

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE
5

6 Legislative Document

No. 2387

8 S.P. 882

In Senate, March 28, 1984

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

11 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

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FOUR
17

18 AN ACT Amending the Child and Family
19 Services and Child Protection Act.
20

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

23 Sec. 1. 22 MRSA §4005, sub-§1, ¶A, as repealed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

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

34 Sec. 2. 22 MRSA §4005, sub-§2, as enacted by PL
35 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 the provisions of this section, in violation of
31 the mandatory or optional disclosure provisions of
32 this section. Unlawful dissemination is a Class E
33 crime for which, notwithstanding Title 17-A, section
34 4-A, subsection 4, no imprisonment may be imposed.

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

37 1. Reporting and proceedings. A person partici-
38 parting in good faith in reporting under this subchap-
39 ter, or participating in a related child protection
40 investigation or proceeding, is immune from any crim-
41 inal or civil liability that might otherwise result

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

7 STATEMENT OF FACT

8 This new draft makes grammatical changes in sec-
9 tions 1 and 2. It also adds a confidentiality provi-
10 sion in section 3 and adds language in section 5 to
11 ensure that the immunity provisions do not apply to
12 perjury.

13 This new draft differs from the majority commit-
14 tee report in that it does not permit imprisonment
15 for unauthorized dissemination of records.

16 6336031984