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Legislative Document

No. 1238

S.P. 443

In Senate, April 7, 2015

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

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.
Cosponsored by Representative SANDERSON of Chelsea.

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

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

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

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

9 K. The local animal control officer or the animal welfare program of the Department
10 of Agriculture, Conservation and Forestry established pursuant to Title 7, section
11 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For
12 purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as
13 provided in Title 34-B, section 1901, subsection 1, paragraph B; and

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

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

18 (1) Child-related activities or employment; or

19 (2) Activities or employment relating to adults with intellectual disabilities,
20 autism, related conditions as set out in 42 Code of Federal Regulations, Section
21 435.1010 or acquired brain injury.

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

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

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

29 (1) A parent in a child protection proceeding, an attorney who represents a
30 parent in a child protection proceeding or a guardian ad litem in a child protection
31 proceeding when the parent, attorney or guardian ad litem requests the service for
32 the purposes of the child protection proceeding;

33 (2) An adoptive parent or prospective adoptive parent who requests information
34 in the department's records relating to the child who has been or might be
35 adopted;

36 (3) A person having the legal authorization to evaluate or treat a child, parent or
37 custodian who is the subject of a record, including a member of a treatment team
38 or group convened to plan for or treat a child or family that is the subject of a

1 record; the information in the record must be requested for the purpose of
2 evaluating or treating the child, parent or custodian who is the subject of the
3 record;

4 (4) Governmental entities of this State that are not engaged in licensing; and

5 (5) Governmental entities of any county or municipality of this State that are not
6 engaged in licensing.

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

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

11 (1) ~~Researching~~ Searching its records to determine whether a particular person is
12 named in the records;

13 (2) Receiving and responding to a request for disclosure of information in
14 department records, whether or not the department grants the request; and

15 (3) Disclosing information in department records.

16 C. The department ~~may~~ shall adopt rules governing requests for the services listed in
17 paragraph B. Those rules may provide for a mechanism for making a request, the
18 information required in making a request, the circumstances under which requests
19 will be granted or denied and any other matter that the department determines
20 necessary to efficiently respond to requests for disclosure of information in the
21 records. The rules must establish a list of specified categories of activities or
22 employment for which the department may provide information for background or
23 employment-related screening pursuant to subsection 2, paragraph L. Rules adopted
24 pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375,
25 subchapter 2-A.

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

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

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

36 SUMMARY

37 This bill amends the Child and Family Services and Child Protection Act to make it
38 clear that, in addition to searching and providing information in its records to professional
39 and occupational licensing boards, the Department of Health and Human Services also
40 may provide information for a person or employer to conduct background or

1 employment-related screening for persons to engage in child-related activities or
2 employment or activities or employment relating to disabled adults. This change is based
3 on the federal Child Abuse Prevention and Treatment Act.