reporting under this subchap-  
31 ter, or participating in a related child protection  
32 investigation or proceeding, is immune from any crim-  
33 inal or civil liability that might otherwise result  
34 from these actions for the act of reporting or par-  
35 ticipating in the investigation or proceeding. Nothing  
36 in this section may be construed to bar criminal  
37 or civil action regarding the abuse or neglect which  
38 led to a report, investigation or proceeding.

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STATEMENT OF FACT

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The purpose of this bill is to bring the Department of Human Services into compliance with federal regulations pertaining to child abuse and neglect. Compliance with these regulations is required for the department to continue to receive and use federal funds to provide services to abused and neglected children.

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Sections 1 and 2 of this bill provide for the appointment of a guardian ad litem at hearings on preliminary protection orders and emergency medical orders. Section 3 provides for criminal sanctions for violating the confidentiality of department records in addition to the existing civil sanctions. Section 4 expands immunity from liability for good faith reporting to include immunity from criminal liability. It also expands immunity from liability to include cooperation with a child protective investigation. Section 4 also clarifies that the reporting of an abuse or neglect case does not bar civil or criminal action against the reporter should that reporter be the perpetrator of that abuse or neglect. Immunity from prosecution or civil action was claimed by a perpetrator in another state with a statute similar to Maine's.

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