

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)



# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

---

Legislative Document

No. 1831

S.P. 663

In Senate, February 3, 1994

**An Act Regarding Maine's Comprehensive Early Intervention System  
for Infants and Children, Ages Zero to Five.**

(EMERGENCY)

---

Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator AMERO of Cumberland.  
Cosponsored by Senator: O'DEA of Penobscot, Representatives: AULT of Wayne, MITCHELL  
of Vassalboro, NORTON of Winthrop.





- 2 C. Occupational therapy;
- 4 D. Parent counseling and training;
- 6 E. Physical therapy;
- 8 F. Psychological services;
- 10 G. Special instruction;
- 12 H. Speech pathology and audiology; and
- 14 I. Transportation.

16 6. **Council.** "Council" means the Interdepartmental  
18 Coordinating Council for Early Intervention established in  
section 7733.

20 7. **Intermediate educational unit.** "Intermediate  
22 educational unit," as defined in the federal Public-Law-94-142  
Individuals with Disabilities Education Act of 1991, as amended,  
24 means any public authority, other than a local educational  
26 agency, under the general supervision of a state educational  
28 agency, that is established for the purpose of providing free  
public education on a regional basis and that provides special  
education and related services to handicapped children within the  
State.

30 8. **Regional site.** "Regional site" means ~~one-of-the~~ 16  
locally governed regional intermediate educational units or  
32 private nonprofit corporations established to ensure provision of  
services to infants and children under this chapter.

34 **§7727. Department of Education**

36 1. **Responsibility.** The department is designated as the  
38 state education agency responsible for carrying out the State's  
obligations under the federal Individuals with Disabilities  
40 Education Act of 1991, Public-Law-101-476 as amended.

42 2. **Plan.** The department shall submit the State's plan for  
meeting the requirements of the federal Public-Law-101-476  
44 Individuals with Disabilities Education Act of 1991, as amended,  
to the Federal Government.

46 2-A. Administration of funds. The department is  
48 responsible for the administration of the federal Individuals  
with Disabilities Education Act of 1991, as amended, Part B,

2 Section 619 and Part H funds. The department is responsible for  
3 assigning financial responsibility among appropriate agencies.

4 **3. Rule-making authority.** The commissioner may adopt rules  
5 necessary to implement this chapter in accordance with the Maine  
6 Administrative Procedure Act.

8 **4. Contracts.** The department may enter into contracts,  
9 leases and agreements and any other instruments and arrangements  
10 that are necessary, incidental or convenient to the performance  
11 of its duties and the execution of its powers under this chapter.

12 The department shall contract with the board of directors of a  
13 private nonprofit corporation for no fewer than 3 years and  
14 approve an annual entitlement plan with the board of directors of  
15 a regional intermediate education unit for the purpose of  
16 assuring coordinated service delivery in each region of the State.

17 Contracts with boards of directors of private nonprofit  
18 corporations or plans of regional intermediate education units  
19 must ensure:

22 A. That screening, evaluation and referral services, at no  
23 cost to the family, are accessible to all children, ages 0  
24 to school-age 5; and

25 B. That preschool children with disabilities, ages 3 to  
26 school-age 5, have free, appropriate public education  
27 services available to them at no cost to the family; and

28 C. That infants and toddlers, ages 0 to 2, have early  
29 intervention services available to them by July 1, 1994  
30 through 3rd-party payment or through a system of payments by  
31 families, including a schedule of sliding fees.

32 **5. Implementation of early intervention and of free,**  
33 **appropriate public education services.** The department, through  
34 the Child Development Services System, shall ensure:

35 A. That screening, evaluation and referral services, at no  
36 cost to the family, are accessible to all children, ages 0  
37 to school-age 5, ~~The commissioner shall adopt rules~~  
38 ~~describing these services;~~

39 B. That preschool children with disabilities, ages 3 to  
40 school-age 5, have free, appropriate public education  
41 services available to them at no cost to the family; and

42 C. That rules are developed, adopted and implemented  
43 describing minimum standards for the following:  
44  
45  
46  
47  
48  
49  
50

- 2 (1) Least restrictive environment;
- 4 (2) Nondiscrimination;
- 6 (3) Rights of parents;
- 8 (4) Free and appropriate public services;
- 10 (5) Eligibility criteria;
- 12 (6) The federal "childfind" program;
- 14 (7) Program development, service descriptors and  
service delivery;
- 16 (8) Early childhood team;
- 18 (9) Individualized family service plan;
- 20 (10) Statements of assurances;
- 22 (11) Procedural safeguards and appeals processes;
- 24 (12) Due process hearings;
- 26 (13) Confidentiality of information;
- 28 (14) Data collection, reporting and utilization; and
- 30 (15) Surrogate parents; and
- 32 (16) Payment for and provision of early intervention  
34 services; and

36 D. That infants and toddlers, ages 0 to 2, have early  
38 intervention services available to them by July 1, 1994  
40 through 3rd-party payment or through a system of payments by  
families, including a schedule of sliding fees.

42 **6. Regional site compliance.** The department, in  
44 consultation with regional sites and the Interdepartmental  
46 Coordinating Council for Early Intervention, shall develop an  
48 action plan with timelines to achieve compliance for regional  
sites that are not in compliance with federal or state law. The  
department may assume temporary responsibility for operations at  
a site that fails to meet compliance requirements.

50 **Sec. 4. 20-A MRSA §7728, sub-§1, as enacted by PL 1991, c.**  
843, §3, is amended to read:

2           **1. Federal obligations.** Develop and adopt statewide  
4 policies and rules for carrying out the provisions of this  
6 chapter to meet federal obligations under the federal Individuals  
with Disabilities Education Act of 1991, ~~Public Law 101-476~~ as  
amended, Part B, Section 619 and Part H. These obligations must  
include but are not limited to:

- 8           A. Personnel standards;
- 10           B. Comprehensive system of personnel development;
- 12           C. Program monitoring;
- 14           D. Data collection;
- 16           E. Interagency agreements at the state level; and
- 18           F. Public awareness;

20           **Sec. 5. 20-A MRSA §7728, sub-§5**, as enacted by PL 1991, c.  
22 843, §3, is repealed.

24           **Sec. 6. 20-A MRSA §7728, sub-§11**, as enacted by PL 1991, c.  
843, §3, is amended to read:

26           **11. Dissemination of information.** Apply the federal Family  
28 Educational Rights and Privacy Act of 1974, Public Law 93-380, as  
amended by Public Law 93-568, and the federal ~~Education for All~~  
~~Handicapped Children Act of 1975, Public Law 94-142~~ Individuals  
30 with Disabilities Education Act of 1991, as amended, to the  
32 dissemination of information about infants and children, ages 0  
to school-age 5, with disabilities who are served by the Child  
Development Services System.

34           **Sec. 7. 20-A MRSA §7729**, as enacted by PL 1991, c. 843, §3,  
36 is amended to read:

38           **§7729. Regional site governance; choice**

40           Boards of directors of the ~~local-coordinating-committees~~  
42 ~~under former chapter 307~~, regional Child Development Services  
System sites established to ensure childfind activities for  
44 children, ages 0 to 5, to coordinate early intervention services  
for eligible children, ages 0 to 2, and to coordinate free,  
46 appropriate public education services for eligible children ages  
3 to 5 ~~who have a disability~~ shall organize, at the discretion of  
48 each board, as a private nonprofit corporation or an intermediate  
education unit.



2           **Sec. 8. 20-A MRSA §7731, sub-§11**, as enacted by PL 1991, c.  
843, §3, is amended to read:

4           **11. Dissemination of information.** Apply the federal Family  
Educational Rights and Privacy Act of 1974, Public Law 93-380, as  
6 amended by Public Law 93-568, and the federal Individuals with  
Disabilities Education Act of 1991, ~~Public Law 101-476~~ as  
8 amended, to the dissemination of information about infants and  
children, ages 0 to school-age 5, with disabilities who are  
10 served through the regional site.

12           **Sec. 9. 20-A MRSA §7732**, as enacted by PL 1991, c. 843, §3,  
is repealed.

14           **Sec. 10. 20-A MRSA §7732-A** is enacted to read:

16           **§7732-A. Regional site; duties and obligations**

18           The board of directors of a private nonprofit corporation or  
20 a regional local intermediate education unit shall:

22           **1. Childfind.** Ensure provision of childfind activities as  
required by the federal Individuals with Disabilities Education  
24 Act of 1991, as amended;

26           **2. Childcount.** Ensure provision of childcount activities as  
required by the federal Individuals with Disabilities Education  
28 Act of 1991, as amended;

30           **3. Part H.** Ensure appropriate data collection, training,  
staff development and direct service provision to eligible  
32 children, ages 0 to 2, in accordance with the federal Individuals  
with Disabilities Act of 1991, as amended, Part H;

34           **4. Early intervention services.** Ensure that eligible  
36 children, ages 0 to 2, receive early intervention services, in  
accordance with the payment provisions established by the State;

38           **5. Free, appropriate public education.** Ensure that eligible  
40 children, ages 3 to 5, receive free, appropriate public education  
services;

42           **6. Individual family service plan.** Coordinate development  
44 of individual family service plans with eligible families;

46           **7. Service providers.** Contract, whenever possible, with  
providers of early intervention services approved by the Bureau  
48 of Medical Services within the Department of Human Services;

2 8. Designate personnel for training. Designate local  
3 personnel for training to commit funds for free, appropriate  
4 public education. Personnel who commit funds for free,  
5 appropriate public education must be trained and certified by the  
6 state intermediate education unit. The board of directors shall  
7 determine which trained and certified personnel may commit funds;  
8 and

9 9. Targeted case management. Following certification by the  
10 Bureau of Medical Services within the Department of Human  
11 Services, seek reimbursement, whenever feasible, for targeted  
12 case management.

13 **Sec. 11. 20-A MRSA §7733, first 2 paragraphs,** as enacted by PL  
14 1991, c. 843, §3, are amended to read:

15 The Interdepartmental Coordinating Council for Early  
16 Intervention as established in Title 5, section 12004-G,  
17 subsection 8-A is established as an advisory body to the  
18 commissioner regarding the coordination of policies and programs  
19 aimed at implementing ~~the federal Public-Law-99-457~~ Individuals  
20 with Disabilities Education Act of 1991, as amended.

21 Membership of the council must be in keeping with the  
22 federal Public-Law-101-476, Subparts F and G Individuals with  
23 Disabilities Education Act of 1991, as amended, contingent upon  
24 state participation in these ~~programs~~ the federal Individuals  
25 Education Act of 1991, as amended, Parts B and H. Appointments  
26 to the council must be made by the Governor for terms defined in  
27 rules adopted by the commissioner. The council shall meet at  
28 least quarterly.

29 **Sec. 12. 20-A MRSA §7733, sub-§2, ¶¶C to E,** as enacted by PL  
30 1991, c. 843, §3, are amended to read:

31 C. Childfind activities and methods as required by the  
32 federal Public-Law--101-476 Individuals with Disabilities  
33 Education Act of 1991, as amended;

34 D. Public awareness as required by the federal Public-Law  
35 101-476 Individuals with Disabilities Education Act of 1991,  
36 as amended; and

37 E. Contemporary research.

38 **Sec. 13. 20-A MRSA §7733, sub-§2, ¶¶F to N,** as enacted by PL  
39 1991, c. 843, §3, are repealed.

40 **Sec. 14. 20-A MRSA §7733, sub-§§9 and 10,** as enacted by PL  
41 1991, c. 843, §3, are amended to read:

2           9. ~~Voting. A majority must be present for any action taken~~  
by the council. ~~Actions must be approved by a majority vote of~~  
4           ~~the members present and voting.~~ The Interdepartmental  
6           Coordinating Council for Early Intervention shall adopt bylaws  
that define a quorum for the purpose of conducting business of  
the council.

8  
10           10. **Conflict resolution.** The council shall identify areas  
of conflict for resolution by the ~~Committee for the~~  
12           ~~Interdepartmental Coordination of Services to Children and~~  
~~Families lead agency.~~

14           Sec. 15. 20-A MRSA §7734, as enacted by PL 1991, c. 843, §3,  
is repealed.

16           Sec. 16. 20-A MRSA §7734-A is enacted to read:

18           §7734-A. Distribution of funds to school administrative units

20           In addition to the programs authorized in this subchapter,  
22           the commissioner may authorize expenditures to school  
administrative units for services for infants and children, ages  
24           0 to 5, who are disabled.

26           1. School year 1986-87 and subsequent years. Starting in  
28           1986-87 for base year costs in 1984-85, expenditures must be made  
through the school subsidy formula.

30           2. Federal and state funds. Federal and state grants  
32           awarded to school administrative units to initiate these services  
must be considered local funds in computing the units'  
34           educational costs in chapter 606.

36           3. Governance and financial responsibility. The school  
board responsible for operating the preschool service shall  
38           assume the financial responsibility for the program. The school  
board is entitled to receive the state subsidy for the program  
40           and may charge tuition for costs that exceed expenditures made  
for those programs in the base year.

42           4. Dedication of funds. Funds generated under the school  
subsidy formula through expenditures for programs for infants and  
44           children, ages 0 to 5, who are disabled must be committed to  
continue to fund programs and services for the target population  
46           at the local level.

48           5. Coordination of services and resource development  
activities. School administrative units shall coordinate their  
50           program and service activities for infants and children, ages 0

2 to 5, who are disabled with their local site to avoid  
3 duplication, maximize the use of rules as adopted by the  
4 department.

6 **Sec. 17. PL 1991, c. 843, §5 is repealed.**

8 **Emergency clause.** In view of the emergency cited in the  
9 preamble, this Act takes effect when approved.

10  
11 **STATEMENT OF FACT**

12  
13 This bill clarifies the responsibility for the  
14 administration of the federal funds under Part H of the federal  
15 Individuals with Disabilities Education Act of 1991, articulates  
16 the responsibility of the Department of Education for assigning  
17 financial responsibility among appropriate agencies, establishes  
18 the schedule for providing direct services to eligible children,  
19 ages 0 to 2, and articulates the method of payment of services to  
20 the eligible 0 to 2 population.

22 This bill allows the Department of Education, in concert  
23 with other agencies in the early intervention system, to ensure  
24 appropriate provision of services consistent with Part H of the  
25 federal Individuals with Disabilities Education Act of 1991 and  
26 allows an increase in federal funds to enhance the service  
27 delivery. This bill strengthens the "seamless system" for  
28 children, ages 0 to 5, by ensuring the provision of services for  
29 eligible young children in a nondiscriminatory manner.  
30

32  
33  
34  
35  
36 This document has not yet been reviewed to determine the  
need for cross-reference, stylistic and other technical  
amendments to conform existing law to current drafting standards.