

# MAINE STATE LEGISLATURE

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# 122nd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2005

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Legislative Document

No. 867

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H.P. 618

House of Representatives, February 16, 2005

### An Act Regarding Child Protection Proceedings

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Submitted by the Department of the Attorney General pursuant to Joint Rule 204.  
Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PELLETIER-SIMPSON of Auburn.  
Cosponsored by Senator HOBBS of York.

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

4 **Sec. 1. 22 MRSA §4007, sub-§5**, as enacted by PL 1985, c. 506,  
Pt. A, §42, is repealed.

6 **Sec. 2. 22 MRSA §4008, sub-§1**, as enacted by PL 1979, c. 733,  
§18, is amended to read:

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

20 Within the department, the records are available only to and may  
be used only by appropriate departmental personnel and legal  
22 counsel for the department in carrying out their functions.

24 Any person who receives department records or information from  
the department may use the records or information only for the  
26 purposes for which that release was intended. A person,  
including, but not limited to, a child, parent, custodian or  
28 subject of a record, may not further disseminate any record that  
person receives from the department unless the dissemination is  
30 otherwise required by law.

32 **Sec. 3. 22 MRSA §4008, sub-§2, ¶A-1** is enacted to read:

34 A-1. A law enforcement agency, to the extent necessary for  
reporting, investigating and prosecuting an alleged crime,  
36 the victim of which is a department employee, an employee of  
the Attorney General's Office, an employee of any court or  
38 court system, a person mandated to report suspected abuse or  
neglect, a person who has made a report to the department, a  
40 person who has provided information to the department or an  
attorney, guardian ad litem, party, participant, witness or  
42 prospective witness in a child protection proceeding;

44 **Sec. 4. 22 MRSA §4008, sub-§2, ¶¶D-1 and D-2** are enacted to  
read:

46 D-1. A parent, custodian or caretaker of a child when the  
48 department believes the child may be at risk of harm from  
the person who is the subject of the records or information,

2 with protection for identity of reporters and other persons  
3 when appropriate;

4 D-2. A party to a child protection proceeding, when the  
5 records or information is relevant to the proceeding, with  
6 protection for identity of reporters and other persons when  
7 appropriate;

8  
9 **Sec. 5. 22 MRSA §4008, sub-§2, ¶E,** as amended by PL 2001, c.  
10 696, §17, is further amended to read:

11 E. A person having the legal responsibility or  
12 authorization to evaluate, treat, educate, care for or  
13 supervise a child, parent or custodian who is the subject of  
14 a record, or a member of a panel appointed by the department  
15 to review child deaths and serious injuries, or a member of  
16 the Domestic Abuse Homicide Review Panel established under  
17 Title 19-A, section 4013, subsection 4. This includes a  
18 member of a treatment team or group convened to plan for or  
19 treat a child or family that is the subject of a record.  
20 This may also include a member of a support team for foster  
21 parents, if that team has been reviewed and approved by the  
22 department;

23  
24 **Sec. 6. 22 MRSA §4008, sub-§2, ¶E-1** is enacted to read:

25 E-1. A relative or other person whom the department is  
26 investigating for possible custody or placement of the child;

27  
28 **Sec. 7. 22 MRSA §4008, sub-§2, ¶I,** as repealed and replaced by  
29 PL 1989, c. 878, Pt. A, §63, is amended to read:

30  
31 I. The representative designated to provide child welfare  
32 services by the tribe of an Indian child as defined by the  
33 federal Indian Child Welfare Act, 25 United States Code,  
34 Section 1903, or a representative designated to provide  
35 child welfare services by an Indian tribe of Canada; and

36  
37 **Sec. 8. 22 MRSA §4008, sub-§3, ¶A,** as enacted by PL 1979, c.  
38 733, §18, is amended to read:

39  
40 A. The guardian ad litem of a child ~~named-in-a-record-who~~  
41 ~~is-reported-to-be-abused-or-neglected,~~ appointed pursuant to  
42 section 4005, subsection 1;

43  
44 **Sec. 9. 22 MRSA §4008, sub-§3, ¶A-1** is enacted to read:

45  
46 A-1. The court-appointed guardian ad litem, visitor or  
47 attorney of a child who is the subject of a court proceeding

2 involving parental rights and responsibilities, grandparent  
3 visitation, custody, guardianship or involuntary  
4 commitment. The access of the guardian ad litem, visitor or  
5 attorney to the records or information under this paragraph  
6 is limited to reviewing the records in the offices of the  
7 department. Any other use of the information or records  
8 during the proceeding in which the guardian ad litem,  
9 visitor or attorney is appointed is governed by paragraph B;

10

## SUMMARY

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12 This bill makes the following changes to the laws governing  
13 access to information in child protection proceedings.

14

15 1. It specifies that, within the Department of Health and  
16 Human Services, information in records, as well as the record  
17 itself, is protected and confidential. It also clarifies that a  
18 person who receives records from the department may not further  
19 disseminate the record.

20

21 2. It limits use of department records to the purpose for  
22 which the release was intended and prohibits further  
23 dissemination of those records.

24

25 3. It expands the list of persons to whom the department is  
26 authorized to disclose relevant information.

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