

§1216. Confidentiality of information**(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

1. Limited disclosure. All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department must be kept confidential and may not be disclosed by any person, except that public records must be disclosed in accordance with Title 1, section 408-A; criminal history record information may be disseminated in accordance with Title 16, chapter 7; and documents other than those documents pertaining to information obtained by the department for the purpose of evaluating a client's ability to participate in a community-based program or from informants in a correctional or detention facility for the purpose of determining whether facility rules have been violated or pertaining to a victim's request for notice of release may, and must upon request, be disclosed:

A. To any person if the person receiving services, that person's legal guardian, if any, and, if that person is a minor, that person's parent or legal guardian give informed written consent to the disclosure of the documents referred to in this subsection after being given the opportunity to review the documents sought to be disclosed; [PL 2013, c. 588, Pt. A, §44 (RPR).]

B. To any state agency if necessary to carry out the statutory functions of that agency; [PL 2013, c. 588, Pt. A, §44 (RPR).]

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; [PL 2013, c. 588, Pt. A, §44 (RPR).]

D. **(TEXT EFFECTIVE UNTIL 1/01/22)** To any criminal justice agency if necessary to carry out the administration of criminal justice as defined in Title 16, section 703, subsection 1, the administration of criminal justice as defined in Title 16, section 803, subsection 2, the administration of juvenile criminal justice as defined in Title 15, section 3308, subsection 7, paragraph A, subparagraph (2), the administration of juvenile justice as defined in Title 15, section 3308-A, subsection 1, paragraph A or for criminal justice agency employment; [PL 2017, c. 432, Pt. F, §2 (AMD).]

D. **(TEXT EFFECTIVE 1/01/22)** To any criminal justice agency if necessary to carry out the administration of criminal justice as defined in Title 16, section 703, subsection 1, the administration of criminal justice as defined in Title 16, section 803, subsection 2 or the administration of juvenile justice as defined in Title 15, section 3003, subsection 1-A or for criminal justice agency employment; [PL 2021, c. 365, §35 (AMD); PL 2021, c. 365, §37 (AFF).]

E. To persons engaged in research if:

(1) The research plan is first submitted to and approved by the commissioner;

(2) The disclosure is approved by the commissioner; and

(3) Neither original records nor identifying data are removed from the facility or office that prepared the records.

The commissioner and the person doing the research shall preserve the anonymity of the person receiving services from the department and may not disseminate data that refer to that person by name or number or in any other way that might lead to the person's identification; [PL 2013, c. 588, Pt. A, §44 (RPR).]

F. To persons who directly supervise or report on the health, behavior or progress of a juvenile, to the superintendent of a juvenile's school and the superintendent's designees and to agencies that are or might become responsible for the health or welfare of a juvenile if the information is relevant to and disseminated for the purpose of creating or maintaining an individualized plan for the juvenile's rehabilitation, including reintegration into the school; or [PL 2013, c. 588, Pt. A, §44 (RPR).]

G. To any state agency engaged in statistical analysis for the purpose of improving the delivery of services to persons who are or might become mutual clients if:

- (1) The plan for the statistical analysis is first submitted to and approved by the commissioner; and
- (2) The disclosure is approved by the commissioner.

The commissioner and the state agency requesting the information shall preserve the anonymity of the persons receiving services from the department and may not disseminate data that refer to any person by name or number or that in any other way might lead to a person's identification. [PL 2013, c. 588, Pt. A, §44 (RPR).]

Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of persons receiving services from the department and, if applicable, eligibility numbers and the dates on which those persons received services to any state or federal agency for the sole purpose of determining eligibility and billing for services and payments under federally funded programs administered by the agency. The department may also release to the agency information required for and to be used solely for audit or research purposes, consistent with federal law, for those services provided by or through the department. Agency personnel shall treat this information as confidential in accordance with federal and state law and shall return the records when their purpose has been served.

[PL 2017, c. 432, Pt. F, §2 (AMD); PL 2021, c. 365, §35 (AMD); PL 2021, c. 365, §37 (AFF).]

2. Release of certain information to victims. Notwithstanding subsection 1, upon the request of a person who was the victim of a crime for which a client was incarcerated, as verified by the department or the prosecuting attorney, the department shall disclose the following information to the victim:

- A. Whether the client has been charged with committing any crime while incarcerated and, if so, the crime with which the client has been charged; and [PL 2003, c. 205, §10 (NEW).]
- B. Whether the client has been disciplined while incarcerated and, if so, the offense for which the disciplinary action was taken and the type of disciplinary action taken. [PL 2003, c. 205, §10 (NEW).]

[PL 2003, c. 205, §10 (NEW).]

3. Civil violation. A person who discloses information in violation of this section commits a civil violation for which a fine not to exceed \$1,000 may be adjudged.

[PL 2003, c. 205, §10 (NEW).]

4. Disclosure of confidential information. The disclosure of confidential information as provided by this section is also governed by Title 5, section 9057, subsection 6.

[PL 2003, c. 205, §10 (NEW).]

5. Disclosure of information. Nothing in this section permits or requires the disclosure of information to the extent it is designated confidential by another provision of law.

[PL 2003, c. 205, §10 (NEW).]

6. Assessment tools. Documents in the possession of the department used to screen or assess clients, including, but not limited to, questionnaires and test materials, are not public records for purposes of Title 1, chapter 13, subchapter 1. The department shall release these documents on request to any other state agency if necessary to carry out the statutory functions of that agency and to any committee or study commission established by the Legislature with authority to examine issues related to mental health.

[PL 2003, c. 205, §10 (NEW).]

SECTION HISTORY

PL 2003, c. 205, §10 (NEW). PL 2003, c. 689, §B6 (REV). PL 2005, c. 487, §§2-4 (AMD). PL 2011, c. 515, §2 (AMD). PL 2011, c. 662, §22 (AMD). PL 2013, c. 267, Pt. B, §27 (AMD). PL 2013, c. 424, Pt. B, §13 (AMD). PL 2013, c. 588, Pt. A, §44 (AMD). PL 2015, c. 470, §18 (AMD). PL 2017, c. 432, Pt. F, §2 (AMD). PL 2021, c. 365, §35 (AMD). PL 2021, c. 365, §37 (AFF).

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