

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-THREE

—
S.P. 332 - L.D. 773

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

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

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 E.

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;

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

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

Sec. 4. 22 MRSA §3474, sub-§3, ¶E, as enacted by PL 2021, c. 686, §3, is amended to read:

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

Sec. 5. 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.

Sec. 6. 22 MRSA §4008, sub-§2, ¶D-2, as enacted by PL 2005, c. 300, §4, is repealed.

Sec. 7. 22 MRSA §4008, sub-§3, ¶L, as amended by PL 2015, c. 381, §2, is further amended to read:

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

Sec. 8. 22 MRSA §4008, sub-§3, ¶M, as enacted by PL 2015, c. 381, §3, is amended to read:

M. Law enforcement authorities for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to a national information clearinghouse for missing and exploited children operated pursuant to 42 United States Code, Section 5773(b). Information disclosed pursuant to this paragraph is limited to information on missing or abducted children or youth that is required to be disclosed pursuant to 42 United States Code, Section 671(a)(35)(B); and

Sec. 9. 22 MRSA §4008, sub-§3, ¶N is enacted to read:

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

Sec. 10. 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 address of the parent and custodian to another parent and custodian in the proceeding would create a safety risk or the petitioner has reason to believe that a parent and custodian has taken steps to avoid disclosing that parent's and custodian's phone number or e-mail address to another parent and custodian in the proceeding.