

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Clarify Confidentiality in Child Protective Proceedings

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

Sec. 1. 22 MRSA §4008, sub-§1, as amended by PL 2005, c. 300, §2, is further amended to read:

1. Confidentiality of records and information. All department records that contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related to a child while in the care or custody of the department, and all information contained in those records, are confidential and subject to release only under the conditions of subsections 2 and 3.

Within the department, the records are available only to and may be used only by appropriate departmental personnel and legal counsel for the department in carrying out their functions.

Any person who receives department records or information from the department may use the records or information only for the purposes for which that release was intended. ~~A person, including, but not limited to, a child, parent, custodian or subject of a record, may not further disseminate any record or information that person receives from the department unless the dissemination is otherwise allowed by law.~~

Sec. 2. 22 MRSA §4008, sub-§2, ¶D-1, as enacted by PL 2005, c. 300, §4, is repealed.

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

A-2. Upon request, a parent, custodian or caretaker or legal guardian of a child who is the subject of the records or information, with protection for identity of reporters and other persons when appropriate;

Sec. 4. 22 MRSA §4008, sub-§3, ¶I, as enacted by PL 2003, c. 673, Pt. Z, §4, is amended to read:

I. Any government entity that needs such information in order to carry out its responsibilities under law to protect children from abuse and neglect. For purposes of this paragraph, "government entity" means a federal entity, a state entity of any state, a local government entity of any state or locality or an agent of a federal, state or local government entity; ~~and~~

Sec. 5. 22 MRSA §4008, sub-§3, ¶J, as enacted by PL 2003, c. 673, Pt. Z, §4, is amended to read:

J. To a juvenile court when the child who is the subject of the records has been brought before the court pursuant to Title 15, Part 6; and

Sec. 6. 22 MRSA §4008, sub-§3, ¶K is enacted to read:

K. Upon written request and signed release from the parent, custodian, caretaker or legal guardian, to any person designated in the release. This includes authorization to disclose written information regarding the case and to discuss the case orally.

Sec. 7. 22 MRSA §4008, sub-§3-A, as enacted by PL 1993, c. 294, §4, is amended to read:

3-A. Confidentiality. The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. ~~The commissioner shall disclose conclusions of the review panel upon request, but may not disclose data that is otherwise classified as confidential.~~

Sec. 8. 22 MRSA §4008, sub-§7 is enacted to read:

7. Release of information by parent, custodian, caretaker or legal guardian. Notwithstanding any provision of law to the contrary, a parent, custodian, caretaker or legal guardian of a child may release to any person and for any purpose information regarding that child.

Sec. 9. 22 MRSA §4034, sub-§1-A is enacted to read:

1-A. Request. A court shall allow any person into any closed hearing upon written request by the parent, custodian, caretaker or legal guardian for the purpose of advocating for and assisting the requesting person in the case.

Sec. 10. 22 MRSA §4035, sub-§1-A is enacted to read:

1-A. Request. A court shall allow any person into any closed hearing upon written request by the parent, custodian, caretaker or legal guardian for the purpose of advocating for and assisting the requesting person in the case.

SUMMARY

This bill allows the release of child protective information to a parent, custodian, caretaker or legal guardian of a child who is the subject of a child protective action within the Department of Health and Human Services. The bill allows that parent, custodian, caretaker or legal guardian to release that information to any person and for any purpose. The bill removes the designation of confidentiality that applies to the proceedings, records and conclusions of the child death serious injury review panel. The bill requires courts in child protective proceedings to allow into the proceedings a person designated by a parent, custodian, caretaker or legal guardian.