

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1673

H.P. 1182

House of Representatives, March 26, 1997

An Act to Amend the Child and Family Services and Child Protection Act.

Submitted by the Department of Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MARVIN of Cape Elizabeth.
Cosponsored by Representatives: MADORE of Augusta, MITCHELL of Portland.

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

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Sec. 1. 22 MRSA §4008-A is enacted to read:

§4008-A. Child abuse and neglect investigations; disclosure

1. Disclosure permitted. Notwithstanding any other provision of law, the commissioner may disclose information as set forth in this section regarding the abuse or neglect of a child and the investigation of and any services related to the abuse and neglect if the commissioner determines that such disclosure is not contrary to the best interests of the child, the child's siblings or other children in the household and any one of the following factors is present:

A. The alleged perpetrator of the abuse or neglect has been charged with committing a crime related to the allegation of abuse or neglect maintained by the department;

B. A judge, a law enforcement agency official, a district attorney or another state or local investigative agency or official has publicly disclosed, as required by law in the performance of official duties, the provision of child welfare services or the investigation by child welfare services of the abuse or neglect of the child;

C. An individual who is the parent, custodian or guardian of the victim or a child victim over 14 years of age has made a prior knowing, voluntary, public disclosure; or

D. The child named in the report has died.

2. Information. For the purposes of this section, the following information may be disclosed:

A. The name of the abused or neglected child;

B. The determination by the local child protective service or the state agency that investigated the alleged abuse or neglect and the findings of the applicable investigating agency upon which the determination was based;

C. Identification of child protective or other services provided or actions, if any, taken regarding the child and the child's family;

D. Whether any report of abuse or neglect regarding the child has been substantiated as maintained by the department;

2 E. Any actions taken by child protective services in
4 response to reports of abuse or neglect of the child to the
6 department, including, but not limited to, actions taken
8 after every report of abuse or neglect of the child and the
10 dates of the reports;

12 F. Whether the child or the child's family has received
14 care or services from the child welfare services prior to
16 every report of abuse or neglect of the child; and

18 G. Any extraordinary or pertinent information concerning
20 the circumstances of the abuse or neglect of the child and
22 the investigation of the abuse or neglect, if the
24 commissioner determines the disclosure is consistent with
26 the public interest.

28 3. Limitations. The following limitations apply to
30 information disclosed pursuant to this section.

32 A. Information released prior to the completion of the
34 investigation of a report must be limited to a statement
36 that a report is under investigation.

38 B. If there has been a prior disclosure pursuant to
40 paragraph A, information released in a case in which the
42 report has not been substantiated is limited to the
44 statement that the investigation has been completed and the
46 report has not been substantiated.

48 C. If the report has been substantiated, information may be
50 released pursuant to subsection 2.

D. The disclosure may not identify or provide any
identifying description of the source of the report, and may
not identify the name of the abused or neglected child's
siblings, the parent or other person legally responsible for
the child or any other members of the child's household,
other than the subject of the report.

4. Considerations. In determining pursuant to subsection 1
whether disclosure would be contrary to the best interests of the
child, the child's siblings or other children in the household,
the commissioner shall consider the privacy of the child and the
child's family and the effects that disclosure may have on
efforts to reunite and provide services to the family.

5. Other releases and disclosure. Except as it applies
directly to the cause of the abuse or neglect of the child,
nothing in this section authorizes the release or disclosure of
the substance or content of any psychological, psychiatric,

2 therapeutic, clinical or medical reports, evaluations or similar
3 materials or information pertaining to the child or the child's
4 family.

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8 **SUMMARY**

10 Currently, the Department of Human Services is precluded
11 from releasing information regarding child abuse and neglect
12 investigations to the public, due to the restrictions of
13 confidentiality laws codified in the Maine Revised Statutes,
14 Title 22, section 4008. This bill will enable the commissioner,
15 at the commissioner's discretion, to release information
16 pertaining to child abuse or neglect, when criminal action has
17 been taken as a result of abuse or neglect or where public
18 disclosure of an abuse and neglect case has already occurred.