

# MAINE STATE LEGISLATURE

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

COMMITTEE AMENDMENT "A" to H.P. 811, L.D. 1066, Bill, "An Act to Protect Children and Elderly or Incapacitated Adults"

Amend the bill by striking out the title and substituting the following:

'An Act to Protect Children and Incapacitated or Dependent Adults'

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

Sec. 1. 10 MRSA §8003-B, sub-§2-A, ¶D, as enacted by PL 1993, c. 552, §1, is amended to read:

D. The disclosure is necessary under Title 22, section 4011 4011-A concerning reports of suspected child abuse or neglect; or

Sec. 2. 22 MRSA §3028, sub-§7, as amended by PL 1995, c. 272, §3, is further amended to read:

7. Written report. Upon completing an investigation, the medical examiner shall submit a written report of findings to the Chief Medical Examiner on forms provided for that purpose. The medical examiner shall retain one copy of the report.

If a medical examiner reports suspected abuse, neglect or exploitation to the Chief Medical Examiner, the Chief Medical Examiner, by reporting that information to the department on behalf of the medical examiner, fulfills the medical examiner's mandatory reporting requirement under section 3477 or 4011 4011-A.

2           **Sec. 3. 22 MRSA §3477, sub-§1**, as amended by PL 1997, c. 453,  
§4, is repealed and the following enacted in its place:

4           **1. Report required.** The following persons immediately  
6 shall report or cause a report to be made to the department when  
8 the person suspects that an adult has been abused, neglected or  
10 exploited and has reasonable cause to suspect that the adult is  
12 incapacitated or dependent:

14           **A. While acting in a professional capacity:**

16                   **(1) An allopathic or osteopathic physician;**

18                   **(2) A medical intern;**

20                   **(3) A medical examiner;**

22                   **(4) A physician's assistant;**

24                   **(5) A dentist;**

26                   **(6) A chiropractor;**

28                   **(7) A podiatrist;**

30                   **(8) A registered or licensed practical nurse;**

32                   **(9) A certified nursing assistant;**

34                   **(10) A social worker;**

36                   **(11) A psychologist;**

38                   **(12) A pharmacist;**

40                   **(13) A physical therapist;**

42                   **(14) A speech therapist;**

44                   **(15) An occupational therapist;**

46                   **(16) A mental health professional;**

48                   **(17) A law enforcement official;**

50                   **(18) A coroner;**

**(19) Emergency room personnel;**

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- (20) An ambulance attendant;
- (21) An emergency medical technician; or
- (22) Unlicensed assistive personnel; or

B. Any other person who has assumed full, intermittent or occasional responsibility for the care or custody of the adult, whether or not the person receives compensation.

Whenever a person is required to report as a member of the staff of a medical, public or private institution, agency or facility, the staff person immediately shall make a report directly to the department.

**Sec. 4. 22 MRSA §4011**, as amended by PL 1999, c. 300, §§1 and 2, is repealed.

**Sec. 5. 22 MRSA §4011-A** is enacted to read:

**§4011-A. Reporting of suspected abuse or neglect**

**1. Required report to department.** The following adult persons shall immediately report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected:

**A. When acting in a professional capacity:**

- (1) An allopathic or osteopathic physician, resident or intern;
- (2) An emergency medical services person;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A dental hygienist;
- (7) A dental assistant;
- (8) A chiropractor;
- (9) A podiatrist;
- (10) A registered or licensed practical nurse;

- 2                   (11) A teacher;
- 4                   (12) A guidance counselor;
- 6                   (13) A school official;
- 8                   (14) A children's summer camp administrator or  
10                   counselor;
- 12                   (15) A social worker;
- 14                   (16) A court-appointed special advocate or guardian ad  
16                   litem for the child;
- 18                   (17) A homemaker;
- 20                   (18) A home health aide;
- 22                   (19) A medical or social service worker;
- 24                   (20) A psychologist;
- 26                   (21) Child care personnel;
- 28                   (22) A mental health professional;
- 30                   (23) A law enforcement official;
- 32                   (24) A state or municipal fire inspector;
- 34                   (25) A municipal code enforcement official;
- 36                   (26) A commercial film and photographic print  
38                   processor;
- 40                   (27) A clergy member acquiring the information as a  
42                   result of clerical professional work except for  
44                   information received during confidential  
46                   communications; or
- 48                   (28) A chair of a professional licensing board that  
50                   has jurisdiction over mandated reporters; or
- B. Any other person who has assumed full, intermittent or  
                  occasional responsibility for the care or custody of the  
                  child, whether or not the person receives compensation.
- Whenever a person is required to report in a capacity as a member  
                  of the staff of a medical or public or private institution.

agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected comes from treatment of a person responsible for the abuse or neglect, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.

B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely.

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse or neglect. The persons

2 making the recommendations shall take into account the  
3 nature, extent and severity of abuse or neglect, the safety  
4 of the child and the community and needs of the child and  
5 other family members for treatment of the effects of the  
6 abuse or neglect and the willingness of the person  
7 responsible for the abuse or neglect to engage in  
8 treatment. The persons making the recommendations may  
9 review or revise these recommendations at their discretion.

10 The intent of this subsection is to encourage offenders to seek  
11 and effectively utilize treatment and, at the same time, provide  
12 any necessary protection and treatment for the child and other  
13 family members.

14 5. Photographs of visible trauma. Whenever a person is  
15 required to report as a staff member of a law enforcement agency  
16 or a hospital, that person shall make reasonable efforts to take,  
17 or cause to be taken, color photographs of any areas of trauma  
18 visible on a child.

19 A. The taking of photographs must be done with minimal  
20 trauma to the child and in a manner consistent with  
21 professional standards. The parent's or custodian's consent  
22 to the taking of photographs is not required.

23 B. Photographs must be made available to the department as  
24 soon as possible. The department shall pay the reasonable  
25 costs of the photographs from funds appropriated for child  
26 welfare services.

27 C. The person shall notify the department as soon as  
28 possible if that person is unable to take, or cause to be  
29 taken, these photographs.

30 D. Designated agents of the department may take photographs  
31 of any subject matter when necessary and relevant to an  
32 investigation of a report of suspected abuse or neglect or  
33 to subsequent child protection proceedings.

34 Sec. 6. 22 MRSA §4093, 3rd ¶, as enacted by PL 1989, c. 483,  
35 Pt. A, §34, is amended to read:

36 The family support team shall provide a multidisciplinary  
37 approach for suspected child abuse cases that are initially  
38 identified in hospital emergency rooms, inpatient pediatric  
39 departments and ambulatory clinics. The child protective staff  
40 of the Bureau of Social Child and Family Services shall  
41 participate on the teams. The team shall report immediately to  
42 the department as required in section 4011 4011-A.

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of Human Services. These costs can be absorbed within the department's existing budgeted resources.'

#### SUMMARY

This amendment replaces the bill. It revises the mandatory reporting laws for both child abuse and neglect and incapacitated or dependent adult abuse, neglect and exploitation to require a person who has full, intermittent or occasional responsibility for the care or custody of the child or the adult to report suspected abuse, neglect or exploitation. This applies whether or not the person is being paid for their services. The new language includes babysitters and day care providers and all other persons who provide similar care.

This amendment also adds a fiscal note to the bill.