

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

Amend the bill by striking out all of sections 1 and 2 and inserting the following:

‘Sec. 1. 22 MRSA §4005-D, sub-§6-A is enacted to read:

6-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 supporting the requesting person in the case unless the child or other party objects and the court determines that the person's presence would be detrimental to any of the other parties.

Sec. 2. 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 and may not further disseminate that information. 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~~ intended to contribute to that person's understanding of the action being taken or request for advocacy and support in the current child protective action. This prohibition of dissemination is limited to information gained through the department.'

Amend the bill in section 3 in paragraph A-2 in the first line (page 1, line 20 in L.D.) by striking out the following: "custodian or" and inserting the following: 'custodian.'

Amend the bill by striking out all of sections 4 to 10 and inserting the following:

‘Sec. 4. 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 information that is intended to contribute to that person's understanding of the action being taken or request for advocacy and support in the current child protection action. The recipient of any information in the record may not further disseminate or disclose the information.

Sec. 5. Submission of Maine State Plan. The Commissioner of Health and Human Services shall submit for approval the amended Maine State Plan, containing the provisions of this Act, as required by 42 United States Code, Section 671 and Section 5106a and 45 Code of Federal Regulations, Section 1340.14, to the United States Department of Health and Human Services, Administration for Children and Families, Office of Regional Operations, pursuant to 45 Code of Federal Regulations, Section 1356.20. The commissioner shall report by January 1, 2008 to the Joint Standing Committee on Judiciary whether the United States Department of Health and Human Services, Administration for Children and Families, Office of Regional Operations has approved the plan pursuant to 45 Code of Federal Regulations, Section 1356.20.

Sec. 6. Effective date. This Act takes effect February 1, 2008, except that section 5 of this Act, relating to the Maine State Plan, takes effect 90 days after adjournment of the First Regular Session of the 123rd Legislature.'

SUMMARY

This amendment is the minority report of the Joint Standing Committee on Judiciary. This amendment 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 amendment allows that parent, custodian, caretaker or legal guardian to release that information to any person if disclosure is intended to contribute to the person's understanding of the action being taken or the person's request for advocacy and support in the current child protective action. The amendment permits courts in child protective proceedings to allow into the proceedings a person designated by a parent, custodian, caretaker or legal guardian as long as no objection is raised by the child or other parties and that presence is not detrimental to any of the other parties. Any person present in the court must abide by the rules of the court.

This amendment directs the Commissioner of Health and Human Services to submit the amended Maine State Plan for federal approval. The rest of the Act does not take effect until February 1, 2008 to provide sufficient time for action should the plan not be approved.