

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 583

H.P. 450

House of Representatives, February 5, 2007

### **An Act To Permit Medical and Social Service Professionals To Report Animal Cruelty**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SIMPSON of Auburn.  
Cosponsored by Senator HOBBS of York and  
Representative: BRYANT of Windham.

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

2 **Sec. 1. 22 MRSA §3474, sub-§2, ¶H,** as amended by PL 2003, c. 653, §6, is  
3 further amended to read:

4 H. A relative by blood, marriage or adoption of an incapacitated or dependent adult  
5 named in a record; ~~and~~

6 **Sec. 2. 22 MRSA §3474, sub-§2, ¶I,** as enacted by PL 2003, c. 653, §6, is  
7 amended to read:

8 I. A member of a panel appointed by the department or the Office of the Attorney  
9 General to review the death or serious injury of an incapacitated or dependent adult  
10 or a child; and

11 **Sec. 3. 22 MRSA §3474, sub-§2, ¶J** is enacted to read:

12 J. The local animal control officer or the animal welfare program of the Department  
13 of Agriculture, Food and Rural Resources established pursuant to Title 7, section  
14 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For  
15 purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as  
16 provided in Title 34-B, section 1901, subsection 1, paragraph B.

17 **Sec. 4. 22 MRSA §3477, sub-§5** is enacted to read:

18 **5. Permissive reporting of animal cruelty, abuse or neglect.** Notwithstanding any  
19 other provision of state law imposing a duty of confidentiality, a person listed in  
20 subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the  
21 local animal control officer or to the animal welfare program of the Department of  
22 Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For  
23 purposes of this subsection, the reporter shall disclose only such limited confidential  
24 information as is necessary for the local animal control officer or animal welfare program  
25 employee to identify the animal's location and status and the owner's name and address.  
26 For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as  
27 provided in Title 34-B, section 1901, subsection 1, paragraph B.

28 **Sec. 5. 22 MRSA §4008, sub-§2, ¶I,** as amended by PL 2005, c. 300, §7, is  
29 further amended to read:

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

34 **Sec. 6. 22 MRSA §4008, sub-§2, ¶J,** as enacted by PL 1989, c. 502, Pt. A, §77,  
35 is amended to read:

36 J. A person making a report of suspected abuse or neglect. The department may  
37 only disclose that it has not accepted the report for investigation, unless other  
38 disclosure provisions of this section apply; and

1 **Sec. 7. 22 MRSA §4008, sub-§2, ¶K** is enacted to read:

2 K. The local animal control officer or the animal welfare program of the Department  
3 of Agriculture, Food and Rural Resources established pursuant to Title 7, section  
4 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For  
5 purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as  
6 provided in Title 34-B, section 1901, subsection 1, paragraph B.

7 **Sec. 8. 22 MRSA §4011-A, sub-§6** is enacted to read:

8 6. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding  
9 any other provision of state law imposing a duty of confidentiality, a person listed in  
10 subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the  
11 local animal control officer or to the animal welfare program of the Department of  
12 Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For  
13 purposes of this subsection, the reporter shall disclose only such limited confidential  
14 information as is necessary for the local animal control officer or animal welfare program  
15 employee to identify the animal's location and status and the owner's name and address.  
16 For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as  
17 provided in Title 34-B, section 1901, subsection 1, paragraph B.

18 **Sec. 9. 34-B MRSA c. 1, sub-c. 6** is enacted to read:

19 **SUBCHAPTER 6**

20 **REPORTING ANIMAL CRUELTY, ABUSE OR NEGLECT**

21 **§1901. Animal cruelty, abuse or neglect; reporting**

22 **1. Definitions.** As used in this subchapter, unless the context otherwise indicates,  
23 the following terms have the following meanings.

24 A. "Animal" means every living, sentient creature not a human being.

25 B. "Cruelty, abuse or neglect" means every act, omission or instance of neglect  
26 when unnecessary or unjustifiable pain or suffering is caused or permitted.

27 C. "Owner" means a person, firm, partnership, association or corporation owning,  
28 keeping or harboring an animal.

29 D. "Reasonably suspect" means to hold an objectively reasonable suspicion based  
30 upon facts that would cause a reasonable person in a like position to draw on that  
31 person's training or experience to suspect animal cruelty, abuse or neglect.

32 **2. Report.** An employee of a state-funded child or adult protective services agency  
33 or other social service agency, including those providing mental health services that are  
34 funded or licensed by the department, while acting in the employee's professional  
35 capacity or within the scope of the employee's employment, who has knowledge of or  
36 observes an animal that the employee knows or reasonably suspects has been the victim  
37 of cruelty, abuse or neglect may report the known or reasonably suspected animal cruelty,

1 abuse or neglect to the local animal control officer or to the animal welfare program of  
2 the Department of Agriculture, Food and Rural Resources established pursuant to Title 7,  
3 section 3902.

4 **3. Immediate response.** When an immediate response is necessary to protect the  
5 health and safety of an animal, the report under subsection 2 must be made as soon as  
6 possible.

7 **4. Duty.** Nothing in this section may be construed to impose a duty to investigate  
8 known or reasonably suspected animal cruelty, abuse or neglect.

9 **5. Immunity from liability.** A person participating in good faith in reporting under  
10 this subchapter is immune from any civil or criminal liability that might otherwise result  
11 from these actions, including, but not limited to, any civil or criminal liability that might  
12 otherwise arise under state or local laws or rules regarding confidentiality of information.

13 In a proceeding regarding immunity from liability, there is a rebuttable presumption of  
14 good faith.

15 **SUMMARY**

16 This bill gives those professionals who are already mandated reporters of adult or  
17 child abuse, neglect or exploitation and social service agencies under contract with the  
18 Department of Health and Human Services the option of also disclosing such limited  
19 confidential information related to a reasonable suspicion of animal cruelty, abuse or  
20 neglect as would be needed by a local animal control officer or the animal welfare  
21 program of the Department of Agriculture, Food and Rural Resources to begin an  
22 investigation. This bill extends the existing good faith immunity provision to the  
23 reporters of animal cruelty, abuse or neglect that are social service agencies under  
24 contract with the Department of Health and Human Services. In addition, this bill  
25 permits employees of the Department of Health and Human Services to disclose the same  
26 information to local animal control officers or to the animal welfare program of the  
27 Department of Agriculture, Food and Rural Resources.