

# MAINE STATE LEGISLATURE

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Date 5/17/23

(Filing No S-109)

JUDICIARY

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STATE OF MAINE  
SENATE  
131ST LEGISLATURE  
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to S P 332, L D 773, "An Act to Ensure Access by Parties and Attorneys to Records in Child and Adult Protection Proceedings"

Amend the bill by inserting after the enacting clause and before after section 1 the following

'Sec. 1. 18-C MRSA §5-701, sub-§4 is enacted to read

4. Access to records. In any case in which a public guardian or conservator may be or has been appointed by the court under this Article, the Department of Health and Human Services shall disclose to the respondent and the respondent's attorney relevant information from the department's records as required by Title 22, section 3474, subsection 3, paragraph F

Sec. 2. 22 MRSA §3474, sub-§2, ¶D, as amended by PL 2003, c 653, §6, is further amended to read

~~D An incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited or the~~ The caretaker, guardian or conservator of the an ~~incapacitated or dependent adult named in a record who is reported to be abused, neglected or exploited.'~~

Amend the bill by striking out all of section 3 and inserting the following

'Sec. 3. 22 MRSA §3474, sub-§3, ¶F is enacted to read

F The adult who is the subject of the record and the adult's attorney, with protection for identity of reporters and other persons when appropriate Nothing in this paragraph requires the department to disclose information to a guardian or conservator of the adult who is the subject of the record '

Amend the bill by inserting after section 7 the following

'Sec. 8. 22 MRSA §4032, sub-§2, ¶C-1 is enacted to read

C-1 The phone number and e-mail address, if known, of each parent and custodian, unless the petitioner has reason to believe that disclosing the phone number or e-mail

1 address of the parent and custodian to another parent and custodian in the proceeding  
2 would create a safety risk or the petitioner has reason to believe that a parent and  
3 custodian has taken steps to avoid disclosing that parent's and custodian's phone  
4 number or e-mail address to another parent and custodian in the proceeding.'

5 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
6 number to read consecutively

7 **SUMMARY**

8 This amendment clarifies that, while the Department of Health and Human Services  
9 has discretion to disclose information in its adult protective records to the guardian or  
10 conservator of an adult who is the subject of the record, the department is required to  
11 disclose information in its adult protective records to the adult who is the subject of the  
12 record and the adult's attorney. It also adds a conforming amendment to the Maine Uniform  
13 Probate Code requiring the disclosure of information in adult protective records to the adult  
14 who is the subject of the record and the adult's attorney in any case in which a public  
15 guardian or conservator has been or may be appointed.

16 To facilitate the initial communication between attorneys assigned to represent parents  
17 and custodians in child protection proceedings and their clients, the amendment also  
18 requires the department to include in a child protection petition the phone number and  
19 e-mail address, if known, of each parent and custodian. Inclusion of a parent's and  
20 custodian's phone number and e-mail address in the petition is not required if the parent  
21 and custodian has taken steps to keep that parent's and custodian's phone number or e-mail  
22 address private from another parent and custodian in the proceeding or if disclosure of this  
23 information to another parent and custodian in the proceeding would create a safety risk.

24 **FISCAL NOTE REQUIRED**  
25 **(See attached)**



# 131st MAINE LEGISLATURE

LD 773

LR 254(02)

## An Act to Ensure Access by Parties and Attorneys to Records in Child and Adult Protection Proceedings

Fiscal Note for Bill as Amended by Committee Amendment "A" (S-109)

Committee: Judiciary

Fiscal Note Required: Yes

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### Fiscal Note

Minor cost increase - General Fund

#### Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources