

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1805

H. P. 1602

House of Representatives, May 26, 1977

Reported by Ms. Goodwin from Committee on Health and Institutional Services. Sent up for concurrence and ordered printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Relating to Communicable Diseases.

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

Sec. 1. 22 MRSA c. 251, sub-cc. I and II, as amended are repealed.

Sec. 2. 22 MRSA c. 251, sub-cc. I-A and II-A are enacted to read:

SUBCHAPTER I-A

GENERAL PROVISIONS

ARTICLE I. DEFINITIONS; RULES; PENALTIES;

INSPECTIONS; GENERAL AUTHORITY

§ 1011. Definitions

As used in this chapter, unless the context otherwise requires, the following words and terms shall have the following meanings.

1. Commissioner. "Commissioner" means the Commissioner of Human Services.

2. Communicable disease. "Communicable disease" means an illness due or suspected to be due to a specific infectious agent or its toxic products which results from transmission of that agent or its products to a susceptible host, directly or indirectly.

3. Dangerous communicable disease. "Dangerous communicable disease" means a communicable disease which is so designated by the department pursuant to section 1012, subsection 1, paragraph A, because of serious threat to the public health and shall include at least tuberculosis and venereal disease.

4. **Department.** "Department" means the Department of Human Services.
5. **Infected person.** "Infected person" means a person who is diagnosed or believed to have a communicable disease or dangerous communicable disease.
6. **Municipal health officer.** "Municipal health officer" means a person who is a municipal official appointed pursuant to section 451 and who is authorized by the department to enforce this chapter.
7. **Notifiable disease.** "Notifiable disease" means any communicable disease or dangerous communicable disease the occurrence or suspected occurrence of which is required to be reported to the department pursuant to sections 1029 and 1034.
8. **Venereal disease.** "Venereal disease" means syphilis, gonorrhea, chancroid, lymphogranuloma venereum, granuloma inguinale and other diseases transmitted primarily by sexual contact which the department by rule may designate and require to be reported.

§ 1012. Authority of department

1. **Authority.** To carry out this chapter, the department is authorized to adopt rules to:
 - A. Designate and classify communicable and dangerous communicable diseases;
 - B. Establish requirements for reporting and other surveillance methods for measuring the occurrence of communicable diseases, dangerous communicable diseases and the potential for epidemics;
 - C. Investigate cases, epidemics and usual occurrences of communicable and dangerous communicable diseases and situations having the potential to cause communicable or dangerous communicable diseases; and
 - D. Establish procedures for the control, detection, prevention and treatment, including public immunization programs, of communicable and dangerous communicable diseases.
2. **Health emergency.** In the event of an actual or threatened epidemic or outbreak of a communicable or dangerous communicable disease, the department may declare that a health emergency exists and may adopt emergency rules for the protection of the public health relating to:
 - A. Procedures for placing infected persons in quarantine or for removing them to a place where care and treatment may be provided;
 - B. Procedures for the disinfection, seizure or destruction of contaminated property; and
 - C. The establishment of temporary facilities for the care and treatment of infected persons which shall be subject to the supervision and regulations of the department.
3. **Public hearing on rules.** Prior to adopting any rule pursuant to subsection 1, the department shall hold a public hearing. Notice of public hear-

ing shall be published once within 14 to 30 days before the hearing in the state paper and in other newspapers or journals of general circulation adequate to provide reasonable notice to the public affected thereby.

Rules adopted pursuant to subsection 1 may be repealed or amended at any time by the commissioner, after like notice and hearing of the portion amended.

Emergency rules adopted pursuant to subsection 2 shall remain in effect for a period of not longer than 30 days, unless these rules have met the notice and hearing requirements of this section.

§ 1013. Inspection

The department shall conduct inspections to determine the actual or threatened presence of a communicable or dangerous communicable disease. A duly authorized agent of the department or a municipal health official may enter any place, building, vessel, aircraft or common carrier with the permission of the owner, agent or occupant, where the actual or threatened presence of a communicable disease is known or believed to exist and may inspect and examine the same. If entry is refused, such agent shall apply for an inspection warrant from the District Court pursuant to Title 4, section 179, prior to conducting the inspection.

§ 1014. Penalties

1. Rules enforced. All agents of the department, municipal health officers, sheriffs, state and local law enforcement officers and other officials shall enforce the rules of the department made pursuant to section 1012 to the extent that enforcement is authorized in such rules.

2. Refusal to obey rules. All persons shall obey the rules adopted pursuant to section 1012. Any person who shall neglect, violate or refuse to obey the rules or who shall willfully obstruct or hinder the execution thereof shall be ordered by the department, in writing, to cease and desist. Any person who refuses to obey a cease and desist order issued to enforce the emergency rules adopted pursuant to section 1012, subsection 2, shall be subject to a civil fine not to exceed \$250.

§ 1015. Court orders

Upon complaint made to any Judge of the District Court or Justice of the Superior Court, such judge or justice may issue, in his sole discretion, any order or warrant necessary for the proper enforcement of this chapter and of the rules promulgated pursuant to this chapter.

§ 1016. Exclusion from school

In the event of an actual or threatened outbreak of a communicable or dangerous communicable disease, the department is authorized to take the following actions.

1. Dismissal. The department may order that all persons attending or working in any school be dismissed until such time as the department determines that serious danger no longer exists.

2. Exclusion. The department may exclude any pupil or teacher or other employee of a school from attending that school, if such individual has been exposed to a communicable or dangerous communicable disease. An individual excluded from a school pursuant to this subsection shall be permitted to return to the school after the physician responsible for the individual's care determines that the individual may return to school without danger to other individuals. The physician shall state such determination in writing or verbally to the principal or his agent of the school. Immediately after the individual has returned to the school, the principal or his agent shall notify the department about such return.

ARTICLE 2. DANGEROUS COMMUNICABLE DISEASES

§ 1019. Control of dangerous communicable diseases

The department may establish procedures for agents of the department and municipal health officers relating to the detection and treatment of individuals having or suspected of having a dangerous communicable disease. The procedures shall be adopted in accordance with the rules adopted under section 1012.

§ 1020. Examination or isolation

If a departmental or municipal health officer has reasonable grounds to believe that an individual has a dangerous communicable disease and the individual is unwilling to submit to a physical examination, which may include X-ray studies and the collection of specimens for laboratory analysis, as requested by the health officer, or refuses to make the results of such examination or studies available to that official, the department or the municipal health officer may petition the District Court of the district in which the individual resides or is found, for an order directing isolation or examination, or both, in a place and under conditions to prevent the conveyance of the disease or infectious agent to other individuals.

§ 1021. Treatment or confinement

When the departmental or a municipal health officer knows that an individual having a dangerous communicable disease has failed or refused to comply with a rule or proper order or is unable or unwilling to conduct himself and to live in a manner so as not to expose members of his family or household, or other individuals with whom he may be associated or in contact to the danger of infection, the health officer immediately shall investigate the circumstances. Upon finding that the individual is unwilling voluntarily to enter a facility or submit to care, the health officer or department shall petition the District Court of the district in which the individual resides or is found for an order directing the admission of the individual to a hospital or submission to care or such other order as may be necessary to protect the public health.

§ 1022. Court procedures

1. Receipt of petition. Upon the receipt of a petition filed pursuant to section 1020 or section 1021, the District Court shall fix a date for hearing. Pending hearing on such petition, the court may make such orders as it deems necessary to protect other individuals from the dangers of infection.

2. Notice of hearing; waiver. Notice of the petition and the time and place of the hearing shall be served personally, not less than 3 days before the hearing, on the individual and the petitioner. The individual and the petitioner may waive notice of hearing, and upon filing of the waiver in writing, the District Court may hear the petition immediately.

3. Notice to facility. Whenever a petition requests that an individual be ordered to be treated in or committed to a hospital, notice of the petition and the time and place of the hearing shall be sent to the hospital which is to be requested to provide the proposed care and treatment. No such hospital shall be required to provide care and treatment to or to admit the individual named in the petition without the consent of the hospital.

4. Examination ordered. If upon hearing, it appears that there are reasonable grounds to believe that an individual has a dangerous communicable disease, the District Court shall order the examination or isolation, or both, of the suspected individual.

5. Commitment or treatment ordered. If upon hearing, it appears the individual has a dangerous communicable disease and is a source of danger to other individuals, the District Court shall order the individual committed to a hospital, or to submit to treatment, or to take such other reasonable precautions as may be necessary to not expose other individuals to the danger of infection.

6. District Court order. The District Court order shall provide that the department may change the place of confinement or care for reasonable cause. If the infected person applies for review within 30 days of the change, the District Court making the order shall review the change. If the court orders an individual committed to a hospital, the order shall specify a period of time, not to exceed 30 days, during which the order of commitment shall remain in effect. At the end of such period, the court may make such additional orders as it deems necessary.

§ 1023. Immunity for hospital

A hospital to which an individual has been committed pursuant to section 1022 is under no legal obligation to provide for the confinement of such individual or to restrain such individual from leaving its premises. A hospital or its employees or agents shall not be held liable for any civil damages as a result of any reasonable acts taken to provide for the confinement or the restraint of such individual.

§ 1024. Discharge; committed person leaving prior to discharge

An individual committed to a hospital pursuant to section 1022 may be discharged whenever the physician responsible for his treatment determines that the individual may be discharged without danger to other individuals. A hospital shall immediately report the discharge, with a full statement of the reasons therefor, to the District Court which ordered the commitment and shall notify the department and municipal health officers of this discharge.

If an individual committed to a hospital pursuant to section 1022 leaves the hospital prior to his discharge by the physician, the hospital shall immedi-

ately report this to the District Court which ordered the commitment, the department, and the municipal officer, sheriff or state or local law enforcement officers.

§ 1025. Medical review board

A patient committed under sections 1021 and 1022 may appeal through the committing court for a medical review board recommendation as to whether or not the patient's medical status permits termination of the commitment. The medical review board shall consist of 3 physicians appointed by the District Court who shall have training and experience in the treatment of dangerous communicable diseases. However, upon the request of the patient, the court shall appoint as one member of the board a physician who has training and experience in the treatment of communicable diseases who is selected by the patient. Upon receipt of the findings of the medical review board, the court, after hearing, may continue or terminate the commitment.

§ 1026. Liability for expenses

1. Financial liability; individual. An individual is financially liable for any care provided pursuant to this subchapter to the individual to the extent that the individual has public or private insurance or otherwise has the ability to pay for such care. An individual shall not be denied the care because of inability to pay for that care.

2. Liability. The State shall pay, on certification by the commissioner, the expenses for care of an individual receiving care under this chapter who is not a resident of a municipality in this State.

3. Subrogation. The State shall be subrogated to the rights of recovery which the individual may have against a liable 3rd party for the cost of care provided for the individual under this subchapter to the extent that the State has spent moneys for that care.

ARTICLE 3. UNIFORM REPORTING OF DISEASES

§ 1029. Authority of the department

The department shall adopt rules pursuant to section 1012 and establish procedures to carry out the rules to provide for a uniform system of reporting, recording and collecting information concerning communicable and dangerous communicable diseases. The department may designate any dangerous communicable or any other communicable disease as a notifiable disease. Any such notifiable disease shall be reported to the department in accordance with this article and the rules established by the department.

§ 1030. Reporting

Whenever any physician knows or has reason to believe that any person whom he examines or cares for has or is afflicted with any communicable or dangerous communicable disease designated as notifiable, such physician shall notify the department and make such report as may be required by the rules of the department. Reports shall be in the form and content prescribed by

the department and the department shall provide forms for making required reports.

§ 1031. Time requirements

The reporting of a dangerous communicable disease shall be made by telephone to the department or a designated health officer immediately upon determination that a person has such disease, and shall be followed by a written report mailed to the department within 48 hours.

The reporting of notifiable communicable diseases shall be made in writing to the department within one month after determination that a person has such disease.

§ 1032. Confidentiality

The names and related information which may identify individuals having or suspected of having a notifiable communicable disease shall be confidential and may be released only to other public health officials, agents or agencies for a public health purpose. All other information submitted pursuant to this article may be made available to the public.

§ 1033. Immunity

Any person, official or institution complying with the reporting requirements of sections 1029 to 1034 shall not be held liable for any civil damage as a result of such acts.

§ 1034. Penalties

Any person who knowingly and willfully fails to comply with reporting requirements for notifiable communicable diseases shall be subject to a civil fine not to exceed \$250.

SUBCHAPTER II-A

IMMUNIZATION

§ 1061. Definitions

1. Clinic. "Clinic," as used in this subchapter, shall mean any place, establishment or institution which operates for the purpose of dispensing immunizing agents to persons who are not confined in that place.

2. Immunizing agent. "Immunizing agent" means a vaccine, antitoxin or other substance used to increase an individual's immunity to a disease.

§ 1062. Distribution of immunizing agents

The department shall have authority to purchase or receive by gift and dispense immunizing agents and other pharmaceuticals for use in the prevention and control of diseases and disabilities. The department shall provide and distribute immunizing agents throughout the State when necessary to protect the public health.

§ 1063. Clinics

1. Immunization; immunity from liability. The department may offer immunization to the public for protection in case of an epidemic or threatened epidemic as ordered by the commissioner.

Notwithstanding any inconsistent provision of any other law, no person who works as a volunteer in a public immunization program set up by the department pursuant to this subsection, without the expectation or receipt of monetary compensation for any aspect of such a program, shall be liable:

A. For damages or injuries alleged to have been sustained by a person immunized under the program; nor

B. For damages for the death of a person immunized under the program, unless it is established that the injuries or the death were caused willfully, wantonly, recklessly or by gross negligence by the volunteer.

2. Free immunization clinics. The department may conduct free immunization clinics for the public subject to whatever guidelines and regulations the department deems necessary. The department shall notify the public of the free immunization clinics, publicize the time and place of the clinic and require that a record be kept of those immunized.

3. Municipal immunization programs. The department may cooperate with the local health officer of a municipality offering immunization to or conducting free clinics for persons within its jurisdiction. Municipal immunization programs shall be subject to whatever guidelines and regulations the department deems necessary.

Sec. 3. 22 MRSA § 1094, 1st ¶ is repealed and the following enacted in its place:

Venereal disease, as defined in section 1011, is declared to be a dangerous communicable disease and subject to the reporting procedures and requirements of sections 1029 to 1034.

Sec. 4. 22 MRSA § 1094, 2nd and 3rd ¶¶, are repealed.

Sec. 5. 22 MRSA § 1095 is repealed and the following enacted in its place:

§ 1095. Examination requested

The Bureau of Health is empowered to make such investigations as may be necessary to ascertain the source of any infectious or communicable disease. Whenever the bureau or a municipal health officer has cause to believe that any person is infected with venereal disease so as to expose others to the dangers thereof, the bureau, through its agent or the municipal health officer, shall request the person to submit to examination or treatment. If the person refuses to cooperate and comply with the request or refuses to make the results of the examination available to the departmental or municipal health officer, the person shall be subject to the procedures and requirements of sections 1019 to 1026.

Sec. 6. 22 MRSA §§ 1096 and 1097 are repealed.

Sec. 7. 22 MRSA §§ 1271-1277 are repealed.

Sec. 8. 22 MRSA c. 259 is repealed.

Sec. 9. **Transitional provision.** Ninety days after the effective date of this Act, any rules adopted prior to the effective date of the Act pursuant to the laws repealed by this Act shall cease to be in effect, and any rules authorized under Title 22, section 1012, subsection 1, which are necessary for the effective implementation of this Act, and which have been adopted according to the procedures specified in Title 22, section 1012, subsection 3, shall be in effect.

STATEMENT OF FACT

PURPOSE

The purpose of this bill is to update old laws relating to the investigation, control, prevention and treatment of communicable diseases.

PROVISIONS AFFECTING ALL COMMUNICABLE DISEASES (Section 2 of the Bill)

The bill, in section 1012, subsection 1, gives the Department of Human Services the authority to adopt rules to:

- (1) Designate and classify communicable diseases;
- (2) Establish reporting requirements and surveillance methods for measuring the occurrences of communicable diseases and the potential for epidemics;
- (3) Investigate cases, epidemics, unusual occurrences and potential occurrences of communicable diseases;
- (4) Establish procedures for controlling, detecting, preventing and treating communicable diseases.

In addition, when there is an actual or threatened epidemic or outbreak of a communicable disease, the department is authorized to declare a health emergency and to adopt emergency rules to protect the public health. (See section 1012, subsection 2.) These rules must relate to:

- (1) Procedures for placing infected persons in quarantine or moving them where they can be treated;
- (2) Procedures for disinfecting, seizing and destroying contaminated property, and
- (3) Establishing temporary facilities for treating infected persons.

These rules can remain in effect for only 30 days, unless there has been a public hearing on the rules. (Title 22, section 1012, subsection 3) A person who refuses to obey a cease and desist order issued to enforce these emer-

gency rules is subject to a civil fine not to exceed \$250. (Section 1014, subsection 2)

The bill requires the department to conduct inspections to determine the actual or threatened presence of a communicable disease. (Section 1013)

The bill allows the department to dismiss all or any person from a school if there is an actual or threatened outbreak of a communicable disease. (Section 1016)

PROVISIONS ABOUT COMMUNICABLE DISEASES WHICH ARE DANGEROUS (Sections 1019 to 1026)

If the department or a municipal health officer believes that an individual has a communicable disease which is dangerous and if the individual is not willing to submit to or make available the results of a physical examination, the department or the health officer may petition the District Court for an order directing isolation or examination of the individual so that the disease is not conveyed to other persons. (Section 1020)

If the department finds that an individual with a dangerous communicable disease is not willing to enter a facility or submit to care, the health officer or department must petition the District Court for an order directing admission of the individual to a hospital or submission to care. (Section 1021)

The court procedures for dealing with an individual with a dangerous communicable disease, who refuses to submit to an examination or who refuses to enter a facility, are spelled out clearly in the bill. (Section 1022)

No hospital is required to provide care to a court committed individual with a dangerous communicable disease, if it does not consent to do so. (Section 1022, subsection 3) A hospital to which such an individual is admitted is under no legal obligation to provide for the confinement of the individual or to restrain the individual from leaving. The hospital is not liable for civil damages as a result of acts taken to provide for the confinement or the restraint of such individual. (Section 1023)

When a physician has determined that a committed individual no longer represents a danger to others, the individual may be discharged from the hospital. The hospital must immediately report the discharge to the District Court and must notify the department and health officers about the discharge. If a committed individual leaves the hospital before he is discharged, the hospital must notify the appropriate officials immediately. (Section 1024)

An individual with a dangerous communicable disease who has been committed to a hospital may appeal through the court to have a medical service board, made up of 3 physicians, make a recommendation about whether the hospital stay can be terminated. (Section 1025)

PROVISIONS ABOUT REPORTING OF DISEASES (Sections 1029-1034)

The Department of Human Services can designate any communicable disease as a disease which must be reported to the department. (Section

1029) A physician is required to notify and report to the department about any person under his care who he knows or believes has a communicable disease designated by the department. (Section 1030)

A physician must report a dangerous communicable disease to the department immediately by telephone and in writing within 48 hours after the determination of the disease is made. Reporting of other communicable diseases must occur in writing within one month after the determination. (Title 22, section 1031)

Names and other identifying information can be released only to public health officials, agents or agencies for a public health purpose. (Title 22, section 1032) Persons or institutions complying with the reporting requirements cannot be held liable for civil damages as a result of following the requirements. (Title 22, section 1033)

Persons who do not comply with the reporting requirements are subject to a civil fine of not more than \$250.

IMMUNIZATION (Title 22, sections 1061-1063)

The Department of Human Services is authorized to purchase, receive by gift and dispense pharmaceuticals for the use in preventing and controlling diseases and disabilities. The department must provide immunizing agents throughout the State when necessary to protect the public health. (Title 22, section 1062)

The department may conduct public immunization clinics for protection in case of an actual or threatened epidemic. Individuals who work as volunteers in such clinics are not liable for damages, injuries or death sustained by a person immunized in the clinic, unless there has been gross negligence by the volunteer. (Title 22, section 1063)

VENEREAL DISEASE

Venereal disease is defined as a dangerous communicable disease and is subject to the reporting provisions of this bill. (Section 3 of the bill) When the Bureau of Health or municipal health officer believes that a person has venereal disease and is exposing others to it, the bureau must request the person to have an examination or treatment. If the person refuses he must be subject to the procedures which apply to a person with a dangerous communicable disease who fails to cooperate. (Section 5 of the bill)

OTHER PROVISIONS (Repealers)

Section 1 of the bill repeals the old, outdated laws relating to communicable diseases, which are replaced with Section 2 of the bill.

Sections 4 and 6 of the bill repeal sections relating to venereal diseases which have been replaced and updated by this bill.

Section 7 of the bill repeals obsolete statutes relating to the quarantine of infected vessels.

Section 8 of the bill repeals old and no longer relevant laws about occupational diseases.