

Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



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May 2, 2023

Senator Tim Nangle, Chair
Representative Holly Stover, Chair
Members, Joint Standing Committee on State and Local Government
100 State House Station
Augusta, ME 04333-0100

Re: LD 1195, *An Act to Provide That Documents Obtained by Subpoena by the Government Oversight Committee May Be Reviewed by Committee Members and Staff*
LD 1275, *An Act to Clarify the Powers of the Government Oversight Committee and Enable Committee Access to Department of Health and Human Services Documents Related to Investigations of Child Deaths*
LD 1725, *An Act to Strengthen Legislative Oversight of Government Agencies and Programs by Providing the Government Oversight Committee Access to Confidential Records*

Senator Nangle, Representative Stover, and Members of the Joint Standing Committee on State and Local Government:

Thank you for the opportunity to share the strong opposition of the Department of Health and Human Services (DHHS) to LD 1195, *An Act to Provide That Documents Obtained by Subpoena by the Government Oversight Committee May Be Reviewed by Committee Members and Staff*, LD 1275, *An Act to Clarify the Powers of the Government Oversight Committee and Enable Committee Access to Department of Health and Human Services Documents Related to Investigations of Child Deaths*, and LD 1725, *An Act to Strengthen Legislative Oversight of Government Agencies and Programs by Providing the Government Oversight Committee Access to Confidential Records*.

LD 1195 would require that the Government Oversight Committee (GOC) members have access to papers or records received in response to a subpoena.

LD 1275 would provide the GOC with access to DHHS records relating to the investigation of the death of a child with previous Department involvement including any information regarding previous Department contact or other involvement, as well as providing that those documents are exempt from public disclosure. This includes records of a child death (regardless of cause) when that child had any previous involvement with the Department, whether germane to the fatality or not. This is not just limited to homicides. This enables sharing of a family's history when their child dies in an accidental death (for example, a car accident), when they die by suicide, or when the death is natural (for example, a death caused by a medical condition).

LD 1725 would provide the GOC with access to any information and records that are privileged and confidential. It would also exempt these documents from public disclosure.

The Department is committed to transparency and has taken unprecedented steps in the past several years to provide critical information about the child welfare system to the Legislature and the Maine public. This includes posting dashboards, memoranda on OCFS involvement in child. OCFS works together with the Child Death and Serious Injury Review Panel (CDSIRP) that is comprised of experts from the broad child welfare system to look at both fatalities and serious injuries, complete in-depth reviews as they determine appropriate. Notably, CDSIRP's reviews of a case are more comprehensive than just the review of the OCFS file. CDSIRP makes recommendations for system improvement based on their review and their knowledge of the system, children, families, available services, etc.

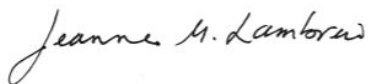
With respect to ongoing child welfare investigations, OCFS has fully and promptly complied with all requests for those records made by OPEGA, providing tens of thousands of pages of records. OPEGA has statutory authority to access these records with appropriate protections in place for the records in OPEGA's possession. OPEGA also has the staff and capacity to fully review, analyze, and synthesize these records appropriately.

While the Department is authorized to share child welfare case records with OPEGA, the Office of the Attorney General has advised the Department that it may not share directly with committee members under federal as well as state law. As explained in recent court briefs filed by the Office of the Attorney General, "the applicable federal law creates functional prohibitions on the disclosure of confidential information: if DHHS discloses information in violation of these federal laws, it risks losing funding critical to the administration of its Maine Child Welfare Services program." Losing federal funding would debilitate Maine's Child Protective Services.

The reality of these records is that they reflect the personal details and experiences of Maine children and families. Often, a child who has died has siblings who are alive and the records regarding previous involvement speak to the medical, mental health, substance use, and behavioral health needs of those children. These children have also experienced significant trauma around the loss of their sibling, potentially at the hands of a trusted caregiver. OCFS is committed to preventing further trauma to these children by allowing their lives and that of their family to be on display beyond what is necessary for professional evaluation and oversight.

For these reasons, the Department opposes these bills. If you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne M. Lambrew".

Jeanne M. Lambrew, Ph.D.
Commissioner