

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1494

8 S.P. 566

In Senate, May 9, 1985

9 Reference to the Committee on Judiciary suggested and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

11 Presented by Senator Carpenter of Aroostook.

Cosponsored by Representative Kane of So. Portland.

12
13 STATE OF MAINE
14

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

18 AN ACT Concerning Access to Medical Records
19 by Prosecutors.
20

21 **Emergency preamble.** Whereas, Acts of the Legis-
22 lature do not become effective until 90 days after
23 adjournment unless enacted as emergencies; and

24 Whereas, there has been a dramatic increase in
25 the number of abuse cases reported, investigated and
26 prosecuted in this State; and

27 Whereas, prosecutors require the tools with which
28 to effectively prosecute abuse cases; and

29 Whereas, the continuing ability of the system of
30 justice to deal with these cases is threatened by the
31 lack of power of the prosecutor to compel the produc-
32 tion of medical records; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 5 MRSA §200-E, as enacted by PL 1981, c. 242, §1,
10 is repealed and the following enacted in its place:

11 §200-E. Medical records furnished to prosecutor in
12 certain cases

13 1. Definitions. As used in this section, unless
14 the context indicates otherwise, the following terms
15 have the following meanings.

16 A. "Medical records" means all the records of
17 the examination or treatment of a person, in
18 whatever medium preserved, including, but not
19 limited to, records which are made confidential
20 by any other provision of law.

21 B. "Victim" means a person who is or may have
22 been the object of an alleged criminal act. In
23 this section, a person who is certified by the
24 prosecutor to be a victim, shall be considered a
25 victim.

26 2. Medical examination; criminal proceeding or
27 investigation. In any criminal proceeding or investi-
28 gation, where medical examination or treatment has
29 been provided to a victim, upon written request of
30 the Attorney General or any of his deputies or as-
31 stants or the district attorney or his deputy or
32 assistants, any individual, partnership, association,
33 corporation, institution or governmental entity which
34 has rendered the examination or treatment shall
35 forthwith provide the authorized person with:

36 A. In every case, all medical records pertaining
37 to the medical examination or treatment;

1 B. Where the victim is certified by the autho-
2 riized person to be an abused person who has not
3 attained his 18th birthday, all of the medical
4 records of the victim;

5 C. Where the victim is certified by the autho-
6 riized person to be abused and reasonably appears
7 to the authorized person to be incapacitated, all
8 of the medical records of the victim;

9 D. Where the victim is certified by the autho-
10 riized person to be abused and subject to a guard-
11 ianship, public guardianship or temporary guardi-
12 anship, all of the medical records of the victim;
13 and

14 E. Where the victim is certified by the autho-
15 riized person to be deceased, all of the medical
16 records of the victim.

17 3. Medical records; copies. A person or entity
18 who provides copies of medical records shall be enti-
19 tled to be paid the reasonable costs of the provision
20 of the copies as agreed upon by the person or entity
21 who provides these copies and the authorized person
22 making the request pursuant to this section. If the
23 parties cannot agree, the Superior Court shall order
24 reimbursement at a reasonable rate. The delay occa-
25 sioned by any negotiations surrounding reimbursement
26 or complaint to the Superior Court shall not delay
27 the provision of the requested medical records. No
28 individual, partnership, association, corporation,
29 institution or governmental entity or employee or
30 agent of a governmental entity may be criminally or
31 civilly responsible for furnishing any medical
32 records in compliance with this section.

33 4. Medical records confidential. Medical records
34 obtained by the authorized person pursuant to this
35 section are confidential and shall not be dissemi-
36 nated to any person other than by order of court or
37 to a member of the staff of the authorized person, a
38 law enforcement officer specially assigned to the
39 criminal proceeding or investigation, or other person
40 who, by virtue of special knowledge or training, is
41 designated by the authorized person to assist him in
42 the performance of his duty in the criminal proceed-
43 ing or investigation.

