

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 162

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H.P. 141

House of Representatives, January 20, 2009

### **An Act To Clarify Child Abuse and Neglect Information Disclosure**

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Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.  
Reference to the Committee on Health and Human Services suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CASAVANT of Biddeford.  
Cosponsored by Representative DILL of Cape Elizabeth.

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

2 **Sec. 1. 22 MRSA §4008, sub-§3, ¶A-1**, as enacted by PL 2005, c. 300, §9, is  
3 amended to read:

4 A-1. The court-appointed guardian ad litem, ~~visitor~~ or attorney of a child who is the  
5 subject of a court proceeding involving parental rights and responsibilities,  
6 grandparent visitation, custody, guardianship or involuntary commitment. The access  
7 of the guardian ad litem, ~~visitor~~ or attorney to the records or information under this  
8 paragraph is limited to reviewing the records in the offices of the department. Any  
9 other use of the information or records during the proceeding in which the guardian  
10 ad litem, ~~visitor~~ or attorney is appointed is governed by paragraph B;

11 **Sec. 2. 22 MRSA §4008-A, sub-§1**, as enacted by PL 1997, c. 328, §1, is  
12 amended to read:

13 **1. Disclosure permitted.** Notwithstanding any other provision of law, the  
14 commissioner, with the advice of the Attorney General, may disclose information as set  
15 forth in this section regarding the abuse or neglect of a child and the investigation of and  
16 any services related to the abuse and neglect if the commissioner determines that such  
17 disclosure is not contrary to the best interests of the child, the child's siblings or other  
18 children in the household and any one of the following factors is present:

19 A. The alleged perpetrator of the abuse or neglect has been charged with committing  
20 a crime related to the allegation of abuse or neglect maintained by the department;

21 B. A judge, a law enforcement agency official, a district attorney or another state or  
22 local investigative agency or official has publicly disclosed, as required by law in the  
23 performance of official duties, the provision of child welfare services or the  
24 investigation by child welfare services of the abuse or neglect of the child; or

25 C. An individual who is the parent, custodian or guardian of the victim or a child  
26 victim over 14 years of age has made a prior knowing, voluntary, public disclosure;  
27 or.

28 ~~D. The child named in the report has died.~~

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

30 **1-A. Disclosure required.** The commissioner shall make public disclosure of the  
31 findings or information pursuant to this section in situations where child abuse or neglect  
32 results in a child fatality or near fatality, with the exception of circumstances, as  
33 determined with the advice of the Attorney General or appropriate district attorney, in  
34 which disclosure of child protective information would jeopardize a criminal  
35 investigation or proceeding.

36 **SUMMARY**

37 The Maine Revised Statutes, Title 22, section 4008-A sets forth the limits of  
38 disclosure of information in the investigation of abuse and neglect of children and in the

1 confidentiality of records pertaining to child abuse and neglect. The federal Department  
2 of Health and Human Services, Administration for Children and Families has informed  
3 the State that corrections are needed in this section of the statutes to be in compliance  
4 with the federal Adoption and Safe Families Act of 1997, the Child Abuse Prevention and  
5 Treatment Act and the Social Security Act.