

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

Legislative Document

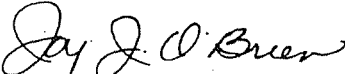
No. 1991

S.P. 766

In Senate, December 18, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.

Received by the Secretary of the Senate on December 18, 1989. Referred to the Committee on Appropriations and Financial Affairs and 1,600 ordered printed pursuant to Joint Rule 14.

  
JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator BRANNIGAN of Cumberland.

Cosponsored by Senator BUSTIN of Kennebec, Representative LISNIK of Presque Isle and Representative FOSTER of Ellsworth.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

An Act to Expand the Protection and Advocacy Agency for Persons with Disabilities and Consolidate Funding.

(EMERGENCY)



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

Whereas, persons with mental illness who do not live in a facility need protection and advocacy services to protect their rights and to obtain appropriate mental health services so that they may remain in the community; and

Whereas, the protection and advocacy agency for mentally ill individuals cannot legally use its federal funds for these services; and

Whereas, other advocacy resources for persons with mental illness are severely limited and do not meet the advocacy needs of persons with mental illness; and

Whereas, the lack of advocacy services contributes to the overcrowding and other problems at the Augusta Mental Health Institute and the Bangor Mental Health Institute; and

Whereas, applicants to and clients of the Department of Human Services, Bureau of Rehabilitation, need an effective client assistance program; and

Whereas, the Bureau of Rehabilitation is reducing its funding of the client assistance program; and

Whereas, contracts with the Department of Educational and Cultural Services and the Department of Mental Health and Mental Retardation cause unnecessary administrative costs and conflicts of interest; 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. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

**1990-91**

**MAINE ADVOCACY SERVICES**

**Maine Advocacy Services**

All Other \$182,275

2 Provides funds of \$70,000 to increase  
4 staffing and \$25,000 for the Client  
6 Assistance Program to provide advocacy for  
8 persons with mental illness and for  
10 applicants to and clients of the Department  
12 of Human Services, Bureau of Rehabilitation;  
14 and transfers funds from the Department of  
16 Educational and Cultural Services and the  
18 Department of Mental Health and Mental  
20 Retardation.

22 **Sec. 2. Deappropriation.** The following funds are  
24 deappropriated to carry out the purposes of this Act.

16 1990-91

18 **EDUCATIONAL AND CULTURAL SERVICES,  
20 DEPARTMENT OF**

22 **Special Education - Exceptional Children**

24 All Other (\$43,775)

26 These funds, which fund a contract with  
28 Maine Advocacy Services to advocate for deaf  
30 children and children placed outside their  
32 homes, are being deappropriated from the  
34 Division of Special Education and  
36 appropriated directly to Maine Advocacy  
38 Services.

34 **DEPARTMENT OF EDUCATIONAL AND CULTURAL  
36 SERVICES  
38 TOTAL**

(\$43,775)

40 **MENTAL HEALTH AND MENTAL RETARDATION,  
42 DEPARTMENT OF**

44 **Bureau of Mental Retardation**

46 All Other (\$43,500)

48 These funds, which fund a contract with  
50 Maine Advocacy Services to supplement  
52 protection and advocacy services to persons  
with developmental disabilities and mental  
illness, are being deappropriated from the  
Bureau of Mental Retardation and  
appropriated directly to Maine Advocacy  
Services.

2 DEPARTMENT OF MENTAL HEALTH  
AND MENTAL RETARDATION  
TOTAL

(\$43,500)

4 TOTAL DEAPPROPRIATIONS

(\$87,275)

6 Emergency clause. In view of the emergency cited in the  
8 preamble, this Act shall take effect when approved.

10  
12 STATEMENT OF FACT

14 Maine Advocacy Services, or MAS, is mandated by a  
16 combination of federal and state laws to protect and advocate for  
18 persons with developmental disabilities and mental illness. For  
20 the past 5 years, Maine Advocacy Services has operated the Client  
22 Assistance Program, or CAP, also required by federal law, via a  
24 contract with the Department of Human Services, Bureau of  
Rehabilitation. In addition, Maine Advocacy Services has  
contracts with the Department of Educational and Cultural  
Services and the Department of Mental Health and Mental  
Retardation.

26 This bill makes a General Fund appropriation of \$70,000 to  
28 expand the protection and advocacy program for mentally ill  
30 persons by adding 2 program staff to the existing staff of 2.8  
32 persons. The appropriation of state funds would also allow MAS  
34 to expand the program's scope by advocating for individuals who  
36 are not living in a facility but who need assistance to protect  
their rights or to obtain the services that allow them to remain  
in the community. Federal law explicitly prohibits MAS from  
using its federal funds for this purpose. Consequently, MAS is  
forced to deny requests for assistance until individuals have  
been admitted to a facility.

38 This bill makes a General Fund appropriation of \$25,000 for  
40 the CAP program to replace the funds decreased by the Bureau of  
Rehabilitation. Loss of these funds would severely limit CAP's  
scope and effectiveness.

42 Finally, this bill deappropriates funds of \$43,775 from the  
44 Department of Educational and Cultural Services and \$43,500 from  
46 the Department of Mental Health and Mental Retardation and  
48 appropriates them directly to Maine Advocacy Services. The  
50 purpose of the deappropriation is primarily to remove the  
inherent conflict of interest created by contracts with agencies  
which are the principal focus of MAS's advocacy, and secondarily  
for the administrative convenience of all 3 agencies.