

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

---

Legislative Document

No. 1238

S.P. 443

In Senate, April 7, 2015

---

**An Act To Allow the Release of Child Protective Records to Certain  
Providers of Child and Adult Services**

---

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.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.  
Cosponsored by Representative SANDERSON of Chelsea.

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

2 **Sec. 1. 22 MRSA §4008, sub-§2, ¶J,** as amended by PL 2007, c. 140, §6, is  
3 further amended to read:

4 J. A person making a report of suspected abuse or neglect. The department may only  
5 disclose that it has not accepted the report for investigation, unless other disclosure  
6 provisions of this section apply; ~~and~~

7 **Sec. 2. 22 MRSA §4008, sub-§2, ¶K,** as enacted by PL 2007, c. 140, §7 and  
8 amended by PL 2011, c. 657, Pt. W, §5, is further amended to read:

9 K. The local animal control officer or the animal welfare program of the Department  
10 of Agriculture, Conservation and Forestry established pursuant to Title 7, section  
11 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For  
12 purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as  
13 provided in Title 34-B, section 1901, subsection 1, paragraph B; and

14 **Sec. 3. 22 MRSA §4008, sub-§2, ¶L** is enacted to read:

15 L. A person, organization, employer or agency for the purpose of carrying out  
16 background or employment-related screening of an individual who is or may be  
17 engaged in:

18 (1) Child-related activities or employment; or

19 (2) Activities or employment relating to adults with intellectual disabilities,  
20 autism, related conditions as set out in 42 Code of Federal Regulations, Section  
21 435.1010 or acquired brain injury.

22 **Sec. 4. 22 MRSA §4008, sub-§6,** as enacted by PL 2003, c. 673, Pt. W, §1, is  
23 amended to read:

24 **6. Disclosing information; establishment of fees; rules.** The department may  
25 ~~accept requests and~~ charge fees for ~~research~~ searching and ~~disclosure of~~ disclosing  
26 information in its records as provided in this subsection.

27 A. The department may charge fees for the services listed in paragraph B to any  
28 person except the following:

29 (1) A parent in a child protection proceeding, an attorney who represents a  
30 parent in a child protection proceeding or a guardian ad litem in a child protection  
31 proceeding when the parent, attorney or guardian ad litem requests the service for  
32 the purposes of the child protection proceeding;

33 (2) An adoptive parent or prospective adoptive parent who requests information  
34 in the department's records relating to the child who has been or might be  
35 adopted;

36 (3) A person having the legal authorization to evaluate or treat a child, parent or  
37 custodian who is the subject of a record, including a member of a treatment team  
38 or group convened to plan for or treat a child or family that is the subject of a

1 record; the information in the record must be requested for the purpose of  
2 evaluating or treating the child, parent or custodian who is the subject of the  
3 record;

4 (4) Governmental entities of this State that are not engaged in licensing; and

5 (5) Governmental entities of any county or municipality of this State that are not  
6 engaged in licensing.

7 ~~A request or~~ An order by a court for disclosure of information in records pursuant to  
8 subsection 3, paragraph B must be deemed to have been made by the person  
9 requesting that the court order the disclosure.

10 B. The department may charge fees for the following services:

11 (1) ~~Researching~~ Searching its records to determine whether a particular person is  
12 named in the records;

13 (2) Receiving and responding to a request for disclosure of information in  
14 department records, whether or not the department grants the request; and

15 (3) Disclosing information in department records.

16 C. The department ~~may~~ shall adopt rules governing requests for the services listed in  
17 paragraph B. Those rules may provide for a mechanism for making a request, the  
18 information required in making a request, the circumstances under which requests  
19 will be granted or denied and any other matter that the department determines  
20 necessary to efficiently respond to requests for disclosure of information in the  
21 records. The rules must establish a list of specified categories of activities or  
22 employment for which the department may provide information for background or  
23 employment-related screening pursuant to subsection 2, paragraph L. Rules adopted  
24 pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375,  
25 subchapter 2-A.

26 D. The department shall establish a schedule of fees by rule. The schedule of fees  
27 may provide that certain classes of persons are exempt from the fees, and it may  
28 establish different fees for different classes of persons. All fees collected by the  
29 department must be deposited in the General Fund. Rules adopted pursuant to this  
30 paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

31 E. A governmental entity that is engaged in licensing may charge an applicant for the  
32 fees imposed on it by the department for ~~research and disclosure of~~ searching and  
33 disclosing information in its records.

34 F. This subsection may not be construed to permit or require the department to make  
35 a disclosure in any particular case.

## 36 SUMMARY

37 This bill amends the Child and Family Services and Child Protection Act to make it  
38 clear that, in addition to searching and providing information in its records to professional  
39 and occupational licensing boards, the Department of Health and Human Services also  
40 may provide information for a person or employer to conduct background or

1 employment-related screening for persons to engage in child-related activities or  
2 employment or activities or employment relating to disabled adults. This change is based  
3 on the federal Child Abuse Prevention and Treatment Act.