

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND NINTH LEGISLATURE

AT THE

**SECOND REGULAR SESSION**

January 2, 1980 to April 3, 1980

AND AT THE

**THIRD SPECIAL SESSION**

May 22, 1980

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 164, SUBSECTION 6.

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**PUBLIC LAWS**  
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**Sec. 5. Study.** There is established a joint select committee of the Legislature to review the problems associated with the regulation of pesticides, the administration of all state programs involved in pesticide application and the findings of public and private groups affected thereby. A committee of 10 shall be composed of 3 Senators from the Joint Standing Committee on Agriculture and the Joint Standing Committee on Energy and Natural Resources selected by the President of the Senate and 7 Representatives from these same committees to be selected by the Speaker of the House. The committees shall be equally represented to the extent possible. The joint select committee shall report its findings to the First Regular Session of the 110th Legislature. There is allocated from the legislative account \$3,000 to cover per diem and necessary expenses of the committee.

**Sec. 6. Transition clause.** Any licenses, certification or the like issued by the Board of Pesticides Control pursuant to Title 22, chapter 258-A, or the Commissioner of Agriculture, pursuant to Title 7, chapter 103, subchapter II-A, shall remain in effect according to their terms. Any money in any accounts established pursuant to Title 22, chapter 258-A, or Title 7, chapter 103, subchapter II-A, shall be transferred to the Pesticides Control Fund.

The enactment of this Act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on the effective date of this Act.

**Sec. 7. Federal expenditure limit.** The Governor is authorized to adjust the federal expenditure limit to carry out the purposes of this Act.

**Sec. 8. Effective date.** Section 2 of this Act shall take effect on January 1, 1981. Section 3 of this Act shall become effective upon appointment and qualification of not less than 4 members of the Pesticide Review Board created pursuant to Title 22, section 1471-B, except that those sections may not take effect sooner than 90 days after adjournment of the Legislature.

Effective July 3, 1980, Unless otherwise indicated

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## CHAPTER 645

S. P. 782 — L. D. 1977

**AN ACT to Assure Advocacy Services for Children Committed to the Custody of the State of Maine.**

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

**Sec. 1.** 22 MRSA § 3552, sub-§ 4, as enacted by PL 1979, c. 553, § 2, is amended to read:

**4. Investigation.** "Investigation" means those activities aimed at determining if an alleged violation of rights has occurred or is occurring. These activities shall include reviewing **relevant** case records, talking with the handicapped person involved, meeting with service providers and any other individual, group or agency that might have information relevant to the case.

**Sec. 2.** 22 MRSA § 3553, sub-§ 9, as enacted by PL 1979, c. 553, § 2, is repealed.

**Sec. 3.** 22 MRSA § 3554, sub-§ 1, as enacted by PL 1979, c. 553, § 2, is amended to read:

**1. Complaint.** When the agency receives a complaint **which gives reason to believe** that the rights of a developmentally disabled person have been or ~~may have been~~ **are being** violated, an investigation may be conducted, **subject to subsection 2**, unless the complaint is beyond the scope of the office's authority or not within the office's priorities. The complainant shall be informed whether an investigation will be conducted, and if not, the reason therefor and whether any other appropriate ~~mechanism~~ **mechanisms** for remedy exist. A complaint may be referred to another person as appropriate.

**Sec. 4.** 22 MRSA § 3554, sub-§ 2, as enacted by PL 1979, c. 553, § 2, is amended to read:

**2. Investigation.** The agency may conduct investigations upon its own initiative if there is reason to believe that the legal rights of a developmentally disabled person have been or ~~may have been~~ **are being** violated. **Prior to initiating its investigation, the agency shall notify the developmentally disabled person or, if he is a minor or has been judged incompetent, his legal guardian, of the specific rights which the agency alleges have been or are being violated.** If the ~~developmentally~~ **developmentally** disabled ~~person~~ **adult** has not been judged incompetent, then the agency must first receive his written consent to the investigation. **If the developmentally disabled minor is competent to understand the purpose, significance and result of the investigation, then the agency shall inform him of his right to stop the investigation. The investigation shall stop if he expresses a clear desire that it stop.**

**Sec. 5.** 22 MRSA § 3554, sub-§ 3, as enacted by PL 1979, c. 553, § 2, is amended to read:

**3. Entrance in and upon premises.** In the course of an investigation, for the purpose of investigating actual or possible neglect, abuse, exploitation or violation of rights of ~~the~~ developmentally disabled ~~persons~~ **person**, authorized agency personnel may enter, at any reasonable time, in and upon the premises of any state agency, commission, board or office or any subdivision of the State or the premises of any private agency receiving state or federal funds for the provision of services to the developmentally disabled, ~~or speak privately with any individual therein to communicate with providers or recipients of service and to inspect and copy any information, materials or records relevant to an investigation or ease within reasonable limits and in a reasonable manner, subject to section 3555.~~ **Communication with any service recipient shall be under circumstances which are not detrimental to the best interest of that individual.**

**Sec. 6.** 22 MRSA § 3554, sub-§ 4, as enacted by PL 1979, c. 553, § 2, is amended to read:

**4. Records.** Any authorized agency personnel conducting an investigation ~~or handling a case~~ shall have ready access to all records ~~pertaining to a client held by any person, subject to section 3555~~ **relevant to the alleged violation of the developmentally disabled person's rights.** These personnel shall have the opportunity to consult with clients whenever necessary for the performance of their duties. Persons shall not refuse access to **relevant** client records, or the opportunity for consultation, as long as it is requested at a reasonable time and in a reasonable manner. A hospital, institution or mental health or developmental disability facility shall provide adequate privacy for the purpose of consultation with clients and examination of client records.

**Sec. 7.** 22 MRSA § 3554, **last sentence**, as enacted by PL 1979, c. 553, § 2, is amended to read:

Where personally identifiable data has not been removed, the agency personnel may copy ~~and use~~ them only after consent is received pursuant to section 3555.

**Sec. 8.** 22 MRSA § 3555, as enacted by PL 1979, c. 553, § 2, is amended to read:

**§ 3555. Confidentiality of information; use and disclosure by advocacy agency**

**1. Use and disclosure of nonidentifiable information.** Authorized agency personnel may disclose information, materials and records which do not contain personally identifiable data in the course of ~~negotiations~~ **administrative hearings, suits or other legal or nonlegal actions court proceedings, or any action specified in section 3553.**

**2. Use and disclosure of identifiable information.** Authorized agency personnel may **use or** disclose information, materials and records which contain personally identifiable data, in the course of ~~negotiations~~ **administrative hearings, suits or other legal actions court proceedings, or any action specified in section 3553,** if consent is obtained pursuant to subsection 3.

**3. Consent.** Data that personally identifies the developmentally disabled person can be copied or disclosed only after receipt of that person's written consent ~~If or, if that person lacks the capacity to understand the purpose, significance and result of the consent or if that person is under 18 years of age~~ **has been judged incompetent or is a minor,** then written consent must be received from:

**A.** The parent or guardian of a developmentally disabled ~~person who is under 18 years old~~ **minor. If the person is a ward of the State, the public guardian shall**

**give consent unless it shows that such consent would not be in the person's best interest;**

**B.** The guardian of the developmentally disabled ~~person who is 18 years old or older~~ **adult**, provided the guardian has this power; or

**C.** The guardian ad litem of developmentally disabled person who is the subject of the information, materials or records.

**If the developmentally disabled minor is competent to understand the purpose, significance and result of the use and disclosure of identifiable information, then the agency shall inform him of his right to stop that use and disclosure. The use and disclosure of identifiable information shall stop if he expresses a clear desire that it stop.**

Sec. 9. 22 MRSA § 3557 is enacted to read:

**§ 3557. Rules**

**Each state department, in conjunction with the Protection and Advocacy Agency for the Developmentally Disabled in Maine, shall adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules for effective implementation of this chapter.**

Effective July 3, 1980

## CHAPTER 646

H. P. 1853 — L. D. 1952

**AN ACT to Equalize the Tax Burden Between Organized and Unorganized Territories for the Purpose of Funding the Maine Forestry District without Cost to the State.**

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

Whereas, the cost of forest fire protection for the Maine Forestry District is an integral part of the municipal cost component; and

Whereas, the municipal cost component must be enacted by the Legislature not later than April 15th each year; and

Whereas, this legislation is necessary to provide a more equitable method of determining the cost of forest fire protection in the Maine Forestry District; 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