

MAINE STATE LEGISLATURE

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M I N O R I T Y
J U D I C I A R Y

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 942, L.D. 1331, Bill, "An Act Relating to Confidentiality of Records and the Prevention of Child Sexual Abuse"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 22 MRSA §4008, sub-§1, as enacted by PL 1979, c. 733, §18, is amended to read:

1. Confidentiality of records. All department records which that contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related to a child while in the care or custody of the department are confidential and subject to release only under the conditions of subsections 2 and 3 and 6. Within the department, the records shall may be available only to and used by appropriate departmental personnel and legal counsel for the department in carrying out their functions.

Sec. 2. 22 MRSA §4008, sub-§6 is enacted to read:

6. Optional disclosure to protect children. The department may release relevant substantiated information to the extent necessary for the protection of a child.

A. The department may disclose the information when:

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2 (1) The department has reasonable cause to believe
4 that a child is currently at risk of being abused by a
6 person who is the subject of substantiated information
8 in the department's possession and the department
 reasonably believes that that child or other children
 can not be protected from the risk without the
 department's disclosure of information as provided in
 this subsection; and

10 (2) The department makes the disclosure to the
12 superintendent of a school administrative unit or the
14 chief administrator of a private school approved under
16 Title 20-A when the person who is the subject of the
 information is employed by or provides voluntary
 services to the unit or school.

18 The individual to whom the department discloses
20 information under this subsection may use the
22 information for only the purposes for which the
 information was disclosed.

24 B. Except as otherwise provided in this paragraph, before
26 the department makes a disclosure under this subsection, the
 department shall notify the person who is the subject of the
 information disclosed of the following:

28 (1) The information disclosed; and

30 (2) To whom the information will be disclosed.

32 The department is not required to notify the person who is
34 the subject of the information if the department reasonably
36 believes that the notification will put a child at
 additional risk of being abused.'

38 Further amend the bill by inserting at the end before the
 statement of fact the following:

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FISCAL NOTE

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44 The additional costs associated with the optional disclosure
46 of certain information can be absorbed by the Department of Human
 Services utilizing existing budgeted resources.'

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STATEMENT OF FACT

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 This amendment replaces the bill, although it retains the

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COMMITTEE AMENDMENT "A" to H.P. 942, L.D. 1331

2 central purpose of protecting children in school situations in
3 which the Department of Human Services has substantiated
4 information about a person working with those children.

6 This amendment creates a new provision in the Child and
7 Family Services and Child Protection Act. The new provision
8 gives the department discretionary authority to disclose certain
9 information in specific circumstances.

10 1. The department must have reasonable cause to believe
11 that a child is currently at risk of being abused by a particular
12 person based on substantiated information the department has in
13 its possession.

14 2. The department must reasonably believe that a child in
15 that situation can not be protected from the risk of being abused
16 by that person unless the department discloses the information
17 about that person to the superintendent of a school
18 administrative unit or the headmaster or other chief
19 administrator of a private school. The information that may be
20 disclosed is limited to relevant substantiated information that
21 is necessary to protect the child. The department's current
22 procedures require that the information be credible and reliable
23 and be investigated before it is found to be substantiated.
24 Current law requires that, in most cases, unsubstantiated records
25 be retained for no more than 18 months, then expunged.

26 The individual receiving the information may use the information
27 for only the purposes for which it was disclosed to that
28 individual.

29 3. Before the department discloses information under this
30 provision, it must notify the person who is the subject of the
31 information. The notification must include the information
32 disclosed and the recipient of the information. However, the
33 department is not required to notify the person if the department
34 reasonably believes that the notification will increase the risk
35 to the child.