

MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 2468

H.P. 1804 House of Representatives, March 7, 1988
Submitted by the Department of Human Services pursuant to
Joint Rule 24.

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

EDWIN H. PERT, Clerk
Presented by Representative FOSTER of Ellsworth.
Cosponsored by Representatives MacBRIDE of Presque Isle,
CLARK of Millinocket and Senator GAUVREAU of Androscoggin.

STATE OF MAINE

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

1 AN ACT to Promote More Effective
2 Investigations of Child Abuse
3 Allegations in Out-of-Home Settings.
4

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

7 Sec. 1. 5 MRSA §9057, sub-§6 is enacted to read:

8 6. Confidential information. Information deemed

1 to be confidential pursuant to Title 22, section 4008;
2 Title 34-A, section 3003, except for information whose
3 disclosure is absolutely prohibited under that
4 section; and Title 34-B, section 1207 may be disclosed
5 under the following limitations and only for the
6 determination of issues involving personnel actions,
7 licensure or certification, or unemployment insurance
8 proceedings by any department, agency, board or
9 commission of State Government:

10 A. The fact finder determines that the
11 confidential information is necessary for the
12 determination of an issue before it;

13 B. The hearing is closed to nonrelevant
14 participants during introduction of the
15 confidential information;

16 C. Disclosure is limited to relevant information,
17 with protection for identity of reporters and
18 other persons when appropriate;

19 D. Access to the information is limited to the
20 fact finder, parties and counsel of record; and

21 E. After hearing, the confidential information is
22 sealed within the record and is not further
23 disclosed, except upon order of court.

24 Sec. 2. 20-A MRSA §13004, as amended by PL
25 1987, c. 395, Pt. A, §86, is repealed.

26 Sec. 3. 20-A MRSA §13004-A is enacted to read:

27 §13004-A. List of persons certified, authorized or
28 approved; records confidential

29 1. Records. The commissioner shall keep a list
30 of all personnel certified, authorized or approved by
31 the department. This list shall include the person's
32 name and the type and expiration date of certificate,
33 endorsement, authorization or approval held. This
34 list shall be a public record. The commissioner shall
35 send a copy of relevant information from the list to
36 school boards and superintendents on their written
37 request.

1 2. Records confidential. The application,
2 transcripts, recommendations and other documents
3 submitted in support of an application for
4 certification, authorization or approval, or collected
5 by the department for verification of a person's
6 records and maintained in the department shall be
7 confidential. These records may be made available
8 only to the following:

9 A. School boards and superintendents following
10 written request;

11 B. Public employees in performance of their
12 public duties; and

13 C. Individuals and their authorized
14 representatives who request to examine their own
15 records.

16 3. Complaints confidential. Complaints, charges
17 or accusations made and investigated pursuant to
18 section 13001 or chapter 502, replies to those
19 complaints, charges or accusations and any other
20 information or materials that may result in denial,
21 nonrenewal or action to revoke or suspend
22 certification, authorization or approval shall be
23 confidential. The record of any adjudicatory hearing
24 or any court proceeding pertaining to certification,
25 authorization or approval, criminal charges pertaining
26 to conduct complained of, the record of any school
27 board hearing pertaining to employment, and any
28 consent agreement executed in conjunction with an
29 adjudicatory or Administrative Court proceeding are
30 public records except that any children named in
31 situations of alleged physical or sexual abuse or
32 exploitation shall not be publicly identified. Access
33 to these records shall be limited to departmental
34 employees and consultants engaged in investigations
35 and other proceedings pursuant to chapter 502 that may
36 lead to denial, nonrenewal or suspension of any
37 certificate authorization or approval.

38 4. Discretionary disclosure. The department may
39 disclose relevant information pertaining to
40 complaints, charges and accusations to the following

1 persons and agencies:

2 A. A superintendent of schools or school board of
3 a school administrative unit or the unit's legal
4 counsel when the unit is or may be investigating
5 or hearing complaints or charges which could lead
6 to dismissal or nonrenewal of an employee;

7 B. Appropriate personnel of a private school
8 which is or may be investigating complaints,
9 charges or accusations which could affect the
10 employment of an employee;

11 C. Any state agency which is responsible for
12 licensing a certificated person;

13 D. The Protection and Advocacy Agency for the
14 Developmentally Disabled in Maine in connection
15 with investigations conducted in accordance with
16 Title 22, chapter 961. The determination of
17 information and records relevant to the
18 investigation shall be made by agreement between
19 the department and the agency;

20 E. The Maine Human Rights Commission in
21 connection with investigations pertaining to
22 unlawful educational discrimination. The
23 determination of information and records relevant
24 to the investigation shall be made by agreement
25 between the department and the commission;

26 F. A child named in a record who is reported to
27 be abused or neglected or that child's parent or
28 custodian, with protection for the identity of
29 other persons when appropriate;

30 G. Officials in other state education agencies
31 who request data in accordance with the interstate
32 compact; and

33 H. Any person engaged in bona fide research,
34 provided that no personally identifying
35 information is made available.

36 5. Mandatory disclosure. The department shall

1 disclose relevant information in the records
2 pertaining to complaints, charges and accusations to
3 the following agencies:

4 A. The Department of Human Services investigating
5 a report of child abuse or neglect or
6 institutional abuse or neglect;

7 B. A court on its finding that access to those
8 records may be necessary for the determination of
9 any issue before the court. Access to actual
10 records shall be limited to in camera inspection,
11 unless the court determines that public disclosure
12 of the information is necessary for the resolution
13 of an issue pending before it;

14 C. A grand jury on its determination that access
15 to those records is necessary in the conduct of
16 its official business;

17 D. An appropriate state executive or legislative
18 official with responsibility for child protection
19 services in carrying out official functions,
20 provided that no personally identifying
21 information may be made available unless necessary
22 to those functions; and

23 E. Any criminal justice agency which has need of
24 those records in obtaining intelligence and
25 investigative information.

26 6. Teacher addresses and personally identifying
27 information; violation. Home addresses, social
28 security numbers and other personally identifying
29 information held by the department of individuals
30 certified, authorized or approved by the commissioner
31 are confidential and may be made available in response
32 to the following:

33 A. Formal request from a commissioner or chief
34 executive officer of other state agencies,
35 including the judicial branch when access to that
36 information may be necessary to carrying out an
37 official function; and

1 B. Formal request by majority vote of any joint
2 standing committee of the Legislature when access
3 to that information may be necessary in carrying
4 out an official function.

5 The use of personally identifying information and
6 other confidential information disclosed pursuant to
7 this section shall be limited to the purpose for which
8 the information is furnished. It is unlawful for any
9 person to solicit, disclose, receive, make use of or
10 authorize, knowingly permit, participate in or
11 acquiesce in the use of, any list of or names of, or
12 any information concerning persons applying for or
13 receiving certification authorization or approval from
14 the commissioner derived from the records, papers,
15 files or communications of the department or acquired
16 in the course of the performance of official duties
17 except in accordance with this section. Any person
18 violating this subsection shall be punished by a fine
19 of not more than \$500 or by imprisonment for not more
20 than 11 months, or by both.

21 7. Duplication costs. Individuals requesting
22 copies of their records shall make their request in
23 writing, provide identification or authorization and
24 bear the costs of copying them.

25 8. Rules. The state board may adopt rules in
26 accordance with the Maine Administrative Procedure
27 Act, Title 5, chapter 375, to carry out this section.

28 Sec. 4. 22 MRSa §4002, sub-§9, as enacted by PL
29 1979, c. 733, §18, is amended to read:

30 9. Person responsible for the child. "Person
31 responsible for the child" means a person with
32 responsibility for a child's education, health or
33 welfare, whether in the child's home or another home
34 or a facility which, as part of its function, provides
35 for education or the care of the child. ~~It~~ This
36 term includes the child's custodian.

37 Sec. 5. 22 MRSa §4004, sub-§1, as enacted by PL
38 1979, c. 733, §18, is amended to read:

1 1. General. The department may take appropriate
2 action, consistent with available funding, which will
3 help achieve the goals of section 4003 and subchapter
4 XI, including:

5 A. Developing and providing services which:

6 (1) Support and reinforce parental care of
7 children;

8 (2) Supplement that care; and

9 (3) When necessary, substitute for parental
10 care of children;

11 B. Encouraging the voluntary use of these and
12 other services by families and children who may
13 need them;

14 C. Cooperating and coordinating with other
15 agencies, facilities or persons providing related
16 services to families and children; and

17 D. Establishing and maintaining a Child
18 Protective Services Contingency Fund to provide
19 temporary assistance to families to help them
20 provide proper care for their children.

21 **Sec. 6. 22 MRSA §4004, sub-§2, ¶B,** as enacted
22 by PL 1979, c. 733, §18, is amended to read:

23 B. Promptly investigate all abuse and neglect
24 cases coming to its attention or in the case of
25 out-of-home abuse and neglect investigations, the
26 department shall act in accordance with subchapter
27 XI;

28 **Sec. 7. 22 MRSA §4008, sub-§2, ¶D,** as enacted
29 by PL 1979, c. 733, §18, is amended to read:

30 D. A child named in a record who is reported to
31 be abused or neglected, or his parent or
32 custodian, or the subject of the report, with
33 protection for identity of reporters and other
34 persons when appropriate;

1 **Sec. 8. 22 MRSA §4008, sub-§2, ¶F,** as amended
2 by PL 1983, c. 354, §1, is further amended to read:

3 F. Any person engaged in bona fide research,
4 provided that no personally identifying
5 information is made available, unless it is
6 essential to the research and the commissioner or
7 his designee gives prior approval. If the
8 researcher desires to contact a subject of a
9 record, the subject's consent shall be obtained by
10 the department prior to the contact; and

11 **Sec. 9. 22 MRSA §4008, sub-§2, ¶G,** as enacted
12 by PL 1983, c. 354, §2, is amended to read:

13 G. Any agency or department involved in licensing
14 or approving homes for, or the placement of,
15 children or dependent adults, with protection for
16 identity of reporters and other persons when
17 appropriate;

18 **Sec. 10. 22 MRSA §4008, sub-§2, ¶¶H and I** are
19 enacted to read:

20 H. A state department, agency or board
21 responsible for the issuance of occupational
22 licenses or certificates; and

23 I. A state department, agency, board or
24 commission responsible for making determinations
25 regarding issues involving personnel actions,
26 licensure or certification or unemployment
27 insurance.

28 **Sec. 11. 22 MRSA §4008, sub-§3, ¶F,** as enacted
29 by PL 1985, c. 506, Pt. A, §45, is amended to read:

30 F. Where the information concerns teachers and
31 other professional personnel issued certificates
32 under Title 20-A, persons employed by schools
33 approved pursuant to Title 20-A or any employees
34 of schools operated by the Department of
35 Educational and Cultural Services, the information
36 shall be disclosed to the Commissioner of

1 Educational and Cultural Services.

2 Sec. 12. 22 MRSA §4011, sub-§1, as repealed and
3 replaced by PL 1985, c. 819, Pt. A, §§25 and 26, is
4 amended to read:

5 1. Reasonable cause to suspect. When, while
6 acting in his professional capacity, an adult who is a
7 medical or osteopathic physician, resident, intern,
8 emergency medical services' person, medical examiner,
9 physician's assistant, dentist, dental hygienist,
10 dental assistant, chiropractor, podiatrist, registered
11 or licensed practical nurse, Christian Science
12 practitioner, teacher, guidance counselor, school
13 official, social worker, state or federally funded
14 advocate, homemaker, home health aide, medical or
15 social service worker, psychologist, child care
16 personnel, mental health professional, law enforcement
17 official, state fire inspector, municipal code
18 enforcement official or municipal fire inspector knows
19 or has reasonable cause to suspect that a child has
20 been or is likely to be abused or neglected, he shall
21 immediately report or cause a report to be made to the
22 department.

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

31 B. Any person may make a report if that person
32 knows or has reasonable cause to suspect that a
33 child has been or is likely to be abused or
34 neglected.

35 D. When, while acting in his professional
36 capacity, any person required to report under this
37 section knows or has reasonable cause to suspect
38 that a child has been abused or neglected by a
39 person not responsible for the child, he shall
40 immediately report or cause a report to be made to

1 the appropriate district attorney's office,
2 except as provided in subsection 1-A as well as
3 to the department.

4 Sec. 13. 22 MRSA §5005, sub-§1-A is enacted to
5 read:

6 1-A. Applicability of other definitions. Any
7 terms defined or used in subchapter II, section 4002
8 or 4021, have the same meaning when used in this
9 subchapter.

10 Sec. 14. 22 MRSA §5005, sub-§3, ¶E, as enacted
11 by PL 1987, c. 511, Pt. B, §2, is repealed and the
12 following enacted in its place:

13 E. Shall provide the results of the investigation
14 to the bureau's licensing staff. In addition to
15 the licensing staff, any team member employed by
16 the department may be authorized by the
17 commissioner to take action permitted by subtitle
18 6, or any other appropriate remedy available by
19 law or rule designed to prevent, correct or
20 eliminate abuse or neglect or the threat of abuse
21 or neglect in out-of-home settings;

22 Sec. 15. 22 MRSA §7704 is enacted to read:

23 §7704 Licensing action; without hearing; hearing
24 required

25 1. Licensing action without hearing.
26 Notwithstanding Title 5, chapter 341, the department
27 may revoke, suspend or refuse to issue or renew any
28 license, approval or registration without proceedings
29 in conformity with Title 5, chapter 375, subchapter IV
30 or VI, if that decision is based solely upon a finding
31 or conviction by a court, within the last 5 years,
32 that the applicant or licensee has engaged in the
33 following:

34 A. Murder, felony murder, manslaughter,
35 aggravated assault or a comparable crime in
36 another jurisdiction;

1 B. Kidnapping, prostitution or promotion of
2 prostitution, abandonment of a child, incest or a
3 comparable crime in another jurisdiction; or

4 C. Any sex offenses, as defined by Title 17-A,
5 chapter 11 or a comparable crime in another
6 jurisdiction.

7 2. Hearing required. If an applicant or licensee
8 has been convicted or found by a court to have engaged
9 in the conduct described in subsection 1 more than 5
10 years previously, the department may take action to
11 revoke, suspend or refuse to issue or renew any
12 license approval or registration based solely upon the
13 finding or conviction. The applicant or licensee
14 shall first be afforded an opportunity for a hearing
15 where evidence regarding rehabilitation may be
16 presented and considered.

17 Sec. 16. 22 MRSA §8305, sub-§1, ¶F, as repealed
18 and replaced by PL 1985, c. 358, §1, is repealed and
19 the following enacted in its place:

20 F. A provider, staff or other resident has not
21 committed any of the acts identified in section
22 7704, subsection 1. A certificate of registration
23 shall not be issued if the provider, other staff
24 or residents of the home have abused or neglected
25 a child as defined in section 4002, or have had
26 parental rights involuntarily terminated as
27 provided in chapter 1071, the Child and Family
28 Services and Child Protection Act, unless the
29 provider can demonstrate by clear and convincing
30 evidence that the provider, other staff or
31 residents have been rehabilitated.

32 Sec. 17. 22 MRSA §8402, sub-§3, ¶G is enacted
33 to read:

34 G. A provider, staff or residents of a home in
35 which the nursery school is being operated may not
36 have committed any of the acts identified in
37 section 7704, subsection 1. A license shall not
38 be issued if a provider, other staff or residents
39 of a home in which the nursery school is operated

1 have abused or neglected a child as defined in
2 section 4002, or have had parental rights
3 involuntarily terminated as provided in chapter
4 1071, the Child and Family Services and Child
5 Protection Act, unless the provider can
6 demonstrate by clear and convincing evidence that
7 the provider, other staff or residents have been
8 rehabilitated.

9 Sec. 18. 34-A MRSA §1203, sub-§1, as enacted by
10 PL 1983, c. 459, §6, is amended to read:

11 1. Establishment. The Office of Advocacy is
12 established within the department to investigate the
13 claims and grievances of committed offenders,
14 informally adjusted juveniles and contract clients to
15 investigate, in conjunction with the Department of
16 Human Services, as appropriate, allegations of adult
17 and child abuse or neglect in correctional facilities
18 and to advocate for compliance by the department; any
19 correctional facility or any contract agency with all
20 laws, administrative rules and institutional and other
21 policies relating to the rights and dignity of
22 committed offenders, informally adjusted juveniles and
23 contract clients.

24 Sec. 19. 34-A MRSA §1402, sub-§§7 and 8 are
25 enacted to read:

26 7. Abuse allegations in correctional facilities.
27 The commissioner shall be responsible for ensuring
28 appropriate intervention and remediation in cases of
29 substantiated abuse and neglect in correctional
30 facilities. The commissioner shall ensure, through
31 inspection at least every 2 years, that all
32 correctional facilities meet applicable federal and
33 state standards relating to the health and safety of
34 clients of these facilities.

35 8. Allegations of child abuse or neglect in
36 correctional facilities. The commissioner shall be
37 responsible for the investigation of all reports of
38 suspected child abuse or neglect in correctional
39 facilities.

1 A. These investigations shall be conducted with
2 the Department of Human Services, as appropriate,
3 and, in cases where there are allegations or
4 indications of criminal conduct, with the Office
5 of the Attorney General, as appropriate.

6 B. The commissioner shall negotiate joint working
7 agreements with the Department of Human Services
8 and the Office of the Attorney General concerning
9 procedures and respective responsibilities for
10 conducting investigations of allegations of child
11 abuse or neglect in correctional facilities.

12 **Sec. 20.** 34-B MRSA §1203, sub-§7 is enacted to
13 read:

14 7. Abuse allegations in state institutions. The
15 commissioner shall be responsible for ensuring
16 appropriate intervention and remediation in cases of
17 substantiated abuse and neglect in state
18 institutions. The commissioner shall ensure, through
19 inspection on a periodic basis, that all state
20 institutions meet appropriate federal and state
21 standards relating to the health, safety and welfare
22 of clients of these institutions.

23 **Sec. 21.** 34-B MRSA §1205, sub-§1, as enacted by
24 PL 1983, c. 459, §7, is amended to read:

25 1. Establishment. The Office of Advocacy is
26 established within the department to investigate the
27 claims and grievances of clients of the department, to
28 investigate with the Department of Human Services, as
29 appropriate, all allegations of child abuse in state
30 institutions and to advocate for compliance by any
31 institution, other facility or agency administered by
32 the department with all laws, administrative rules and
33 institutional and other policies relating to the
34 rights and dignity of clients.

35 **Sec. 22.** 34-B MRSA §1205, sub-§3, ¶¶C and D, as
36 enacted by PL 1983, c. 459, §7, are amended to read:

37 C. As an information source regarding the rights
38 of all clients, keep itself informed about all

1 laws, administrative rules and institutional and
2 other policies relating to the rights and dignity
3 of the clients and about relevant legal decisions
4 and other developments related to the field of
5 mental health and mental retardation, both in this
6 State and in other parts of the country; and

7 D. Make and publish reports necessary to the
8 performance of the duties described in this
9 section, except that only the chief advocate may
10 report any findings of the office to groups
11 outside the department, such as legislative
12 bodies, advisory committees to the Governor,
13 boards of visitors, law enforcement agencies and
14 the press; and

15 Sec. 23. 34-B MRSA §1205, sub-§3, ¶E is enacted
16 to read:

17 E. Negotiate joint working agreements with the
18 Department of Human Services concerning procedures
19 and respective responsibilities for conducting
20 investigations in state institutions of
21 allegations of abuse pursuant to the Child and
22 Family Services and Child Protection Act, Title
23 22, chapter 1071.

24 STATEMENT OF FACT

25 Section 1 provides a mechanism by which relevant
26 information related to abuse or neglect of children
27 that is otherwise confidential may be disclosed to a
28 department of State Government responsible for making
29 determinations regarding personnel actions, licensure
30 or certification or unemployment insurance.

31 Departments must have access to confidential
32 information for purposes of investigation and
33 conducting hearings in accordance with the Maine
34 Administrative Procedure Act, the Maine Revised
35 Statutes, Title 5, chapter 375, in personnel actions,
36 licensure actions and unemployment insurance
37 proceedings. At the present time, this may not be

1 possible as many of the records necessary for the
2 determination of an issue are confidential. This bill
3 allows for a limited disclosure of this information
4 and a method by which to protect that information once
5 it is disclosed.

6 Section 3 is intended to clarify the status of
7 certain records maintained by the Department of
8 Educational and Cultural Services. The bill extends
9 confidentiality provisions to include records and
10 information concerning noncertified personnel who are
11 approved by the department for employment, pursuant to
12 Title 20-A, section 13001, subsection 1, paragraph C.

13 To further cooperation and coordination among
14 agencies which have a legitimate interest in
15 information maintained by the Department of Human
16 Services, including complaints, charges or accusations
17 against certified or approved personnel, the law is
18 amended to parallel the law on records regarding child
19 abuse investigations in the Department of Human
20 Services. Under this bill, the Department of
21 Educational and Cultural Services must give relevant
22 information to other agencies charged with the
23 responsibility to investigate educational personnel,
24 schools and programs and may, at the discretion of the
25 commissioner, release information to certain other
26 agencies.

27 The bill clarifies the confidential status of
28 addresses and extends protection to other personally
29 identifying information maintained in department
30 records.

31 The law is further amended to extend the existing
32 penalties for unlawful release of addresses to include
33 unlawful release of other confidential information.

34 Section 4 clarifies the term "person responsible
35 for the child" as inclusive of education personnel,
36 who are persons responsible for a child's education.

37 Sections 5 and 6 add out-of-home abuse and neglect
38 investigations to the authorizations of the Child and
39 Family Services and Child Protection Act and indicate

1 that with reference to out-of-home abuse and neglect
2 investigations, the Department of Human Services shall
3 act in accordance with Title 22, chapter 1071,
4 subchapter XI.

5 Section 7 provides discretionary authority to the
6 Department of Human Services to release relevant
7 information to the subject of the report when that
8 person is not the child or the child's parent or
9 custodian.

10 Sections 8 and 9 expand the Department of Human
11 Services' optional disclosure of child protection
12 records to include other departments or agencies that
13 license facilities for adults and children, to those
14 agents who govern the conduct of licensed or certified
15 professionals and to state agencies for use in
16 personnel, licensing or unemployment insurance actions.

17 Section 10 deals with mandatory disclosure of
18 records by the Department of Human Services to the
19 Commissioner of Educational and Cultural Services and
20 is broadened to include persons employed by approved
21 schools or any employee of schools operated by the
22 Department of Educational and Cultural Services. The
23 intent is to include janitors, bus drivers, lunch room
24 workers and other nonprofessional school personnel.

25 Section 11 expands the list of mandated reporters
26 to include state and federally funded advocates,
27 excludes minors who are child care personnel from
28 mandatory reporting and requires professionals to also
29 make a report to the Department of Human Services as
30 well as to the district attorney when the suspected
31 abuse of the child is by a person not responsible for
32 the child.

33 Section 12 makes clear that the definitions and
34 provisions of Title 22, chapter 1071, subchapters I
35 and III and Title 22, section 4002, apply also to
36 Title 22, chapter 1071, subchapter XI.

37 Section 13 authorizes any investigating team
38 member who is also an authorized Department of Human
39 Services employee to follow through and take the

1 appropriate action which is designed to protect
2 children in out-of-home settings.

3 Section 14 grants authority to revoke, suspend or
4 refuse to issue or renew a license without a hearing
5 if, during a 5-year period, the licensee or applicant
6 has been convicted of certain enumerated serious
7 crimes. If the person was convicted of such crimes
8 more than 5 years ago, a hearing in accordance with
9 the Maine Administrative Procedure Act, Title 5,
10 chapter 375, would be required.

11 Sections 15 and 16 allow for nonissuance of a
12 certificate of registration for home baby-sitting
13 service and nonissuance of a license for a nursery
14 school if the provider, staff or resident of the home
15 or facility used for the nursery school has abused or
16 neglected a child or has had parental rights
17 involuntarily terminated, unless there is clear
18 evidence of rehabilitation.

19 Section 17 gives the Office of Advocacy the
20 authority and responsibility to conduct, in
21 conjunction with representatives from the Department
22 of Human Services and the Attorney General's office,
23 as appropriate, investigations of allegations of abuse
24 or neglect of offenders committed to correctional
25 facilities.

26 Section 18 makes it clear that the Commissioner of
27 Corrections has responsibility for ensuring the
28 appropriate resolution of allegations of abuse against
29 clients of correctional facilities. All correctional
30 facilities must meet applicable health and safety
31 standards established by the commissioner to ensure an
32 environment that is not inherently abusive or
33 neglectful for clients of these facilities.

34 Section 18 also makes it clear that the
35 Commissioner of Corrections is responsible for the
36 investigation of all allegations of child abuse or
37 neglect in correctional facilities and that these
38 investigations include representatives from the
39 Department of Human Services, as appropriate, and if
40 there are indications of criminal conduct, the Office

1 of the Attorney General, as appropriate. In addition,
2 the commissioner is given the responsibility to
3 negotiate working agreements with the Department of
4 Human Services and the Office of the Attorney General
5 for the conduct of these investigations.

6 Section 19 makes it clear that the commissioner
7 has responsibility for ensuring the appropriate
8 resolution of allegations of abuse against clients of
9 state institutions. All state institutions must meet
10 adequate health and safety standards established by
11 the commissioner to ensure an environment that is not
12 inherently abusive or neglectful for clients of these
13 institutions.

14 Section 20 clarifies that the Office of Advocacy
15 is responsible for conducting investigations of all
16 allegations of child abuse in state institutions, in
17 cooperation with staff responsible for abuse
18 allegations in the Department of Human Services.

19 Sections 21 and 22 require the Office of Advocacy
20 to establish joint working agreements with appropriate
21 staff in the Department of Human Services to clarify
22 respective duties and responsibilities in conducting
23 abuse investigations in state institutions of the
24 department.