MAINE STATE LEGISLATURE

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2 4	DATE: 2-24-04 (Filing No. H-720)
6	HEALTH AND HUMAN SERVICES
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10	Reproduced and distributed under the direction of the Clerk o
12	the House.
14	STATE OF MAINE HOUSE OF REPRESENTATIVES 121ST LEGISLATURE
16	SECOND SPECIAL SESSION =
18	COMMITTEE AMENDMENT "A" to H.P. 1261, L.D. 1739, Bill, "A
20	Act To Clarify the Requirements of the Behavioral Treatmen Review Team for Persons with Mental Retardation or Autism"
22	Amend the bill by striking out the title and substituting
24	the following:
26	'An Act To Clarify the Requirements of the Behavioral Treatmen and Safety Device Review Teams for Persons with Menta
28	Retardation or Autism'
30	Further amend the bill by striking out everything after the enacting clause and before the summary and inserting in its placthe following:
34	'Sec. 1. 34-B MRSA §5605, sub-§13, ¶B, as amended by PL 2003 c. 368, §1, is further amended to read:
36	B. Treatment programs involving the use of noxious o
38	painful stimuli or other aversive or severely intrusive techniques, as defined in department rules, may be used only
40	to correct behavior more harmful than the treatment program to the person with mental retardation or autism than-is-the
42	treatment-program and only:
44	(1) On the recommendation of a physician, psychiatristory or psychologist; and
46	
48	(2) With For an adult 18 years of age or older, with the approval, following a case-by-case review, of
50	review team composed of an advocate of from the department Office of Advocacy; a representative of the Division of Mental Retardation; and a representative or
52	the Consumer Advisory Board+; and

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COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 1261, L.D. 1739

(3) For a child under 18 years of age, with the

2	approval, following a case-by-case review, of a review
	team composed of an advocate from the Office of
4	Advocacy, a team leader of the department's children's
	services division and the children's services medical
б	director or the director's designee. Until rules are
	adopted by the department to govern behavioral
8	treatment reviews for children, the team may not
	approve techniques any more aversive or intrusive than
10	are permitted in rules adopted by the Secretary of the
7.0	United States Department of Health and Human Services
12	regarding treatment of children and youth in nonmedical
14	community-based facilities funded under the Medicaid
7.4	program.
16	The department may adopt rules as necessary to implement
	this paragraph. Rules adopted pursuant to this paragraph
18	are routine technical rules as defined in Title 5, chapter
	375, subchapter 2-A.
20	
	Sec. 2. 34-B MRSA §5605, sub-§13, ¶C is enacted to read:
22	
	C. Notwithstanding paragraph B, for a child under 18 years
24	of age, treatment programs involving the use of seclusion or
2.0	any noxious or painful stimuli, as defined in department
26	rules, may not be approved.
28	Sec. 3. 34-B MRSA §5605, sub-§14, ¶D-1, as amended by PL 2003,
	c. 368, §2, is repealed and the following enacted in its place:
30	
	D-1. A device whose effect is to reduce or inhibit a
32	person's movement in any way but whose purpose is to
	maintain or ensure the safety of the person is not
34	considered behavioral treatment. Such a device may be used
	only in conformity with applicable state and federal rules
36	and regulations and only:
38	(1) When recommended by a qualified professional after
	approval of the person's service plan;
40	
	(2) For an adult 18 years of age or older, when use of
42	the device is approved by a review team composed of an
	advocate from the Office of Advocacy, a representative
44	of the Division of Mental Retardation and a
	representative of the Consumer Advisory Board; and
46	
	(3) For a child under 18 years of age, when use of the
48	device is approved by a review team composed of an
	advanta from the Office of Advances a team leader of

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COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "H" to H.P. 1261, L.D. 1739

the department's children's services division and the children's services medical director or the director's designee.'

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SUMMARY

This amendment replaces the bill. The amendment retains the provisions of the bill that establish requirements for approval of a behavioral treatment program involving the use of aversive or severely intrusive techniques for a child under 18 years of age with mental retardation or autism. The amendment adds a provision that establishes requirements for approval of the use of safety devices for a child under 18 years of age with mental retardation or autism.

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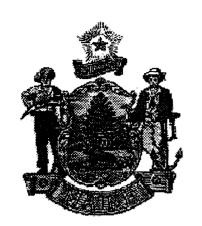
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FISCAL NOTE REQUIRED (See attached)

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COMMITTEE AMENDMENT

Approved: 02/19/04 ///ac



121st Maine Legislature Office of Fiscal and Program Review

LD 1739

An Act To Clarify the Requirements of the Behavioral Treatment Review Team for Persons with Mental Retardation or Autism

LR 2607(02)

Fiscal Note for Bill as Amended by Committee Amendment " "
Committee: Health and Human Services
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund