

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

—
H.P. 820 - L.D. 1155

An Act To Ensure the Integrity of Neuropsychological and Psychological Testing Materials and Data

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

Whereas, current law does not protect from disclosure neuropsychological and psychological testing materials; and

Whereas, disclosure of neuropsychological and psychological testing materials and distribution to even just one person who is the subject of testing or to many persons who may be the subjects of the testing will compromise and invalidate such testing; and

Whereas, maintaining the integrity of the testing materials is critical to test results and to the functioning of the system of neuropsychological and psychological testing in this State and requires the immediate action of the Legislature; 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. 22 MRSA §1725 is enacted to read:

§1725. Neuropsychological and psychological evaluations

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Neuropsychological evaluation" means a testing method through which a neuropsychologist or a psychologist can acquire data about a person's cognitive, behavioral and emotional functioning for purposes of diagnosing or confirming a diagnosis of cognitive deficit or abnormalities in the central nervous system.

B. "Neuropsychological or psychological test data" means raw and scaled scores, a person's responses to test questions or stimuli, a neuropsychologist's or psychologist's notes and recordings concerning the person's statements and behavior during a neuropsychological evaluation or psychological evaluation and those portions of neuropsychological or psychological test materials that include the person's responses.

C. "Neuropsychological or psychological test materials" means manuals, instruments, protocols, assessment devices, scoring keys, test questions and stimuli used in conducting a neuropsychological evaluation or psychological evaluation.

D. "Psychological evaluation" means a testing method through which a psychologist acquires data about a person's cognitive and emotional functioning for purposes of determining cognitive ability, diagnosing a mental health condition or confirming a mental health diagnosis.

2. Disclosure of neuropsychological or psychological test materials and neuropsychological or psychological test data. The disclosure of neuropsychological or psychological test materials and neuropsychological or psychological test data is governed by this subsection.

A. Except as provided in paragraph B, neuropsychological or psychological test materials and neuropsychological or psychological test data, the disclosure of which would compromise the objectivity or fairness of the evaluation methods or process, may not be disclosed to anyone, including the person who is the subject of the test, and are not subject to disclosure in any administrative, judicial or legislative proceeding.

B. A person who is the subject of a neuropsychological evaluation or psychological evaluation is entitled to have all records relating to that evaluation, including neuropsychological or psychological test materials and neuropsychological or psychological test data, disclosed to any neuropsychologist or psychologist who is qualified to evaluate the test results and who is designated by the person. A neuropsychologist or psychologist designated to receive records under this paragraph may not disclose the neuropsychological or psychological test materials and neuropsychological or psychological test data to another person.

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