

# MAINE STATE LEGISLATURE

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

AS PASSED BY THE  
ONE HUNDRED AND TWELFTH LEGISLATURE

**SECOND REGULAR SESSION**  
January 8, 1986 to April 16, 1986

**SECOND SPECIAL SESSION**  
May 28, 1986 to May 30, 1986

AND AT THE

**THIRD SPECIAL SESSION**  
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN  
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Co., Inc.  
Augusta, Maine

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

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND TWELFTH LEGISLATURE  
1985

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chapter shall be upon the person claiming that exemp-  
tion.

Effective July 16, 1986.

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## CHAPTER 644

S.P. 819 - L.D. 2064

AN ACT to Assure Independent Advocacy for  
Institutionalized Developmentally  
Disabled Persons.

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

Sec. 1. 22 MRSA §3474, sub-§2, ¶B, as enacted by PL 1981, c. 527, §2, is amended to read:

B. An advocacy agency conducting an investigation under chapter 961, except as provided in subsection 3, paragraph D;

Sec. 2. 22 MRSA §3474, sub-§3, ¶¶B and C, as enacted by PL 1981, c. 527, §2, are amended to read:

B. A court on its finding that access to those records may be necessary for the determination of any issue before the court. Access shall be limited to incamera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before it; and

C. A grand jury on its determination that access to those records is necessary in the conduct of its official business; and

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

D. An advocacy agency conducting an investigation under chapter 961 when a complaint has been received by the agency from or on behalf of a developmentally disabled person residing in a facility for the developmentally disabled and that person does not have a legal guardian or the person is under public guardianship. The determination of what information and records are relevant

to the investigation shall be made by agreement between the department and the agency.

Sec. 4. 22 MRSA §3554, sub-§1, ¶A is enacted to read:

A. The agency shall be able to obtain access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities if:

(1) A complaint has been received by the agency from or on behalf of that person; and

(2) That person does not have a legal guardian or the person is under public guardianship.

Sec. 5. 22 MRSA §3554, sub-§2, as amended by PL 1985, c. 159, §4, is further 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 or learning disabled person have been or are being violated. Prior to initiating its investigation, the agency shall notify the developmentally disabled or learning 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 disabled or learning disabled adult has not been judged incompetent, then the agency must first receive his written consent to the investigation when the person is not residing in a facility for the developmentally disabled or when the agency is conducting the investigation upon its own initiative. If the developmentally disabled or learning 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.

Effective July 16, 1986.

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## CHAPTER 645

S.P. 896 - L.D. 2253

AN ACT to Enhance the Protection of Mental  
Health Recipients' Rights.