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Public Law
123rd Legislature
Second Regular Session

Chapter 577
H.P. 1604 - L.D. 2243

**An Act To Increase the Number of Mandated Reporters
of Abuse, Neglect or Exploitation and To Clarify the
Probation Laws Relating to Violation of Protection Orders**

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

Sec. 1. 16 MRSA §53-A, sub-§2, as enacted by PL 1983, c. 319, is amended to read:

2. Privileged communications. Except with regard to reporting, cooperating in an investigation or giving evidence pursuant to Title 22, chapter 958-A or 1071, or except at the request, or with the consent of, the victim of sexual assault, ~~no~~ a sexual assault counselor may not be required to testify in any civil or criminal action, suit or proceeding at law or in equity about any information ~~which~~ ~~hethat~~ the sexual assault counselor may have acquired in providing sexual assault counseling services. A sexual assault counselor or a rape crisis center may not be required to disclose to the court any records, notes, memoranda or documents containing confidential communications. When a court in the exercise of sound discretion ~~deems~~determines the disclosure necessary to the proper administration of justice, ~~no~~ information communicated to, or otherwise learned by, that sexual assault counselor in connection with the provision of sexual assault counseling services ~~may be~~ is not privileged and disclosure may be required.

Sec. 2. 16 MRSA §53-B, sub-§3, ¶A, as enacted by PL 1995, c. 128, §1, is amended to read:

A. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with the provisions of ~~that~~either chapter;

Sec. 3. 16 MRSA §53-C, sub-§3, ¶B, as enacted by PL 1999, c. 369, §1, is amended to read:

B. When disclosure is required under Title 22, chapter 958-A or 1071 and that disclosure is in accordance with ~~that~~either chapter;

Sec. 4. 17-A MRSA §1201, sub-§1, ¶A-1, as repealed and replaced by PL 2007, c. 475, §14, is amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime that the State pleads and proves was committed against a family or household member;~~or a dating partner or a victim of sexual assault or stalking under chapter 9 or 13 or section 506-B, 554, 555 or 758. As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4; "dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A; "victim of sexual assault or stalking" means a person who has been a victim of conduct defined as stalking in section 210-A or described as sexual assault in chapter 11 committed by someone other than a family or household member or dating partner;~~

(2-A) A Class D crime under Title 5, section 4659, subsection 1, Title 15, section 321, subsection 6 or Title 19-A, section 4011, subsection 1;

(3) A Class D or Class E crime in chapter 11 or 12;

(4) A Class D crime under section 210-A;

(4-A) A Class E crime under section 552;

(5) A Class D or Class E crime under section 556, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;

(6) A Class D crime in chapter 45 relating to a schedule W drug; or

(7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B.

Sec. 5. 22 MRSA §3477, sub-§1, ¶A, as repealed and replaced by PL 2003, c. 653, §9, is amended to read:

A. While acting in a professional capacity:

(1) An allopathic or osteopathic physician;

(2) A medical intern;

- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;
- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official;
- (18) Emergency room personnel;
- (19) An ambulance attendant;
- (20) An emergency medical technician;
- (21) Unlicensed assistive personnel;

(22) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
or

(23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;

(24) A sexual assault counselor; or

(25) A family or domestic violence victim advocate;

Sec. 6. 22 MRSA §4011-A, sub-§1, ¶A, as repealed and replaced by PL 2003, c. 599, §8 and affected by §§9 and 14, is amended to read:

A. When acting in a professional capacity:

(1) An allopathic or osteopathic physician, resident or intern;

(2) An emergency medical services person;

(3) A medical examiner;

(4) A physician's assistant;

(5) A dentist;

(6) A dental hygienist;

(7) A dental assistant;

(8) A chiropractor;

(9) A podiatrist;

(10) A registered or licensed practical nurse;

(11) A teacher;

(12) A guidance counselor;

- (13) A school official;
- (14) A children's summer camp administrator or counselor;
- (15) A social worker;
- (16) A court-appointed special advocate or guardian ad litem for the child;
- (17) A homemaker;
- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters; and
- (29) A humane agent employed by the Department of Agriculture, Food and Rural Resources;
- (30) A sexual assault counselor; and
- (31) A family or domestic violence victim advocate;

