

MAINE STATE LEGISLATURE

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STATE OF MAINE

SENATE

123RD LEGISLATURE

FIRST REGULAR SESSION

Minority

COMMITTEE AMENDMENT "B" to S.P. 194, L.D. 602, Bill, "An Act To Clarify Confidentiality in Child Protective Proceedings"

Amend the bill by striking out all of sections 1 and 2 and inserting the following:

'Sec. 1. 22 MRSA §4005-D, sub-§6-A is enacted to read:

6-A. Request. A court shall allow any person into any closed hearing upon written request by the parent, custodian, caretaker or legal guardian for the purpose of supporting the requesting person in the case unless the child or other party objects and the court determines that the person's presence would be detrimental to any of the other parties.

Sec. 2. 22 MRSA §4008, sub-§1, as amended by PL 2005, c. 300, §2, is further amended to read:

1. Confidentiality of records and information. All department records that contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related 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 3.

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

Any person who receives department records or information from the department may use the records or information only for the purposes for which that release was intended and may not further disseminate that information. A person, including, but not limited to, a child, parent, custodian or subject of a record, may not further disseminate any record or information that person receives from the department unless the dissemination is otherwise allowed by law intended to contribute to that person's understanding of the action being taken or request for advocacy and support in the current child protective action. This prohibition of dissemination is limited to information gained through the department.'

COMMITTEE AMENDMENT

1 Amend the bill in section 3 in paragraph A-2 in the first line (page 1, line 20 in L.D.)
2 by striking out the following: "custodian or" and inserting the following: 'custodian.'

3 Amend the bill by striking out all of sections 4 to 10 and inserting the following:

4 'Sec. 4. 22 MRSA §4008, sub-§7 is enacted to read:

5 7. Release of information by parent, custodian, caretaker or legal guardian.
6 Notwithstanding any provision of law to the contrary, a parent, custodian, caretaker or
7 legal guardian of a child may release to any person information that is intended to
8 contribute to that person's understanding of the action being taken or request for advocacy
9 and support in the current child protection action. The recipient of any information in the
10 record may not further disseminate or disclose the information.

11 **Sec. 5. Submission of Maine State Plan.** The Commissioner of Health and
12 Human Services shall submit for approval the amended Maine State Plan, containing the
13 provisions of this Act, as required by 42 United States Code, Section 671 and Section
14 5106a and 45 Code of Federal Regulations, Section 1340.14, to the United States
15 Department of Health and Human Services, Administration for Children and Families,
16 Office of Regional Operations, pursuant to 45 Code of Federal Regulations, Section
17 1356.20. The commissioner shall report by January 1, 2008 to the Joint Standing
18 Committee on Judiciary whether the United States Department of Health and Human
19 Services, Administration for Children and Families, Office of Regional Operations has
20 approved the plan pursuant to 45 Code of Federal Regulations, Section 1356.20.

21 **Sec. 6. Effective date.** This Act takes effect February 1, 2008, except that section
22 5 of this Act, relating to the Maine State Plan, takes effect 90 days after adjournment of
23 the First Regular Session of the 123rd Legislature.'

24 SUMMARY

25 This amendment is the minority report of the Joint Standing Committee on Judiciary.
26 This amendment allows the release of child protective information to a parent, custodian,
27 caretaker or legal guardian of a child who is the subject of a child protective action within
28 the Department of Health and Human Services. The amendment allows that parent,
29 custodian, caretaker or legal guardian to release that information to any person if
30 disclosure is intended to contribute to the person's understanding of the action being taken
31 or the person's request for advocacy and support in the current child protective action.
32 The amendment permits courts in child protective proceedings to allow into the
33 proceedings a person designated by a parent, custodian, caretaker or legal guardian as
34 long as no objection is raised by the child or other parties and that presence is not
35 detrimental to any of the other parties. Any person present in the court must abide by the
36 rules of the court.

37 This amendment directs the Commissioner of Health and Human Services to submit
38 the amended Maine State Plan for federal approval. The rest of the Act does not take
39 effect until February 1, 2008 to provide sufficient time for action should the plan not be
40 approved.

FISCAL NOTE REQUIRED
(See Attached)



123rd MAINE LEGISLATURE

LD 602

LR 750(02)

An Act To Clarify Confidentiality in Child Protective Proceedings

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Potential current biennium revenue decrease - Federal Funds

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services in implementing this bill can be absorbed by the department utilizing existing budget resources. The bill's provisions allowing for the release of child protective information may also result in the loss of federal funding if the information release is determined to be for purposes other than child protection.