

MAINE STATE LEGISLATURE

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Legislative Document

No. 1428

H.P. 1002

House of Representatives, March 15, 2007

An Act To Facilitate Reporting by Maine Financial Institutions of Elder Financial Exploitation

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BRAUTIGAM of Falmouth.
Cosponsored by Senator MARRACHÉ of Kennebec and
Representatives: BARSTOW of Gorham, JACKSON of Allagash, KOFFMAN of Bar Harbor,
MARLEY of Portland, PINGREE of North Haven, RICHARDSON of Warren, SAVAGE of
Falmouth, WATSON of Bath.

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

2 **Sec. 1. 9-B MRSA §162, sub-§3**, as amended by PL 2001, c. 211, §1 and PL
3 2003, c. 689, Pt. B, §6, is further amended to read:

4 **3. Disclosure in response to a request by the Department of Health and Human**
5 **Services.** The financial records are disclosed in response to a request for information by
6 the Department of Health and Human Services for purposes related to establishing,
7 modifying or enforcing a child support order; ~~or~~

8 **Sec. 2. 9-B MRSA §162, sub-§4**, as enacted by PL 2001, c. 211, §2, is further
9 amended to read:

10 **4. Disclosure in response to a request by the Department of Labor.** The financial
11 records are disclosed in response to a notice of levy issued by the Department of Labor
12 pursuant to Title 26, section 1233-; or

13 **Sec. 3. 9-B MRSA §162, sub-§5** is enacted to read:

14 **5. Disclosure to the Department of Health and Human Services upon suspicion**
15 **of exploitation.** The financial records are disclosed to the Department of Health and
16 Human Services because a disclosing financial institution, an affiliate of a disclosing
17 financial institution, a disclosing credit union or an affiliate of a disclosing credit union
18 authorized to do business in this State has reasonable cause to suspect that an
19 incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or
20 exploitation.

21 **Sec. 4. 9-B MRSA §164, sub-§3** is enacted to read:

22 **3. Immunity.** A financial institution authorized to do business in the State or its
23 affiliate or a credit union authorized to do business in the State or its affiliate that in good
24 faith discloses financial records to the Department of Health and Human Services
25 pursuant to section 162, subsection 5 is immune from civil or criminal liability that might
26 otherwise arise from the disclosure. In a proceeding regarding immunity from liability,
27 there is a rebuttable presumption of good faith.

28 **SUMMARY**

29 This bill establishes that financial institutions and credit unions are permitted to
30 disclose financial records to the Department of Health and Human Services when the
31 financial institution or credit union has reasonable cause to suspect that an incapacitated
32 or dependent adult has been or is at substantial risk of abuse, neglect or exploitation, and
33 it provides immunity for the good faith disclosure of financial records for this purpose.