

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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

J.S. McCarthy Company
Augusta, Maine
1993

CHAPTER 592

S.P. 240 - L.D. 733

**An Act to Amend the Laws
Governing Protective Custody****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 34-B MRSA §3863, sub-§2-A** is enacted to read:

2-A. Custody agreement. A state, county or municipal law enforcement agency may meet with representatives of those public and private health practitioners and health care facilities that are willing and qualified to perform the certifying examination required by this section in order to attempt to work out a procedure for the custody of the person who is to be examined while that person is waiting for that examination. Any agreement must be written and signed by and filed with all participating parties. In the event of failure to work out an agreement that is satisfactory to all participating parties, the procedures of section 3862 and this section continue to apply.

As part of an agreement the law enforcement officer requesting certification may transfer protective custody of the person for whom the certification is requested to another law enforcement officer or a health officer if that officer agrees. Any arrangement of this sort must be part of the written agreement between the law enforcement agency and the health care agency. In the event of a transfer, the law enforcement officer seeking the transfer shall provide the written application required by this section.

See title page for effective date.

CHAPTER 593

H.P. 759 - L.D. 1026

**An Act to Clarify the Requirements of
Disclosure of Information Pertaining
to Mentally Disabled Clients****Be it enacted by the People of the State of
Maine as follows:****Sec. 1. 34-B MRSA §1207, sub-§5** is enacted to read:

5. Permitted disclosure. Notwithstanding subsections 1 to 4, a licensed mental health professional providing care and treatment to an adult client may provide information authorized by this subsection to a family member or other person if the family

member or other person lives with or provides direct care to the client, if without the disclosure there would be significant deterioration in the client's daily functioning and if the disclosure is in the best interest of the client.

A. Disclosure may be made only at the written request of the family member or other person living with the client.

B. Prior to the disclosure, the client must be informed in writing of the request, the name of the person requesting the information, the reason for the request and the specific information being provided. Information may not be disclosed unless the client, having received written notice of the request, consents to the disclosure. If the client does not consent to the disclosure, the person requesting the information may appeal to the department for authorization to disclose the information over the objections of the client.

C. Disclosures are limited to information regarding diagnosis, admission to or discharge from a treatment facility, the name of any medication prescribed, side effects of that medication, the likely consequences of failure of the client to take the prescribed medication, treatment plans and goals and behavioral management strategies.

D. By September 1, 1994, the department shall adopt rules to implement this subsection. The rules must include, but are not limited to, an appeal process for persons who are denied access to information under paragraph B. The appeal process must determine whether the person requesting information is a person who lives with or provides direct care to a client, whether disclosure of the information is in the best interest of the client and whether denial of access to the information will result in significant deterioration in the client's daily functioning. The commissioner shall appoint an advisory committee pursuant to Title 5, section 12002, subsection 1, paragraph A to assist the department in the development of the rules. The members of the advisory committee are not entitled to reimbursement for expenses or legislative per diem. The advisory committee must include, but is not limited to, proportionate representation from each of the following:

(1) Consumers nominated by the Director of the Office of Consumer Affairs;

(2) Members of the statewide alliance for the mentally ill;