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Legislative Document

No. 1685

H.P. 1208

House of Representatives, December 30, 2013

**An Act To Ensure That All Maine Children Are Protected from
Abuse and Neglect**

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FARNSWORTH of Portland.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: BRIGGS of Mexico, CHIPMAN of Portland, GATTINE of Westbrook,
GRAHAM of North Yarmouth, HAMANN of South Portland, MORRISON of South Portland,
PRINGLE of Windham, VEROW of Brewer.

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

2 **Sec. 1. 22 MRSA §4004, sub-§2, ¶B,** as amended by PL 2007, c. 586, §6, is
3 further amended to read:

4 B. Promptly investigate all abuse and neglect cases and suspicious child deaths
5 coming to its attention ~~or~~ and, in the case of out-of-home abuse and neglect
6 investigations, the department shall ~~not~~ also conduct an additional investigation to
7 determine whether a licensing violation has occurred in order to protect children from
8 further harm and establish a basis upon which to take licensing action in accordance
9 with subchapter 11-A;

10 **Sec. 2. 22 MRSA §4010-A, sub-§1,** as corrected by RR 2003, c. 2, §78, is
11 amended to read:

12 **1. Policy development.** Every public or private agency or program that is
13 administered, licensed or funded by the Department of Health and Human Services, the
14 Department of Education or the Department of Corrections and hires staff or selects
15 volunteers and provides care or services for children shall develop a written policy
16 regarding child abuse and neglect.

17 The policy must include:

18 A. A description of how the program and children are managed to prevent abuse or
19 neglect;

20 B. The reporting of suspected abuse or neglect or other violations to the appropriate
21 designated authorities;

22 C. The agency's course of action if allegations of abuse or neglect are made against
23 the agency or its staff; and

24 D. The agency's grievance procedures for staff and for children and their parents or
25 guardians regarding alleged abuse or neglect.

26 **Sec. 3. 22 MRSA §4032, sub-§2, ¶C,** as enacted by PL 1979, c. 733, §18, is
27 amended to read:

28 C. Name and municipal residence, if known, of each parent and custodian and, in the
29 case of out-of-home abuse or neglect, the name and address of the caregiver and the
30 address of the place in which the alleged abuse or neglect occurred;

31 **Sec. 4. 22 MRSA §4036, sub-§1, ¶F-1,** as enacted by PL 1985, c. 164, is
32 amended to read:

33 F-1. Removal of the perpetrator from the child's home or out-of-home setting,
34 prohibiting direct or indirect contact with the child by the perpetrator and prohibiting
35 other specific acts by the perpetrator ~~which~~ that the court finds may threaten the
36 child;

37 **Sec. 5. 22 MRSA §4036-A, sub-§2,** as enacted by PL 1993, c. 443, §2, is
38 amended to read:

1 **2. Crime committed.** When disposition under section 4036 includes a provision
2 that a party named in a petition not have contact with a child or children named in the
3 petition or a provision that a party named in the petition not enter the residence or the out-
4 of-home setting of the abuse or neglect of a child or children named in the petition, and
5 the party has prior actual notice of the order containing those provisions, violation of that
6 provision is a Class D crime. The criminal sanctions in this subsection are in addition to
7 and not in lieu of contempt powers of the court.

8 **Sec. 6. 22 MRSA §4088, sub-§3, ¶C,** as amended by PL 2001, c. 265, §3, is
9 further amended to read:

10 C. Shall conduct ~~a single~~ an investigation as directed in section 4004, subsection 2,
11 paragraphs B and C-1 and a 2nd investigation sufficient to determine not only if
12 abuse or neglect has occurred but also to determine whether a licensing violation has
13 occurred in order to protect children from further harm and establish a basis upon
14 which to take licensing action. ~~This procedure minimizes duplicative or redundant~~
15 ~~investigations to the extent possible in response to the same or related allegations of~~
16 ~~out of home abuse or neglect in facilities or by persons subject to licensure pursuant~~
17 ~~to this Title;~~

18 **Sec. 7. 22 MRSA §4088, sub-§3, ¶D,** as amended by PL 2007, c. 539, Pt. N,
19 §35, is further amended to read:

20 D. Shall coordinate and consult with the department performing general licensing
21 functions to eliminate ~~duplicative or redundant~~ the collection of redundant
22 information during investigations to the extent possible and to prevent, correct or
23 eliminate the abuse or neglect or threat of abuse or neglect in out-of-home settings;

24 **Sec. 8. 22 MRSA §4088, sub-§3, ¶E,** as amended by PL 2007, c. 539, Pt. N,
25 §36, is further amended to read:

26 E. Shall provide the results of the ~~investigation~~ investigations to the department or
27 another department for appropriate action. The team shall complete the investigation
28 of issues involving licensure within a time frame not to exceed 6 months from the
29 date of the initiation of the investigation, except in circumstances when the
30 information necessary to complete the investigation is unavailable to the team;

31 **Sec. 9. 22 MRSA §4088, sub-§3, ¶F,** as amended by PL 2001, c. 265, §3, is
32 further amended to read:

33 F. Shall include relevant professionals outside the department or service center as
34 members of the team for all investigations of residential treatment centers, group
35 homes ~~or~~, schools or other settings that provide supervisory care for children,
36 including but not limited to day care centers, mandated by this subchapter and ~~for~~ of
37 other child care facilities as warranted;

38 **Sec. 10. 22 MRSA §4088, sub-§3, ¶G,** as amended by PL 2007, c. 539, Pt. N,
39 §37, is further amended to read:

40 G. When a report alleges out-of-home abuse and neglect in facilities or by persons
41 not subject to licensure by the department, shall immediately refer the report to the

1 agency or department charged with the responsibility to ~~investigate such a report~~
2 conduct a separate investigation to determine if licensure or certification action is
3 necessary or, if applicable, to the state department operating the facility;

4 **SUMMARY**

5 This bill makes the following changes to the laws governing the protection of
6 children from abuse and neglect.

7 1. It requires the Department of Health and Human Services, in the case of an abuse
8 and neglect investigation involving an allegation of abuse and neglect outside of the
9 home of the child, to investigate whether a licensing violation has occurred.

10 2. It requires a public or private agency or program that is administered, licensed or
11 funded by the Department of Education that hires staff or selects volunteers and provides
12 care or services for children to develop a written policy regarding child abuse and
13 neglect.

14 3. It requires that a child protection petition, in the case of alleged abuse or neglect
15 outside of the home of the child, include the name and address of the caregiver and the
16 address of the place in which the alleged abuse or neglect occurred.

17 4. It allows a court in a protection order to order the removal of a perpetrator from a
18 setting outside of the home of the child.

19 5. It provides a criminal penalty for the violation of a provision of a protection order
20 that prohibits a person from entering the out-of-home setting of the abuse or neglect.

21 6. It amends the laws governing the investigative duties of the out-of-home abuse
22 and neglect investigating team and clarifies the duty of the team to eliminate the
23 collection of redundant information to the extent possible. It specifies that the team must
24 complete an investigation of issues involving licensure within 6 months from the start of
25 the investigation in most cases. It requires the team to include relevant professionals
26 outside the Department of Health and Human Services or service center as members of
27 the team for investigations of schools or other settings that provide supervisory care for
28 children. It specifies that, in the case of an allegation of abuse and neglect outside of the
29 home of a child in a facility or by a person not subject to licensure by the department, the
30 team must refer the case to the agency or department charged with the responsibility to
31 conduct a separate investigation to determine if licensure or certification action is
32 necessary.