

MAINE STATE LEGISLATURE

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L.D. 1155

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HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 820, L.D. 1155, Bill, "An Act To Ensure the Integrity of Neuropsychological Testing Materials"

Amend the bill by striking out the title and substituting the following:

'An Act To Ensure the Integrity of Neuropsychological and Psychological Testing Materials and Data'

Amend the bill by striking out everything after the title and before the summary and inserting the following:

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, current law does not protect from disclosure neuropsychological and psychological testing materials; and

Whereas, disclosure of neuropsychological and psychological testing materials and distribution to even just one person who is the subject of testing or to many persons who may be the subjects of the testing will compromise and invalidate such testing; and

Whereas, maintaining the integrity of the testing materials is critical to test results and to the functioning of the system of neuropsychological and psychological testing in this State and requires the immediate action of the Legislature; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §1725 is enacted to read:

COMMITTEE AMENDMENT

1 **§1725. Neuropsychological and psychological evaluations**

2 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
3 following terms have the following meanings.

4 A. "Neuropsychological evaluation" means a testing method through which a
5 neuropsychologist or a psychologist can acquire data about a person's cognitive,
6 behavioral and emotional functioning for purposes of diagnosing or confirming a
7 diagnosis of cognitive deficit or abnormalities in the central nervous system.

8 B. "Neuropsychological or psychological test data" means raw and scaled scores, a
9 person's responses to test questions or stimuli, a neuropsychologist's or psychologist's
10 notes and recordings concerning the person's statements and behavior during a
11 neuropsychological evaluation or psychological evaluation and those portions of
12 neuropsychological or psychological test materials that include the person's
13 responses.

14 C. "Neuropsychological or psychological test materials" means manuals,
15 instruments, protocols, assessment devices, scoring keys, test questions and stimuli
16 used in conducting a neuropsychological evaluation or psychological evaluation.

17 D. "Psychological evaluation" means a testing method through which a psychologist
18 acquires data about a person's cognitive and emotional functioning for purposes of
19 determining cognitive ability, diagnosing a mental health condition or confirming a
20 mental health diagnosis.

21 **2. Disclosure of neuropsychological or psychological test materials and**
22 **neuropsychological or psychological test data.** The disclosure of neuropsychological
23 or psychological test materials and neuropsychological or psychological test data is
24 governed by this subsection.

25 A. Except as provided in paragraph B, neuropsychological or psychological test
26 materials and neuropsychological or psychological test data, the disclosure of which
27 would compromise the objectivity or fairness of the evaluation methods or process,
28 may not be disclosed to anyone, including the person who is the subject of the test,
29 and are not subject to disclosure in any administrative, judicial or legislative
30 proceeding.

31 B. A person who is the subject of a neuropsychological evaluation or psychological
32 evaluation is entitled to have all records relating to that evaluation, including
33 neuropsychological or psychological test materials and neuropsychological or
34 psychological test data, disclosed to any neuropsychologist or psychologist who is
35 qualified to evaluate the test results and who is designated by the person. A
36 neuropsychologist or psychologist designated to receive records under this paragraph
37 may not disclose the neuropsychological or psychological test materials and
38 neuropsychological or psychological test data to another person.

39 **Emergency clause.** In view of the emergency cited in the preamble, this
40 legislation takes effect when approved.'

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SUMMARY

This amendment, which replaces the bill, retains all of the provisions of the bill and adds an emergency preamble and emergency clause. The amendment adds a definition of "psychological evaluation" and adds protection of psychological test materials and test data. The amendment changes the title to reflect the addition of protections for psychological test materials and data.