MAINE STATE LEGISLATURE

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	FIRST REGULAR SESSION
	ONE HUNDRED AND TWELFTH LEGISLATURE
L	egislative Document No. 575
S	S.P. 217 In Senate, February 14, 1985
2	Submitted by the Department of Human Services pursuant to Joint Rule
	4. Reference to the Committee on Human Resources suggested and ordered orinted.
P	JOY J. O'BRIEN, Secretary of the Senate
	Presented by Senator Berube of Androscoggin. Cosponsored by Representative Pines of Limestone, Representative Melendy of Rockland and Senator Gill of Cumberland.
	STATE OF MAINE
	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-FIVE
	AN ACT to Amend the Adult Protective Services Act.
	se it enacted by the People of the State of Maine as Collows:
1	Sec. 1. 22 MRSA §3477, sub-§1, as amended by PL 983, c. 616, §1, is further amended to read:
	1. Reasonable cause to suspect. When, while
	cting in his professional capacity, an allopathic or
	steopathic physician, intern, medical examiner,
	hysician's assistant, dentist, chiropractor, podia-
	rist, registered or licensed practical nurse, Christian Science practitioner, social worker, psycholo-
	ian Science practitioner, social worker, psycholo- ist, pharmacist, physical therapist, speech thera-
	pist, pharmacist, physical therapist, speech thera- pist, occupational therapist, mental health profes-
	sional, law enforcement official, coroner, emergency
r	coom personnel, homemaker, home health aide, medical
	er social service caseworker, court visitor, ambu-
1	ance attendant or emergency medical technician sus-
p	ects that an adult has been abused, neglected or

exploited, and has reasonable cause to suspect that the adult is incapacitated, then the professional shall immediately report or cause a report to be made to the department.

Whenever a person is required to report in his capacity as a member of the staff of a medical, public or private institution, agency or facility, he shall immediately notify the person in charge of the institution, agency or facility, or his designated agent, who shall then cause a report to be made. The staff person shall also make a report directly to the department.

- Sec. 2. 22 MRSA §3480, sub-§3 is enacted to read:
 - 3. Consent to interview refused. When a caretaker of an allegedly incapacitated adult refuses to allow the department to interview the adult and the department reasonably determines that the adult is at risk of being abused, neglected or exploited, the department may petition the Probate Court for authority to interview the allegedly incapacitated adult.
 - A. The petition shall be sworn to and shall include at least the following:
 - (1) Name and residence of the adult;
 - (2) Relationship of caretaker to the adult;
 - (3) Name and address of known relatives and whether these relatives have been contacted;
 - (4) A summary statement of the facts which the petitioner believes constitutes the basis for the belief that the adult is at risk of being abused, neglected or exploited; and
 - (5) A statement that the caretaker has refused access to the adult and that no other access to the adult is reasonably available.
 - B. The department shall make all reasonable efforts to notify the caretaker of the place and time the department intends to bring the petition

- before the Probate Court. This notice may be verbal. The department shall make all reasonable efforts to provide the caretaker with a copy of the petition. The department shall not schedule the hearing at a time which the department knows that the caretaker is not available if another time is reasonably available to both parties.
 - C. If the Probate Court finds by a preponderance of the evidence presented in the petition that the adult is at risk of being abused, neglected or exploited, the Probate Court may order the adult be made available for an interview by the department or that the department be allowed access to the adult. The Probate Court shall further order that access to the adult shall take place at a reasonable time, giving due considerations to the circumstances. A copy of the signed order shall be served on the caretaker.
 - D. The department shall notify the caretaker of the department's intended action, if any, within 10 days after the interview.
 - E. A law enforcement officer may take any necessary and reasonable action to assist the department in carrying out the terms of an order made pursuant to paragraph B. Necessary and reasonable action may include entering public or private property with a warrant based on probable cause to believe that the adult is there.

29 STATEMENT OF FACT

Many of the referrals of abuse, neglect or exploitation of adults are made by professionals working in the community. Adult protective services have found that homemakers, home health aides and medical or social services caseworkers are often involved with adults who are suspected to be incapacitated adults who are potential victims of abuse, neglect or exploitation, yet these professionals are not required to report. Court visitors may be appointed by Probate Judges to visit allegedly incapacitated

adults and to visit the persons seeking appointments or dismissals of guardianship. As visitors, they may find situations where they suspect abuse, neglect or exploitation, but are not required to report. This bill corrects this situation.

Upon receipt of a report, adult protective services duty is to determine the validity of the report and to determine the need for protective services. Situations of refusal by a caretaker to allow access to the adult prevent these determinations and may leave adults in danger. This bill allows for court authorized access to the adult for purposes of determining the validity of the report and the need for protective intervention.

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