

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2243

H.P. 1604

House of Representatives, March 4, 2008

**An Act To Increase the Number of Mandated Reporters of Abuse,
Neglect or Exploitation**

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SIMPSON of Auburn. (GOVERNOR'S BILL)

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

2 **Sec. 1. 16 MRSA §53-A, sub-§2**, as enacted by PL 1983, c. 319, is amended to
3 read:

4 **2. Privileged communications.** Except with regard to reporting, cooperating in an
5 investigation or giving evidence pursuant to Title 22, chapter 958-A or 1071, or except at
6 the request, or with the consent of, the victim of sexual assault, ~~no~~ a sexual assault
7 counselor may not be required to testify in any civil or criminal action, suit or proceeding
8 at law or in equity about any information ~~which he~~ that the sexual assault counselor may
9 have acquired in providing sexual assault counseling services. A sexual assault counselor
10 or a rape crisis center may not be required to disclose to the court any records, notes,
11 memoranda or documents containing confidential communications. When a court in the
12 exercise of sound discretion ~~deems~~ determines the disclosure necessary to the proper
13 administration of justice, ~~no~~ information communicated to, or otherwise learned by, that
14 sexual assault counselor in connection with the provision of sexual assault counseling
15 services ~~may be~~ is not privileged and disclosure may be required.

16 **Sec. 2. 16 MRSA §53-B, sub-§3, ¶A**, as enacted by PL 1995, c. 128, §1, is
17 amended to read:

18 A. When disclosure is required under Title 22, chapter 958-A or 1071 and that
19 disclosure is in accordance with the provisions of ~~that~~ either chapter;

20 **Sec. 3. 16 MRSA §53-C, sub-§3, ¶B**, as enacted by PL 1999, c. 369, §1, is
21 amended to read:

22 B. When disclosure is required under Title 22, chapter 958-A or 1071 and that
23 disclosure is in accordance with ~~that~~ either chapter;

24 **Sec. 4. 22 MRSA §3477, sub-§1, ¶A**, as repealed and replaced by PL 2003, c.
25 653, §9, is amended to read:

- 26 A. While acting in a professional capacity:
- 27 (1) An allopathic or osteopathic physician;
 - 28 (2) A medical intern;
 - 29 (3) A medical examiner;
 - 30 (4) A physician's assistant;
 - 31 (5) A dentist;
 - 32 (6) A chiropractor;
 - 33 (7) A podiatrist;
 - 34 (8) A registered or licensed practical nurse;
 - 35 (9) A certified nursing assistant;
 - 36 (10) A social worker;

- 1 (11) A psychologist;
- 2 (12) A pharmacist;
- 3 (13) A physical therapist;
- 4 (14) A speech therapist;
- 5 (15) An occupational therapist;
- 6 (16) A mental health professional;
- 7 (17) A law enforcement official;
- 8 (18) Emergency room personnel;
- 9 (19) An ambulance attendant;
- 10 (20) An emergency medical technician;
- 11 (21) Unlicensed assistive personnel;
- 12 (22) A humane agent employed by the Department of Agriculture, Food and
- 13 Rural Resources; or
- 14 (23) A clergy member acquiring the information as a result of clerical
- 15 professional work except for information received during confidential
- 16 communications;
- 17 (24) A sexual assault counselor; or
- 18 (25) A family or domestic violence victim advocate;

19 **Sec. 5. 22 MRSA §4011-A, sub-§1, ¶A**, as repealed and replaced by PL 2003, c.
20 599, §8 and affected by §§9 and 14, is amended to read:

- 21 A. When acting in a professional capacity:
- 22 (1) An allopathic or osteopathic physician, resident or intern;
 - 23 (2) An emergency medical services person;
 - 24 (3) A medical examiner;
 - 25 (4) A physician's assistant;
 - 26 (5) A dentist;
 - 27 (6) A dental hygienist;
 - 28 (7) A dental assistant;
 - 29 (8) A chiropractor;
 - 30 (9) A podiatrist;
 - 31 (10) A registered or licensed practical nurse;
 - 32 (11) A teacher;
 - 33 (12) A guidance counselor;

- 1 (13) A school official;
- 2 (14) A children's summer camp administrator or counselor;
- 3 (15) A social worker;
- 4 (16) A court-appointed special advocate or guardian ad litem for the child;
- 5 (17) A homemaker;
- 6 (18) A home health aide;
- 7 (19) A medical or social service worker;
- 8 (20) A psychologist;
- 9 (21) Child care personnel;
- 10 (22) A mental health professional;
- 11 (23) A law enforcement official;
- 12 (24) A state or municipal fire inspector;
- 13 (25) A municipal code enforcement official;
- 14 (26) A commercial film and photographic print processor;
- 15 (27) A clergy member acquiring the information as a result of clerical
- 16 professional work except for information received during confidential
- 17 communications;
- 18 (28) A chair of a professional licensing board that has jurisdiction over mandated
- 19 reporters; ~~and~~
- 20 (29) A humane agent employed by the Department of Agriculture, Food and
- 21 Rural Resources;
- 22 (30) A sexual assault counselor; and
- 23 (31) A family or domestic violence victim advocate;

24 **SUMMARY**

25 This bill adds sexual assault counselors and family or domestic violence victim
26 advocates to the list of mandated reporters of suspected abuse, neglect or exploitation to
27 both the child protective unit and the adult protective unit within the Department of
28 Health and Human Services. This bill creates an exception for each new reporter in the
29 statutes that would otherwise govern client confidentiality in order to permit this
30 mandatory reporting.