

# MAINE STATE LEGISLATURE

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A. 018

L.D. 177

DATE: 5-8-01

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**HEALTH AND HUMAN SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
120TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 166, L.D. 177, Bill, "An Act Regarding Child Abuse and Neglect Investigation"

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

**Sec. 1. 22 MRSA §4088, sub-§1, ¶D**, as amended by PL 1989, c. 700, Pt. A, §90 and PL 1995, c. 560, Pt. K, §82 and affected by §83, is further amended to read:

D. "Out-of-home abuse and neglect" means abuse and neglect of a child which that occurs in a facility or program or by a person subject to licensure or inspection by this department, the Department of Education, the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services or in a facility operated by these departments or in connection with services funded in whole or in part by these departments as day habilitation services for persons with mental retardation under the rules adopted by the department and the Department of Mental Health, Mental Retardation and Substance Abuse Services.

**Sec. 2. 22 MRSA §4088, sub-§2**, as enacted by PL 1989, c. 400, §9, is amended to read:

**2. Team established.** The out-of-home abuse and neglect investigating team is established to investigate reports of suspected abuse and neglect of children by persons or in facilities or programs subject to licensure pursuant to this Title or in connection with services funded in whole or in part by the department as day habilitation services for persons with

**COMMITTEE AMENDMENT**

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2 mental retardation under the rules adopted by the department and  
3 the Department of Mental Health, Mental Retardation and Substance  
4 Abuse Services. The team is also authorized to assist other  
5 persons or agencies to investigate suspected abuse and neglect by  
6 persons or in facilities or programs providing services to  
7 children that are subject to licensure pursuant to other Titles  
8 or in connection with services that are funded in whole or in  
9 part by the Department of Education, the Department of  
10 Corrections or the Department of Mental Health, Mental  
11 Retardation and Substance Abuse Services as day habilitation  
12 services for persons with mental retardation under the rules  
13 adopted by the department and the Department of Mental Health,  
14 Mental Retardation and Substance Abuse Services and to assist in  
15 investigations of suspected abuse and neglect in state-operated  
16 facilities providing services for children.

17 **Sec. 3. 22 MRS §4088, sub-§3,** as amended by PL 1989, c. 700,  
18 Pt. A, §91 and PL 1995, c. 560, Pt. K, §82 and affected by §83,  
19 is further amended to read:

20 **3. Authority and responsibility.** The team shall have has  
21 the following authority and responsibilities regarding  
22 investigation of out-of-home abuse and neglect. The team:

23 A. Shall receive all reports of out-of-home abuse and  
24 neglect;

25 B. Shall investigate all reports received by the department  
26 regarding alleged out-of-home abuse and neglect occurring in  
27 facilities or programs or by persons subject to licensure by  
28 the department or in connection with services funded in  
29 whole or in part by the department as day habilitation  
30 services for persons with mental retardation under the rules  
31 adopted by the department and the Department of Mental  
32 Health, Mental Retardation and Substance Abuse Services;

33 C. Shall conduct a single investigation sufficient to  
34 determine not only if abuse or neglect has occurred but also  
35 to determine whether a licensing violation has occurred in  
36 order to protect children from further harm and establish a  
37 basis upon which to take licensing action. This procedure  
38 minimizes duplicative or redundant investigations to the  
39 extent possible in response to the same or related  
40 allegations of out-of-home abuse or neglect in facilities or  
41 programs or by persons subject to licensure by the  
42 department or in connection with services funded in whole or  
43 in part by the department as day habilitation services for  
44 persons with mental retardation under the rules adopted by  
45 the department and the Department of Mental Health, Mental  
46 Retardation and Substance Abuse Services;

Revised

COMMITTEE AMENDMENT "A" to H.P. 166, L.D. 177

- 2 D. Shall coordinate and consult with the bureau staff  
3 performing general licensing functions to eliminate  
4 duplicative or redundant investigations to the extent  
5 possible and to prevent, correct or eliminate the abuse or  
6 neglect or threat of abuse or neglect in out-of-home  
7 settings;
- 8
- 9 E. Shall provide the results of the investigation to the  
10 bureau's licensing staff for appropriate action;
- 11
- 12 F. Shall include relevant professionals outside the  
13 department as members of the team for all investigations of  
14 residential treatment centers, group homes or day care  
15 centers mandated by this subchapter and for other child care  
16 facilities as warranted;
- 17
- 18 G. When a report alleges out-of-home abuse and neglect in  
19 facilities or programs or by persons ~~not--subject--to~~  
20 licensure-by-the-department licensed by the Department of  
21 Education, the Department of Corrections or the Department  
22 of Mental Health, Mental Retardation and Substance Abuse  
23 Services or in connection with services funded in whole or  
24 in part by these departments as day habilitation services  
25 for persons with mental retardation under the rules adopted  
26 by the department and the Department of Mental Health,  
27 Mental Retardation and Substance Abuse Services, shall  
28 immediately refer the report to the agency or department  
29 ~~charged-with-the-responsibility-to-investigate-such-a-report~~  
30 that licensed the facility, person or program or funded the  
31 services or, if applicable, to the state department  
32 operating the facility;
- 33
- 34 H. With respect to reports described in paragraph G, may,  
35 on its own initiative or upon request of another department  
36 or agency ~~charged-with-the-responsibility-to-investigate,~~  
37 participate in the out-of-home abuse and neglect  
38 investigation of persons, programs or facilities subject to  
39 licensure or funded in whole or in part or operated by the  
40 Department of Education, the Department of Corrections or  
41 the Department of Mental Health, Mental Retardation and  
42 Substance Abuse Services as day habilitation services for  
43 persons with mental retardation under the rules adopted by  
44 the department and the Department of Mental Health, Mental  
45 Retardation and Substance Abuse Services. With regard to  
46 these reports, the team shall investigate if the department  
47 involved does not undertake its own investigation;
- 48
- 49 I. Shall refer to the office of the district attorney or  
50 office of the Attorney General, when appropriate, any case

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COMMITTEE AMENDMENT "A" to H.P. 166, L.D. 177

2 in which criminal activity is alleged and shall coordinate  
its investigation with that office to minimize the trauma to  
the children involved; and

4  
6 J. Shall consult and train law enforcement personnel,  
advocates and others in the identification, reporting,  
prevention and investigation of out-of-home abuse and  
8 neglect as time allows.

10 **Sec. 4. 22 MRSA §4088, sub-§§4 to 6,** as enacted by PL 1989, c.  
400, §9, are amended to read:

12  
14 **4. Training.** The team shall must be trained in techniques  
of investigating out-of-home abuse and neglect of children, as  
well as child development; identification of abuse and neglect;  
16 interview techniques; treatment alternatives for perpetrators,  
victims and their families; licensing regulations applicable to  
18 facilities, programs or persons licensed pursuant to Subtitle 6;  
rules applicable to contracted services for children; and other  
20 statutory and regulatory remedies available to prevent, correct  
or eliminate abuse and neglect in out-of-home settings.

22  
24 **5. Records; confidentiality; disclosure.** Records created  
pursuant to this subchapter shall must be maintained in  
accordance with section 4008 and shall may not be disclosed  
26 except as provided by that section or by section 7703,  
subsections 2 to 4.

28  
30 **6. Assistance.** Staff performing general licensing and  
contracting functions may assist the team in conducting  
out-of-home investigations upon the request of the Director of  
32 the Bureau of Child and Family Services, ~~provided that~~ as long as  
the licensing or contracting staff member has ~~neither~~ not  
34 currently licensed ~~nor,~~ contracted with or monitored for  
compliance the subject of the investigation.

36  
38 **Sec. 5. 34-B MRSA §1205, sub-§4,** as amended by PL 1989, c.  
731, §3, is further amended to read:

40 **4. Access to files and records.** The Office of Advocacy,  
through the chief advocate and the other advocates, has access,  
42 limited only by the law, to the files, records and personnel of  
any institution, facility, program, person, service or agency  
44 administered, licensed or funded by the department. All persons  
with knowledge about an incident related to client care,  
46 including client-to-client assault, staff-to-client assault,  
client-to-staff assault, excessive use of seclusion or mechanical  
48 or chemical restraint, incidents stemming from questionable  
psychiatric and medical practice or any other alleged abuse or  
50 neglect, shall immediately report the details of that incident to

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COMMITTEE AMENDMENT "A" to H.P. 166, L.D. 177

the Office of Advocacy. A copy of any incident report shall must be provided to the Office of Advocacy by the person making the report.

**Sec. 6. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<b>2001-02</b>	<b>2002-03</b>
<b>10 HUMAN SERVICES, DEPARTMENT OF</b>		
<b>12 Community Services Center</b>		
14           Positions	(3,000)	(3,000)
Personal Services	\$128,595	\$179,694
16           All Other	52,506	25,682
18           Provides funds for 3 Social		
Services Program Specialist I		
20           positions and associated		
operating expenses to		
22           investigate additional		
reports of out-of-home abuse		
24           and neglect of children.		
26		
<b>28 DEPARTMENT OF HUMAN SERVICES</b>		
<b>TOTAL</b>	<u>\$181,101</u>	<u>\$205,376</u>

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

	<b>2001-02</b>	<b>2002-03</b>
<b>38 APPROPRIATIONS/ALLOCATIONS</b>		
40           General Fund	\$181,101	\$205,376

This bill includes General Fund appropriations of \$181,101 and \$205,376 in fiscal years 2001-02 and 2002-03, respectively, for the Community Services Center within the Department of Human Services for 3 Social Services Program Specialist I positions and associated operating expenses to investigate additional reports of suspected out-of-home abuse and neglect of children.

COMMITTEE AMENDMENT "H" to H.P. 166, L.D. 177

The additional costs associated with investigating suspected cases of abuse and neglect of children or cooperating with the out-of-home abuse and neglect investigating team can be absorbed by the Department of Education utilizing existing budgeted resources.'

**SUMMARY**

This amendment replaces the bill. It clarifies that the authority of the out-of-home abuse and neglect investigating team would be expanded to the provision of services under the rules adopted by the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services. The amendment removes a section dealing with confidentiality of records because the committee anticipates that issue being addressed in other legislation. The amendment also adds an appropriation section and a fiscal note to the bill.