

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

SECOND REGULAR SESSION-2018

Legislative Document

No. 1709

H.P. 1189

House of Representatives, December 22, 2017

**An Act To Allow the Maine Developmental Services Oversight and
Advisory Board Access to Investigations of Suspicious Deaths and
Mortality Reviews Performed by the Department of Health and
Human Services**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 19, 2017. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative PARKER of South Berwick.
Cosponsored by Representatives: GATTINE of Westbrook, PERRY of Calais, Senator:
MAKER of Washington.

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

2 **Sec. 1. 34-B MRSA §1223, sub-§10**, as amended by PL 2013, c. 310, §1, is
3 further amended to read:

4 **10. Access to information.** The board is entitled to access to information from the
5 department necessary to carry out its functions. Except as provided in paragraphs D ~~and~~
6 E to H, information provided pursuant to this subsection may not contain personally
7 identifying information about a person with intellectual disabilities or autism.

8 A. The department shall provide the board, on a schedule to be agreed upon between
9 the board and the department, reports on case management, reportable events, adult
10 protective and rights investigations, unmet needs, crisis services, quality assurance,
11 quality improvement, budgets and other reports that contain data about or report on
12 the delivery of services to or for the benefit of persons with intellectual disabilities or
13 autism, including reports developed by or on behalf of the department and reports
14 prepared by others about the department.

15 B. The department, when requested by the board or pursuant to a written agreement
16 with the board, shall release to the board information pertaining to alleged abuse,
17 exploitation or neglect or an alleged dehumanizing practice or violation of rights of a
18 person with intellectual disabilities or autism.

19 D. The board may examine confidential information in individual records with
20 written permission of the person or that person's guardian. If the person or that
21 person's guardian provides the board with written permission to examine confidential
22 information, the board must maintain the confidentiality of the information as
23 required by section 1207.

24 E. The A member of the board or the board's staff may receive and examine
25 confidential information when otherwise authorized to do so by law, including but
26 not limited to when serving on a committee established by the department for which
27 access to such information is necessary to perform the function of the committee.

28 F. A member of the board or the board's staff may directly access, with or without
29 the permission of the person or that person's guardian, a record that is maintained
30 pursuant to section 5470-B, subsection 7 or section 5605, subsection 15 as long as the
31 member of the board or the board's staff does not further disseminate personally
32 identifying information in the record without first obtaining written permission
33 pursuant to paragraph D. The department shall provide training that is adequate to
34 enable a member of the board or the board's staff to access such a record.

35 G. The department shall notify the board of any report to the medical examiner
36 pursuant to Title 22, section 3478 made by the department or of which the department
37 is aware that pertains to an adult receiving adult developmental services.

38 H. A member of the board or the board's staff may directly access the records of an
39 investigation into a suspicious death or of a mortality review conducted by the
40 department or by a medical examiner pertaining to a deceased person who was
41 receiving adult developmental services as long as the member of the board or the
42 board's staff who has access to such information does not further disseminate

1 personally identifying information from the investigation or mortality review without
2 first obtaining the written permission of the deceased person's guardian, if there is
3 one, or from the personal representative of the deceased person's estate.

4 **SUMMARY**

5 This bill grants the Maine Developmental Services Oversight and Advisory Board
6 direct access to the personal planning and other records of a person receiving adult
7 developmental services, subject to appropriate safeguards to protect the person's right to
8 confidentiality, and grants the board direct access to the records of an investigation into
9 the suspicious death of or the records of a mortality review pertaining to a person with
10 intellectual disabilities or autism, subject to appropriate safeguards for the privacy of the
11 deceased person. It also requires the Department of Health and Human Services to notify
12 the board of any report made to a medical examiner regarding a mandated reporter's
13 knowledge or reasonable suspicion that an adult receiving adult developmental services
14 has died as a result of abuse or neglect.