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An Act To Permit Medical and Social Service Professionals To Report Animal Cruelty

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

Sec. 1. 22 MRSA §3474, sub-§2, ¶H, as amended by PL 2003, c. 653, §6, is further amended to read:

H. A relative by blood, marriage or adoption of an incapacitated or dependent adult named in a record; and

Sec. 2. 22 MRSA §3474, sub-§2, ¶I, as enacted by PL 2003, c. 653, §6, is amended to read:

I. A member of a panel appointed by the department or the Office of the Attorney General to review the death or serious injury of an incapacitated or dependent adult or a child.; and

Sec. 3. 22 MRSA §3474, sub-§2, ¶J is enacted to read:

J. The local animal control officer or the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B.

Sec. 4. 22 MRSA §3477, sub-§5 is enacted to read:

5. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B.

Sec. 5. 22 MRSA §4008, sub-§2, ¶I, as amended by PL 2005, c. 300, §7, is further amended to read:

I. The representative designated to provide child welfare services by the tribe of an Indian child as defined by the federal Indian Child Welfare Act, 25 United States Code, Section 1903, or a representative designated to provide child welfare services by an Indian tribe of Canada; and

Sec. 6. 22 MRSA §4008, sub-§2, ¶J, as enacted by PL 1989, c. 502, Pt. A, §77, is amended to read:

J. A person making a report of suspected abuse or neglect. The department may only disclose that it has not accepted the report for investigation, unless other disclosure provisions of this section apply; and

Sec. 7. 22 MRSA §4008, sub-§2, ¶K is enacted to read:

K. The local animal control officer or the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B.

Sec. 8. 22 MRSA §4011-A, sub-§6 is enacted to read:

6. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B.

Sec. 9. 34-B MRSA c. 1, sub-c. 6 is enacted to read:

SUBCHAPTER 6

reporting animal cruelty, ABUSE OR NEGLECT

§ 1901. Animal cruelty, abuse or neglect; reporting

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

A. "Animal" means every living, sentient creature not a human being.

B. "Cruelty, abuse or neglect" means every act, omission or instance of neglect when unnecessary or unjustifiable pain or suffering is caused or permitted.

C. "Owner" means a person, firm, partnership, association or corporation owning, keeping or harboring an animal.

D. "Reasonably suspect" means to hold an objectively reasonable suspicion based upon facts that would cause a reasonable person in a like position to draw on that person's training or experience to suspect animal cruelty, abuse or neglect.

2. Report. An employee of a state-funded child or adult protective services agency or other social service agency, including those providing mental health services that are funded or licensed by the department, while acting in the employee's professional capacity or within the scope of the employee's employment, who has knowledge of or observes an animal that the employee knows or reasonably suspects has been the victim of cruelty, abuse or neglect may report the known or reasonably suspected animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Food and Rural Resources established pursuant to Title 7, section 3902.

3. Immediate response. When an immediate response is necessary to protect the health and safety of an animal, the report under subsection 2 must be made as soon as possible.

4. Duty. Nothing in this section may be construed to impose a duty to investigate known or reasonably suspected animal cruelty, abuse or neglect.

5. Immunity from liability. A person participating in good faith in reporting under this subchapter is immune from any civil or criminal liability that might otherwise result from these actions, including, but not limited to, any civil or criminal liability that might otherwise arise under state or local laws or rules regarding confidentiality of information.

In a proceeding regarding immunity from liability, there is a rebuttable presumption of good faith.

SUMMARY

This bill gives those professionals who are already mandated reporters of adult or child abuse, neglect or exploitation and social service agencies under contract with the Department of Health and Human Services the option of also disclosing such limited confidential information related to a reasonable suspicion of animal cruelty, abuse or neglect as would be needed by a local animal control officer or the animal welfare program of the Department of Agriculture, Food and Rural Resources to begin an investigation. This bill extends the existing good faith immunity provision to the reporters of animal cruelty, abuse or neglect that are social service agencies under contract with the Department of Health and Human Services. In addition, this bill permits employees of the Department of Health and Human Services to disclose the same information to local animal control officers or to the animal welfare program of the Department of Agriculture, Food and Rural Resources.