

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1152

S.P. 435

In Senate, April 12, 1989

Submitted by the Department of Human Services pursuant to Joint Rule 24.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator RANDALL of Washington.

Cosponsored by Senator CLARK of Cumberland, Representative DELLERT of Gardiner and Representative BOUTILIER of Lewiston.

STATE OF MAINE

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

An Act to Amend the Adult Protective Services Act.



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

3 Sec. 1. 22 MRSA §3472, sub-§1, as amended by PL 1983, c. 313,
5 §1, is further amended to read:

7 1. Abuse. "Abuse" means the willful infliction of injury,
9 unreasonable confinement, intimidation or cruel punishment with
11 resulting physical harm or pain or mental anguish; sexual abuse
13 or exploitation; or the willful deprivation of essential needs.

15 Sec. 2. 22 MRSA §3472, sub-§§2 and 12, as enacted by PL 1981,
17 c. 527, §2, are amended to read:

19 2. Adult. "Adult" means any person who has attained the age
21 of 18 years or who is a legally emancipated minor.

23 12. Protective services. "Protective services" means
25 services which will separate incapacitated or dependent adults
27 from danger. Protective services include, but are not limited to,
29 social, medical and psychiatric services necessary to preserve
31 the incapacitated or dependent adult's rights and resources and
33 to maintain the incapacitated or dependent adult's physical and
35 mental well-being.

37 Protective services may include seeking guardianship or a
39 protective order under Title 18-A, Article 5 V. ~~The department
41 shall classify as protective clients the incapacitated adults who
43 receive protective services.~~

45 Sec. 3. 22 MRSA §3472, sub-§13, ¶¶A and B, as enacted by PL
47 1981, c. 527, §2, are amended to read:

49 A. Serious physical injury or impairment;

51 B. Serious mental injury or impairment, which now or in the
future is likely to be evidenced by serious mental,
behavioral or personality disorder, including, but not
limited to, severe anxiety, depression or withdrawal,
untoward aggressive behavior or similar serious
dysfunctional behavior; or

53 Sec. 4. 22 MRSA §3472, sub-§14, as enacted by PL 1981, c. 527,
55 §2, is repealed.

57 Sec. 5. 22 MRSA §3472, sub-§15 is enacted to read:

59 15. Sexual abuse or exploitation. "Sexual abuse or
exploitation" means contact or interaction of a sexual nature
involving an incapacitated or dependent adult without that
adult's consent.

61

1 **Sec. 6. 22 MRSA §3477, sub-§1**, as amended by PL 1983, c. 616,
§1, is further amended to read:

3
1. **Reasonable cause to suspect.** When, while acting in his
5 a professional capacity, an allopathic or osteopathic physician,
intern, medical examiner, physician's assistant, dentist,
7 chiropractor, podiatrist, registered or licensed practical nurse,
certified nurse's aide, Christian Science practitioner, social
9 worker, psychologist, pharmacist, physical therapist, speech
therapist, occupational therapist, mental health professional,
11 law enforcement official, coroner, emergency room personnel,
ambulance attendant or emergency medical technician suspects that
13 an adult has been abused, neglected or exploited, and has
reasonable cause to suspect that the adult is incapacitated, then
15 the professional shall immediately report or cause a report to be
made to the department.

17
Whenever a person is required to report in his the capacity as a
19 member of the staff of a medical, public or private institution,
agency or facility, he the staff person shall immediately notify
21 the person in charge of the institution, agency or facility, or
his the designated agent of the person in charge, who shall then
23 cause a report to be made. The staff person shall also make a
report directly to the department.

25 **Sec. 7. 22 MRSA §3485**, as enacted by PL 1981, c. 527, §2, is
27 amended to read:

29 **§3485. Reporting abuse**

31 Upon finding evidence indicating that a person has abused,
or neglected or ~~exploited~~ an incapacitated or dependent adult,
33 resulting in serious harm, or has exploited an incapacitated or
dependent adult, the department shall notify the district
35 attorney.

37
39 **STATEMENT OF FACT**

41 This bill amends certain sections of the Adult Protective
Services Act to strengthen, expand and clarify the law. Changes
43 in definitions include removing the term "willful" from the
definition of abuse, as it cannot be the determining factor in
45 reporting or substantiating abuse of an incapacitated or
dependent adult; expanding the definitions of "adult" to include
47 emancipated minors; adding a definition of "sexual abuse";
clarifying that the definition of "protective services" includes
49 dependent adults; and clarifying the definition of "serious harm"
for reporting to district attorneys.

51

1 This bill also includes certified nurse's aides under
2 persons mandated to report abuse, as certified nurse's aides
3 provide direct care and are in a position to identify
4 suspected abuse, neglect or exploitation of incapacitated or
5 dependent adults.