

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 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2064

6
7 S.P. 819

In Senate, February 24, 1986

8 Approved for introduction by a majority of the Legislative Council
pursuant to Joint Rule 26.

9 Reference to the Committee on Human Resources suggested and ordered
printed.

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

Presented by Senator Gill of Cumberland.

11 Cosponsored by Senator Clark of Cumberland, Speaker Martin of Eagle
Lake and Representative Connolly of Portland.

12 STATE OF MAINE
13

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

17 AN ACT to Assure Independent Advocacy for
18 Institutionalized Developmentally
19 Disabled Persons.
20

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

23 Sec. 1. 22 MRSa §3474, sub-§2, ¶B, as enacted by
24 PL 1981, c. 527, §2, is amended to read:

25 B. An advocacy agency conducting an investiga-
26 tion under chapter 961, except as provided in
27 subsection 3, paragraph D;

28 Sec. 2. 22 MRSa §3474, sub-§3, ¶¶B and C, as en-
29 acted by PL 1981, c. 527, §2, are amended to read:

30 B. A court on its finding that access to those
31 records may be necessary for the determination of
32 any issue before the court. Access shall be lim-
33 ited to incamera inspection, unless the court de-
34 termines that public disclosure of the informa-

1 tion is necessary for the resolution of an issue
2 pending before it; and

3 C. A grand jury on its determination that access
4 to those records is necessary in the conduct of
5 its official business; and

6 Sec. 3. 22 MRSA §3474, sub-§3, ¶D is enacted to
7 read:

8 D. An advocacy agency conducting an investiga-
9 tion under chapter 961 when a complaint has been
10 received by the agency from or on behalf of a de-
11 velopmentally disabled person residing in a fa-
12 ility for the developmentally disabled and that
13 person does not have a legal guardian or the per-
14 son is under public guardianship.

15 Sec. 4. 22 MRSA §3554, sub-§1, ¶A, is enacted to
16 read:

17 A. The agency shall be able to obtain access to
18 the records of a person with developmental dis-
19 abilities who resides in a facility for persons
20 with developmental disabilities if:

21 (1) A complaint has been received by the
22 agency from or on behalf of that person; and

23 (2) That person does not have a legal
24 guardian or the person is under public
25 guardianship.

26 Sec. 5. 22 MRSA §3554, sub-§2, as amended by PL
27 1985, c. 159, §4, is further amended to read:

28 2. Investigation. The agency may conduct inves-
29 tigation upon its own initiative if there is reason
30 to believe that the legal rights of a developmentally
31 disabled or learning disabled person have been or are
32 being violated. Prior to initiating its investiga-
33 tion, the agency shall notify the developmentally
34 disabled or learning disabled person or, if he is a
35 minor or has been judged incompetent, his legal
36 guardian, of the specific rights which the agency al-
37 leges have been or are being violated. If the devel-
38 opmentally disabled or learning disabled adult has

1 not been judged incompetent, then the agency must
2 first receive his written consent to the investiga-
3 tion when the person is not residing in a facility
4 for the developmentally disabled or when the agency
5 is conducting the investigation upon its own
6 initiative. If the developmentally disabled or learn-
7 ing disabled minor is competent to understand the
8 purpose, significance and result of the investiga-
9 tion, then the agency shall inform him of his right
10 to stop the investigation. The investigation shall
11 stop if he expresses a clear desire that it stop.

12

STATEMENT OF FACT

13 This bill brings the laws into compliance with
14 the recently enacted Federal Developmental Disabili-
15 ties Act of 1984 regarding the provision of protec-
16 tion and advocacy services for persons with develop-
17 mental disabilities.

18

5028012286