

MAINE STATE LEGISLATURE

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(New Draft of S.P. 724, L.D. 1996)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2386

S.P. 881

In Senate, March 28, 1984

Reported by Majority Report from the Committee on Health and Institutional Service and printed under Joint Rule 2.

Original bill presented by Senator Bustin of Kennebec. Cosponsored by Representative Melendy of Rockland and Representative Carroll of Gray.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

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

AN ACT Amending the Child and Family
Services and Child Protection Act.

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

Sec. 1. 22 MRSA §4005, sub-§1, ¶A, as repealed and replaced by PL 1983, c. 183, is amended to read:

A. The court, in every child protection proceeding except a request for a preliminary protection order under section 4034 or a petition for a medical treatment order under section 4071, but including hearings on those orders, shall appoint a guardian ad litem for the child. His reasonable costs and expenses shall be paid by the District Court. The appointment shall be made as soon as possible after the proceeding is initiated.

Sec. 2. 22 MRSA §4005, sub-§2, as enacted by PL 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 a medical treat-
5 ment order under section 4071, but including hearings
6 on those orders. They may request the court to ap-
7 point legal counsel for them. The court, if it finds
8 them indigent, shall appoint and pay the reasonable
9 costs and expenses of their legal counsel.

10 Sec. 3. 22 MRSA §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. Records released by the department to any per-
20 son shall not be further copied or distributed by
21 anyone. Within the department, the records shall be
22 available only to and used by appropriate departmen-
23 tal personnel and legal counsel for the department in
24 carrying out their functions.

25 Sec. 4. 22 MRSA §4008, sub-§4 is enacted to
26 read:

27 4. Unlawful dissemination; penalty. A person is
28 guilty of unlawful dissemination if he knowingly dis-
29 seminates records which are determined confidential
30 by this section, in violation of the mandatory or op-
31 tional disclosure provisions of this section. Unlaw-
32 ful dissemination is a Class E crime, which, notwith-
33 standing Title 17-A, section 4-A, subsection 4, is
34 punishable by a fine of not more than \$500 or by im-
35 prisonment for not more than 30 days.

36 Sec. 5. 22 MRSA §4014, sub-§1, as enacted by PL
37 1979, c. 733, §18, is amended to read:

38 1. Reporting and proceedings. A person partici-
39 pating in good faith in reporting under this subchap-
40 ter, or participating in a related child protection
41 investigation or proceeding, is immune from any crim-

1 inal or civil liability that might otherwise result
2 from these actions for the act of reporting or par-
3 ticipating in the investigation or proceeding. Noth-
4 ing in this section may be construed to bar criminal
5 or civil action regarding perjury or regarding the
6 abuse or neglect which led to a report, investigation
7 or proceeding.

8 STATEMENT OF FACT

9 This new draft makes grammatical changes in sec-
10 tions 1 and 2. It also adds a confidentiality provi-
11 sion in section 3 and adds language in section 5 to
12 ensure that the immunity provisions do not apply to
13 perjury. Section 4 makes unauthorized disclosure of
14 confidential information a Class E crime punishable
15 by a fine of not more than \$500 and up to 30 days in
16 jail.

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