

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 2254

6
7 H.P. 1700

House of Representatives, March 15, 1984

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

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

EDWIN H. PERT, Clerk

Presented by Representative Thompson of So. Portland.

Cosponsor: Senator Bustin of Kennebec.

11
12 STATE OF MAINE
13

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

17 AN ACT to Clarify Abrogation of
18 Privileged Communications.
19

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

22 Sec. 1. 20-A MRSA §4008, sub-§3, ¶A, as enacted
23 by PL 1981, c. 693, §5, is amended to read:

24 A. To comply with Title 22, ~~section 4011~~ chapter
25 1071; and

26 Sec. 2. 22 MRSA §4015, as amended by PL 1981, c.
27 211, §1, is further amended to read:

28 §4015. Privileged or confidential communications

29 The husband-wife and physician and
30 psychotherapist-patient privileges under the Maine
31 Rules of Evidence and the confidential quality of
32 communication under Title 20, sections 805 and 806

1 Title 20-A, section 4008⁷; Title 24-A, section 4224
2 and; Title 32, sections 1092-A and 7005⁷; Title 34-B,
3 section 1207, and between any other professional per-
4 son and his patient or client, except that between
5 attorneys and client, are abrogated in relation to
6 required reporting, cooperating with the department
7 or a guardian ad litem in an investigation or other
8 child protective activity or giving evidence in a
9 child protection proceeding.

10 Sec. 3. 34-B MRSA §1207, sub-§1, ¶B, as amended
11 by PL 1983, c. 580, §4, is further amended to read:

12 B. Information may be disclosed if necessary to
13 carry out any of the statutory functions of the
14 department, the hospitalization provisions of
15 chapter 3, subchapter IV or the purposes of Title
16 22, section 3554, dealing with the investigatory
17 function of the Protection and Advocacy Agency of
18 the Developmentally Disabled in Maine, or the
19 purposes of Title 18-A, section 5-601, subsection
20 (b), where the Department of Human Services is
21 nominated to act as public guardian⁷, or for the
22 purpose of reporting, cooperating with the De-
23 partment of Human Services, or the guardian ad
24 litem or participating in a child protective ac-
25 tivity, or proceeding pursuant to Title 22, chap-
26 ter 1071.

27 STATEMENT OF FACT

28 The purpose of this bill is to clarify that all
29 privileged communication between professionals and
30 clients is abrogated, except that between lawyer and
31 client. The bill further clarifies that guidance
32 counselors are required to participate in child pro-
33 tective investigations and proceedings.

34 The bill also provides for access, by the Depart-
35 ment of Human Services to relevant, confidential and
36 privileged information from mental health records
37 during a child protective services investigation.

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