

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 773

S.P. 332

In Senate, February 21, 2023

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

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BAILEY of York.
Cosponsored by Senator: BALDACCI of Penobscot.

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

2 **Sec. 1. 22 MRSA §3474, sub-§3, ¶D**, as amended by PL 2021, c. 686, §2, is further
3 amended to read:

4 D. An advocacy agency conducting an investigation under chapter 961, United States
5 Public Law 88-164, Title I, Part C or United States Public Law 99-319, regarding a
6 developmentally disabled person or mentally ill person who is or who, within the last
7 90 days, was residing in a facility rendering care or treatment, when a complaint has
8 been received by the agency or there is probable cause to believe that that individual
9 has been subject to abuse or neglect, and that person does not have a legal guardian or
10 the person is under public guardianship. The determination of which information and
11 records are relevant to the investigation is made by agreement between the department
12 and the agency; ~~and~~

13 **Sec. 2. 22 MRSA §3474, sub-§3, ¶E**, as enacted by PL 2021, c. 686, §3, is
14 amended to read:

15 E. The Maine Developmental Services Oversight and Advisory Board established in
16 Title 5, section 12004-J, subsection 15. Access is limited to aggregate data regarding
17 investigations under this chapter relating to persons receiving adult developmental
18 services as defined in Title 34-B, section 1001, subsection 1-A. Data must be provided
19 at least quarterly. The determination of aggregate data to be provided is made by
20 agreement between the department and the Maine Developmental Services Oversight
21 and Advisory Board; ~~and~~

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

23 F. A party to an adult protection proceeding and the attorney representing the party in
24 the proceeding, with protection for identity of reporters and other persons when
25 appropriate.

26 **Sec. 4. 22 MRSA §4008, sub-§2, ¶D-2**, as enacted by PL 2005, c. 300, §4, is
27 repealed.

28 **Sec. 5. 22 MRSA §4008, sub-§3, ¶L**, as amended by PL 2015, c. 381, §2, is further
29 amended to read:

30 L. To a licensing board of a mandated reporter, in the case of a mandated reporter
31 under section 4011-A, subsection 1 who appears from the record or relevant
32 circumstances to have failed to make a required report. Any information disclosed by
33 the department personally identifying a licensee's client or patient remains confidential
34 and may be used only in a proceeding as provided by Title 5, section 9057, subsection
35 6; ~~and~~

36 **Sec. 6. 22 MRSA §4008, sub-§3, ¶M**, as enacted by PL 2015, c. 381, §3, is
37 amended to read:

38 M. Law enforcement authorities for entry into the National Crime Information Center
39 database of the Federal Bureau of Investigation and to a national information
40 clearinghouse for missing and exploited children operated pursuant to 42 United States
41 Code, Section 5773(b). Information disclosed pursuant to this paragraph is limited to

1 information on missing or abducted children or youth that is required to be disclosed
2 pursuant to 42 United States Code, Section 671(a)(35)(B); and

3 **Sec. 7. 22 MRSA §4008, sub-§3, ¶N** is enacted to read:

4 N. A party to a child protection proceeding and the attorney representing the party in
5 the proceeding, with protection for identity of reporters and other persons when
6 appropriate.

7 **SUMMARY**

8 This bill requires the Department of Health and Human Services to disclose
9 information in the records in adult protection proceedings and child protection proceedings
10 to parties in those proceedings and the parties' attorneys.