

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 619

S.P. 228

In Senate, February 11, 2003

An Act Making Substantive and Technical Changes to the General Assistance Laws

Reference to the Committee on Health and Human Services 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 ROTUNDO of Androscoggin.

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

4 **Sec. 1. 22 MRSA §4306**, as enacted by PL 1983, c. 577, §1, is amended to read:

6 **§4306. Records; confidentiality of information**

8 The overseer shall keep complete and accurate records
10 pertaining to general assistance, including the names of eligible
12 persons assisted and the amounts paid for their assistance.
14 Records, papers, files and communications relating to an
16 applicant or recipient made or received by persons charged with
18 responsibility of administering this chapter are confidential and
no information relating to a person who is an applicant or
recipient may be disclosed to the general public, unless
expressly permitted by that person. This section does not
prevent disclosure to a law enforcement officer, emergency
responder or municipal official acting in an official capacity.

20 **Sec. 2. 22 MRSA §4307, sub-§4, ¶B**, as enacted by PL 1987, c.
22 349, Pt. H, §15, is amended to read:

24 B. ~~If an applicant is in a group home, shelter,
rehabilitation center, nursing home, hospital or other
institution at the time of application and has either been
in that institution for 6 months or less, or had a residence
immediately prior to entering the institution which he had
maintained and to which he intends to return, the
municipality of responsibility shall be the municipality
where the applicant was a resident immediately prior to
entering the institution.~~ For the purpose of this paragraph
32 and paragraphs C and D, a hotel, motel or similar place of
34 temporary lodging is considered an institution when a
municipality:

36 (1) Grants financial assistance for a person to move
to or stay in temporary lodging;

38 (2) Makes arrangements for a person to stay in
40 temporary lodging;

42 (3) Advises or encourages a person to stay in
temporary lodging; or

44 (4) Illegally denies housing assistance and, as a
46 result of that denial, the person stays in temporary
lodging.

48 The applicant is the responsibility of the municipality that
50 undertakes any of the actions in subparagraphs (1) to (4)

2 while the applicant is in temporary lodging for up to 6
3 months. After 6 months of temporary lodging, responsibility
4 is determined under paragraph C or D, whichever applies.

6 **Sec. 3. 22 MRSA §4307, sub-§4, ¶¶C and D** are enacted to read:

8 C. An applicant in an institution who retained a residence,
9 such as a rented or owned dwelling or home, during a stay in
10 an institution such as a group home, shelter, rehabilitation
11 center, nursing home, hospital or other institution as
12 defined in paragraph B, is the responsibility of the
13 municipality where the residence is located regardless of
14 the duration of time spent in the institution.

16 D. An applicant not retaining a residence, such as a rented
17 or owned dwelling or home, who has been in an institution
18 such as a group home, shelter, rehabilitation center,
19 nursing home, hospital or other institution as defined in
20 paragraph B for 6 months or less at the time of application
21 is the responsibility of the municipality where the
22 applicant was a resident immediately prior to entering the
23 institution. An applicant not retaining a residence who has
24 been in an institution for more than 6 months at the time of
25 application is the responsibility of the municipality where
26 the institution is located.

28 **Sec. 4. 22 MRSA §4313, sub-§2**, as amended by PL 1993, c. 410,
Pt. AAA, §8, is repealed and the following enacted in its place:

30 **2. Burial or cremation.** In the event of the death of an
31 eligible person, the following provisions apply.

32 A. The funeral director shall notify the overseer prior to
33 burial or cremation or by the end of the next business day
34 following the funeral director's receipt of the body of an
35 eligible person, whichever is earlier. Notwithstanding
36 section 4305, subsection 3, paragraph C, the overseer must
37 render a decision within 10 working days after receiving an
38 application for assistance with funeral expenses. An
39 application may be denied if the overseer has not received
40 sufficient verification that no relative or other resource
41 is available to pay for the direct burial or cremation costs.

42 B. The general rules of residency for general assistance
43 under section 4307 apply to funerals. In the event an
44 eligible deceased person was not a resident of any
45 municipality, the municipality where the person dies is
46 responsible for the funeral costs.
48

2 C. The spouse, father, mother, grandfather, grandmother,
4 children, grandchildren or siblings, living within or owning
6 real or tangible property within the State, are considered
8 legally liable relatives and as such are responsible for the
10 burial or cremation costs of the eligible person in
12 proportion to their respective abilities to pay. If the
14 surviving legally liable relative or relatives and the
 deceased subject were estranged at the time of death, the
 municipality may determine that the relative or relatives
 are not liable for funeral expenses. For purposes of this
 paragraph, "estranged" means living in separate residences
 and having a relationship characterized by hostility or
 indifference.

16 When no legally liable relative possesses a financial
18 capacity to pay either in lump sum or on an installment
20 basis for the direct costs of a burial or cremation, the
22 contribution of a municipality under this subsection is
24 limited to a reasonable calculation of the funeral
 director's direct costs, less any and all contributions from
 any other source. The funeral director's acceptance of the
 municipality's general assistance payment constitutes
 payment in full, relieving the legally liable relatives from
 financial obligation for all funeral services rendered.

26 D. The custody and control of the remains of deceased
28 residents of this State are generally governed by section
30 2843-A. In all other circumstances, the municipal general
32 assistance administrator may authorize usual and customary
 general assistance funeral arrangements including cremation
 in cases when eligibility is determined to exist and when:

34 (1) No next of kin as defined by section 2843-A can be
36 located; or

38 (2) The next of kin are unwilling or unable to take
 custody and control as defined by section 2843-A.

40 General assistance administrators authorizing usual and
42 customary general assistance funeral arrangements, including
 cremation, are presumed to be acting in good faith and are
 completely immune from liability.

44 **Sec. 5. 22 MRSA §4315, first ¶**, as amended by PL 1993, c. 410,
46 Pt. AAA, §9, is further amended to read:

48 Whoever ~~knowingly~~---and---~~willfully~~ makes any false
50 representation of a material fact to the overseer of any
 municipality or to the department or its agents for the purpose

2 of causing that or any other person to be granted assistance by
the municipality or by the State is ineligible for assistance for
a period of 120 days and is guilty of a Class E crime.

4
6 **Sec. 6. 22 MRSA §4317, first ¶,** as amended by PL 1993, c. 410,
Pt AAA, §11, is further amended to read:

8 An applicant or recipient must make a good faith effort to
secure any potential resource that may be available, including,
10 but not limited to, any state or federal assistance program,
~~employment~~ unemployment benefits, governmental or private pension
12 programs, available trust funds, support from legally liable
relatives, child-support payments and jointly held resources
14 where the applicant or recipient share may be available to the
individual. Assistance may not be withheld pending receipt of
16 such resource as long as application has been made or good faith
effort is being made to secure the resource.

18
20 **Sec. 7. 22 MRSA §4317, last ¶,** as amended by PL 1993, c. 410,
Pt AAA, §11, is further amended to read:

22 An applicant who forfeits receipt of or causes reduction in
benefits ~~from another public assistance program or income from~~
24 any source because of fraud, misrepresentation or a ~~knowing or~~
~~intentional~~ violation of program rules or a refusal to comply
26 with program rules without just cause is not eligible to receive
general assistance to replace the forfeited assistance for the
28 duration of the forfeiture.

30 **Sec. 8. 22 MRSA §4319, sub-§1,** as amended by PL 1993, c. 410,
Pt. AAA, §12, is repealed and the following enacted in its place:

32 **I. Relatives liable.** Liability of relatives for support is
34 as follows.

36 A. A parent of a child under 25 years of age shall support
that child in proportion to the parent's ability.

38 B. A spouse shall support that person's husband or wife in
40 proportion to the person's ability.

42 C. Liability for burial expenses is governed by section
44 4313.

46 **Sec. 9. 22 MRSA §4322-A** is enacted to read:

48 **§4322-A. Claimant's failure to appear**

1. Notice. If a claimant fails to appear at the fair

2 hearing under section 4322, the fair hearing authority shall send
4 a written notice to the claimant that the general assistance
6 administrator's decision was not altered due to the claimant's
8 failure to appear. The notice must indicate that the claimant
10 has 5 working days from receipt of the notice to submit to the
12 general assistance administrator information demonstrating "just
14 cause" for failing to appear.

16 2. Just cause. For the purposes of a claimant's failure to
18 appear at a fair hearing, examples of "just cause" include:

20 A. A death or serious illness in the family;

22 B. A personal illness that reasonably prevents the claimant
24 from attending the hearing;

26 C. An emergency or unforeseen event that reasonably
28 prevents the claimant from attending the hearing;

30 D. An obligation or responsibility that a reasonable person
32 in the conduct of that person's affairs could reasonably
34 conclude takes precedence over the attendance at the
36 hearing; or

38 E. Lack of receipt of adequate or timely notice, excusable
40 neglect, excusable inadvertence or excusable mistake.

42 If the claimant establishes just cause, the request for the
44 hearing must be reinstated and a hearing rescheduled.

46 3. Authority of legal counsel when claimant fails to
48 appear. In the event that a claimant who is represented by legal
50 counsel fails to appear at a fair hearing, legal counsel may not
testify in place of the claimant on matters of fact but may
cross-examine witnesses and make legal arguments on behalf of the
claimant.

SUMMARY

The purpose of this bill is to clarify existing municipal general assistance laws in order to facilitate administration of and applicant access to the general assistance program. Specifically, the bill makes the following changes.

1. It clarifies that information may be disclosed to law enforcement officers, emergency respondents or municipal officials who are acting in an official capacity while maintaining confidentiality.

2 2. It eliminates preexisting areas of confusion and
ambiguity regarding residency issues and municipal responsibility.

4 3. It eliminates preexisting areas of confusion and
ambiguity regarding funerals and municipal responsibilities and
6 adds immunity from liability for a general assistance
administrator's good faith actions regarding burial and cremation
8 of general assistance recipients. In addition, it provides
municipalities the option of not pursuing estranged relatives in
10 order to render funeral assistance.

12 4. It removes the standard of "knowingly and willfully"
from the false representation statutes.

14 5. It clarifies forfeiture and reduction of benefits.

16 6. It expands the definition of legally liable spouses and
18 parents.

20 7. It creates a claimant's right to request rescheduling of
fair hearing if just cause for the claimant's failure to appear
22 is established.