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An Act To Repeal Certain Confidentiality Provisions in the Child Protective Laws

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

Whereas, legislation that was enacted by Public Law 2007, chapter 335 and amended by Public Law 2007, chapter 473 will take effect March 1, 2008; and

Whereas, if the legislation takes effect, the State will be in violation of federal requirements pertaining to confidentiality provisions in the child protective laws; 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 legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §4008, sub-§1, as amended by PL 2005, c. 300, §2, is further amended to read:

1. Confidentiality of records and information. All department records that contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related to a child while in the care or custody of the department, and all information contained in those records, are confidential and subject to release only under the conditions of subsections 2 and 3.

Within the department, the records are available only to and may be used only by appropriate departmental personnel and legal counsel for the department in carrying out their functions.

Any person who receives department records or information from the department may use the records or information only for the purposes for which that release was intended. ~~A person, including, but not limited to, a child, parent, custodian or subject of a record, may not further disseminate any record or information that person receives from the department unless the dissemination is otherwise allowed by law.~~

Sec. 2. PL 2007, c. 335, §§1, 2 and 3, as affected by PL 2007, c. 473, §1, are repealed.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect March 1, 2008.

SUMMARY

The bill removes language due to take effect March 1, 2008 that the federal Department of Health and Human Services has determined violates federal confidentiality provisions. That language allows a parent or legal guardian to release information to any person if disclosure is intended to contribute to the person's understanding of the action being taken or the person's request for advocacy and support in a child protective action. This bill takes effect March 1, 2008 to match the effective date of Public Law 2007, chapter 335 as amended by Public Law 2007, chapter 473. This bill also repeals a sentence added by Public Law 2005, chapter 300 concerning the prohibition on further dissemination of records and information. Repeal of the sentence does not authorize any person to share a record or information that was received from the Department of Health and Human Services for any reason other than those already permitted by law.