

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1268

S.P. 476

In Senate, March 25, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GAUVREAU of Androscoggin

Cosponsored by Representative PARADIS of Augusta and Representative RICHARDS of Hampden.

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### STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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An Act to Clarify Requirements for Disclosure of Confidential Client  
Information Held by Mental Health Service Providers.

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

34-B MRSA §1207, sub-§1, ¶B-1, as amended by PL 1989, c. 190,  
is further amended to read:

B-1. Information shall must be disclosed to the Department of Human Services for the purpose of cooperating in an investigation or any other activity pursuant to Title 15, chapter 507, or Title 22, chapter 958-A or 1071, pursuant to an agreement between the department and the Department of Human Services. The agreement may not require service providers to disclose confidential client information without the consent of the client, the client's legal guardian, if any, or, if the client is a minor, the client's parent or legal guardian unless such disclosure is ordered by a court of record. The agreement, specifying the circumstances and conditions by which disclosure shall must be made, shall must be promulgated as rules by the department in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375;

#### STATEMENT OF FACT

Recent rules promulgated by the Department of Mental Health and Mental Retardation require service providers to disclose confidential client information to the Department of Human Services adult protective workers without the necessity of client consent, administrative subpoena or court order when determined necessary by the protective worker. The rules apply to private service providers that are funded or licensed by the Department of Mental Health and Mental Retardation, but not to private providers that are not licensed or funded by the Department of Mental Health and Mental Retardation.

Confidential client information was protected from disclosure without client consent or a court order prior to the adoption of the new rules. The new rules place some providers in jeopardy of violating federal law, which still prohibits disclosure of certain client information without client consent or a court order.

This bill restores protections that previously existed and resolves the conflict with federal law which the new rules have created for some providers by prohibiting the Department of Mental Health and Mental Retardation from requiring providers to disclose confidential client information without client consent or a court order.