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An Act To Allow the Release of Child Protective Records to Certain Providers of Child and Adult Services

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

Sec. 1. 22 MRSA §4008, sub-§2, ¶J, as amended by PL 2007, c. 140, §6, is further amended to read:

J. A person making a report of suspected abuse or neglect. The department may only disclose that it has not accepted the report for investigation, unless other disclosure provisions of this section apply; and

Sec. 2. 22 MRSA §4008, sub-§2, ¶K, as enacted by PL 2007, c. 140, §7 and amended by PL 2011, c. 657, Pt. W, §5, is further amended to read:

K. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B; and

Sec. 3. 22 MRSA §4008, sub-§2, ¶L is enacted to read:

L. A person, organization, employer or agency for the purpose of carrying out background or employment-related screening of an individual who is or may be engaged in:

(1) Child-related activities or employment; or

(2) Activities or employment relating to adults with intellectual disabilities, autism, related conditions as set out in 42 Code of Federal Regulations, Section 435.1010 or acquired brain injury.

Sec. 4. 22 MRSA §4008, sub-§6, as enacted by PL 2003, c. 673, Pt. W, §1, is amended to read:

6. Disclosing information; establishment of fees; rules. The department may accept requests and charge fees for research~~searching~~ and disclosure~~of disclosing information in~~ its records as provided in this subsection.

A. The department may charge fees for the services listed in paragraph B to any person except the following:

- (1) A parent in a child protection proceeding, an attorney who represents a parent in a child protection proceeding or a guardian ad litem in a child protection proceeding when the parent, attorney or guardian ad litem requests the service for the purposes of the child protection proceeding;
- (2) An adoptive parent or prospective adoptive parent who requests information in the department's records relating to the child who has been or might be adopted;
- (3) A person having the legal authorization to evaluate or treat a child, parent or custodian who is the subject of a record, including a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record; the information in the record must be requested for the purpose of evaluating or treating the child, parent or custodian who is the subject of the record;
- (4) Governmental entities of this State that are not engaged in licensing; and
- (5) Governmental entities of any county or municipality of this State that are not engaged in licensing.

~~A request or~~An order by a court for disclosure of information in records pursuant to subsection 3, paragraph B must be deemed to have been made by the person requesting that the court order the disclosure.

B. The department may charge fees for the following services:

- (1) ~~Researching~~Searching its records to determine whether a particular person is named in the records;
- (2) Receiving and responding to a request for disclosure of information in department records, whether or not the department grants the request; and
- (3) Disclosing information in department records.

C. The department ~~may~~shall adopt rules governing requests for the services listed in paragraph B. Those rules may provide for a mechanism for making a request, the information required in making a request, the circumstances under which requests will be granted or denied and any other matter that the department determines necessary to efficiently respond to requests for disclosure of information in the records. The rules must establish a list of specified categories of activities or employment for

which the department may provide information for background or employment-related screening pursuant to subsection 2, paragraph L. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

D. The department shall establish a schedule of fees by rule. The schedule of fees may provide that certain classes of persons are exempt from the fees, and it may establish different fees for different classes of persons. All fees collected by the department must be deposited in the General Fund. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

E. A governmental entity that is engaged in licensing may charge an applicant for the fees imposed on it by the department for ~~research and disclosure of~~searching and disclosing information in its records.

F. This subsection may not be construed to permit or require the department to make a disclosure in any particular case.

SUMMARY

This bill amends the Child and Family Services and Child Protection Act to make it clear that, in addition to searching and providing information in its records to professional and occupational licensing boards, the Department of Health and Human Services also may provide information for a person or employer to conduct background or employment-related screening for persons to engage in child-related activities or employment or activities or employment relating to disabled adults. This change is based on the federal Child Abuse Prevention and Treatment Act.