

Sen. Hickman

W 127

132nd Maine Legislature

An Act to Strengthen Legislative Oversight of Government Agencies and Programs by Reaffirming the Legislature's Access to Confidential Records
L.D.

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

Whereas, this legislation provides that the Government Oversight Committee may receive information and records that are privileged and confidential and that that information and those records are exempt from public disclosure; and

Whereas, the Government Oversight Committee requires immediate access to the records of children who died in the State in order to complete its investigation of the Department of Health and Human Services, Office of Child and Family Services; 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. 3 MRSA §994, sub-§11, as amended by PL 2005, c. 104, §2, is further amended to read:

11. Information and records available to committee. To receive certain information and records, including information and records that are otherwise privileged or confidential and to issue a subpoena requesting the records that were considered and referenced by the Office of Program Evaluation and Government Accountability in a report submitted to the committee under section 997 for the sole purpose of voting on reports under subsection 7. Information and records that is are made available to the committee is are governed by chapter 21, which governs legislative investigating committees, and by Title 1, chapter 13, which governs public records and proceedings, except that, notwithstanding any provision of law to the contrary, privileged or confidential information and records received by the committee under this subsection or subsection 13 are confidential; and

Sec. 2. 3 MRSA §994, sub-§13 is enacted to read:

13. Standing investigative committee of the Legislature. In addition to the duties set forth in this section, the committee retains all of the duties and powers granted to legislative investigative committees pursuant to Title 3, chapter 21. The committee may, by an affirmative vote of a majority of its entire membership, authorize a study or investigation of any matter as determined necessary by the committee without further authorization of the Legislature. The committee shall limit and clearly state the subject matter and scope of the study or investigation and may not exceed the limits set forth in such authorization without a two-thirds vote of its entire membership. Pursuant to Title 1, section 405, subsection 6, paragraph F, the committee may enter into an executive session for the purpose of reviewing the confidential information and records that informed the case-specific report summaries contained in the child welfare ombudsman's annual report pursuant to Title 22, section 4087-A.

Sec. 3. 3 MRSA §994, sub-§14 is enacted to read:

14. Committee code of ethics. At the beginning of each legislative session the committee shall coordinate with the President of the Senate and Speaker of the House to develop a code of ethics relating to the operation of the committee including a procedure for handling confidential information and a process for referral to a

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committee on ethics of the House of Representatives or the Senate as established by the rules of each respective chamber for a violation of the code.

Sec. 4. 22 MRSA §4007, sub-§1 is amended to read:

1. Procedures. All child protection proceedings shall be conducted according to the rules of civil procedure and the rules of evidence, except as provided otherwise in this chapter. All the proceedings shall be recorded. All proceedings and records shall be closed to the public, unless the court orders otherwise. Notwithstanding Title 1, section 1014, an elected member of the Maine Legislature may attend a child protective proceeding at the request of the parent or guardian of the child if the parent or guardian lives in the district in which the legislator represents and requests the legislator's presence for the purpose of providing moral support.

Sec. 5. 22 MRSA §4008, sub-§3, ¶D is amended to read:

D. An appropriate state executive or legislative official with responsibility for child protection services A member of the joint standing committee of the Legislature having jurisdiction over health and human services matters or a member of the joint legislative committee established to oversee program evaluation and government accountability matters pursuant to Title 3, chapter 37, provided that no personally identifying information may be made available unless necessary to that official's functions member's official duties. Pursuant to Title 1, section 405, subsection 6, paragraph F, the joint standing committee of the Legislature having jurisdiction over health and human services matters may enter into an executive session for the purpose of reviewing the confidential information and records that informed the case-specific report summaries contained in the child welfare ombudsman's annual report pursuant to section 4087-A;

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This amendment provides that the Government Oversight Committee may receive information and records that are privileged and confidential and that that information and those records are exempt from public disclosure.

The amendment establishes the Government Oversight Committee as a standing legislative investigative committee and provides that the Committee may, by a motion of a majority of its members, decide to conduct a study or investigation of any state agency or program without the express authorization from the legislature.

The amendment requires the Government Oversight Committee to coordinate with the President of the Senate and Speaker of the House to develop a code of ethics relating to the operation of the committee including a procedure for handling confidential information and a process for referral to a committee on ethics for violations of the code.

The amendment allows an elected member of the Maine Legislature to attend a child protective proceeding at the request of the parent or guardian of the child if the parent or guardian lives in the district in which the legislator represents and requests the legislator's presence for the purpose of providing moral support.

Finally, the amendment clarifies that the department of Health and Human Services shall disclose records with the Joint Standing Committee on Health and Human Services and that the committee may go

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into executive session to discuss with the Child welfare Ombudsman records contained in the Child Welfare
Ombudsman's annual report.