

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS
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take effect 30 days after the date of submission of the recommended transfer to the Legislature, unless disapproved by majority vote of both houses.

Sec. 2. Effective date. This Act shall take effect 92 days after adjournment of the Legislature.

Effective October 26, 1977

CHAPTER 577

AN ACT to Authorize Family Crisis Workers and Short-term Emergency Services for Children, to Require the Designation of Return to Family Workers and to Enact Objectives and Priorities for Services to Children.

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

Sec. 1. 22 MRSA c. 1051, as last amended by PL 1972, c. 598, § 37, is repealed and the following enacted to read:

CHAPTER 1051

CHILDREN'S SERVICES: GENERAL PROVISIONS

§ 3701. Definitions

As used in this part, unless the context or other definition otherwise indicates, the following words shall have the following meanings:

1. **Child.** "Child" or "minor" means any person who has not attained the age of 18 years.

2. **Child at risk.** "Child at risk" means a child who is or is alleged to be absed, neglected, abandoned, exploited, or a runaway from home. This definition shall not be construed to mean that the department has no responsibility to provide services to a child who is affected by other handicapping conditions or other adverse circumstances in combination with the conditions and circumstances included in the definition.

3. **Family in crisis.** "Family in crisis" means a family in which one or more members is a child at risk.

§ 3702. Goals, objectives, priorities and services

1. **Goals.** The department shall have the following goals when it provides services to children at risk, families in crisis and other categories of children and families who receive services under this part:

- A. To prevent the development of circumstances which are detrimental to children;
- B. To promote the kind of family life that encourages the wholesome development of children; and
- C. To promote the welfare of children.

2. Objectives and priorities. In working toward the attainment of the goals in subsection 1, the department shall, where possible and where applicable, have the following objectives in the following order of priority:

- A. To support and reinforce parental care;
- B. To supplement parental care; and
- C. To substitute, in whole or in part, for parental care.

3. Services. In working toward the attainment of the goals in subsection 1, the department shall also have the following objectives:

- A. To strengthen the care and services it provides by cooperating and coordinating its own efforts with the efforts of other agencies which provide care and services to children at risk and families in crisis; and
- B. To increase the efficiency and effectiveness of protective services, substitute shelter services and residential treatment services.

§ 3703. Authorization; cooperation with Federal Government

1. Services Authorized. The department is authorized to provide, by itself or in cooperation with the Federal Government, to children at risk and families in crisis, services which enhance, supplement and substitute for parental care of children. The provision of such services shall be consistent with the goals and objectives of section 3702.

2. Application for federal aid authorized. The department is authorized to: Apply for federal aid under Title IV, Part B, of the Federal Social Security Act, as amended. The department shall cooperate with and make such reports to the Federal Government as may be required for the effective implementation of child welfare services under Title IV, Part B.

3. Federal grants. The Treasurer of State shall be the appropriate fiscal officer of the State to receive federal grants for child welfare services and administration thereof, as contemplated by Title IV, Part B, of the Federal Social Security Act, as amended, and the State Controller shall authorize expenditures therefrom as approved by the Department of Human Services.

§ 3704. Parental rights

Except for the provisions of section 3896, nothing in this part shall be construed as authorizing any public official, agent or representative, in carrying out any of the provisions of this part, to take charge of any child over the objection of either the father or the mother of such child, or of the person

standing in loco parentis to such child, except pursuant to a proper court order.

Sec. 2. 22 MRSA § 3713, as enacted by PL 1977, c. 42, § 1, is amended by adding at the end a new paragraph to read:

It is the intent of the Legislature that the 22 positions authorized for family crisis services under this Act shall include both "family crisis workers" and "return to family workers". The family crisis workers shall be attached to the child protective care units and shall work with children at risk and families in crisis. The return to family workers shall be responsible for maintaining contact with the families of children in State custody and for working toward the safe return of these children to their families. The department shall designate return to family workers in each region of the department.

Sec. 3. 22 MRSA § 3803 is enacted to read:

§ 3803. Family contact

1. Policy. With respect to any child committed to the custody of the department, it shall be the policy of the department to provide services for the purpose of returning the child to his family, unless such return would not be in the best interests of the child.

2. Notice required. Notice shall be given to the following persons in the following situations. Such notice shall be expressed in a manner which is understandable to the average person.

A. Whenever the court has ordered a child to be committed to the custody of the department under section 3792, this court within 10 calendar days of the order, shall give written notice to the child's parents of their right to petition the court to alter the custody decree pursuant to section 3793.

B. Whenever a child has been committed to the custody of the department under section 3792 the department shall give prompt written notice to the parents of the following provided that such notice is in the best interest of the child:

- (1) the residence of the child,
- (2) any change in the residence of the child,
- (3) any hospitalization of the child, and
- (4) any serious injuries to and major medical care received by the child.

C. Whenever the department decides that, in the best interests of a child committed to the custody of the department under section 3792, return of the child to his family is no longer a viable objective, the department shall notify the parents of this decision. This notice shall include the specific reasons for the department's decision, the specific efforts the department has made to maintain contact with the parents and to return

the child to his home, and the parents' right to petition to have custody restored under section 3798.

D. When a child who has been committed into the custody of the department under section 3792 is placed for adoption under Title 19, chapter 9, the department shall indicate to the court the specific efforts to maintain contacts with the parents of the child, as required under this section.

3. Visitation. Prior to the department's decision referred to under subsection 2, paragraph C, the parents or guardian shall be afforded ample opportunity to visit with and to be visited by a child committed into custody under section 3792, provided that such visitation is in the best interest of the child.

Sec. 4. 22 MRSA c. 1059 is enacted to read:

CHAPTER 1059

SHORT-TERM EMERGENCY SERVICES FOR CHILDREN

§ 3891. Definitions

As used in this chapter, unless the context otherwise indicates the following words shall have the following meanings:

1. Agency. "Agency" means any person, facility, organization, or agency approved by the department for the purpose of providing short-term emergency care services.

2. Child. "Child" means a minor who is or appears to be abandoned or lost or seriously endangered in his home surroundings, or who has or appears to have run away or escaped from his parents, guardian, or legal custodian.

3. Short-term emergency services. "Short-term emergency services" means services which include protective, substitute shelter care and other services which are essential to the care, maintenance and protection of a child.

§ 3892. Authorization

The Department of Human Services is authorized to provide short-term emergency services to any child.

§ 3893. Mechanism

The department may provide short-term emergency services directly or through contracts with agencies approved by the department, provided that the department and the agency have in force a written agreement which includes the consent of the agency to provide emergency services pursuant to this chapter.

§ 3894. Length of services

When consent is given pursuant to section 3896, the provision of short-term emergency services shall be limited to no more than 3 consecutive days per incident.

§ 3895. Notification of parents

Upon the initiation of short-term emergency services for a child, the department or agency, whichever is providing the services to the child, shall take reasonable steps to notify the parent, guardian or legal custodian of the child that the child is receiving the services.

§ 3896. Consent of child and parent

The consent of both the child and one parent or the legal custodian of the child shall be required for the child to receive short-term emergency services and shall be subject to the following provisions.

1. Child's consent. The child's consent shall be required before any short-term emergency services are provided to him.

2. Parent's consent. Short-term emergency services may be provided to a child prior to the consent of the child's parent or legal guardian. If, after the parent or legal guardian has been notified, he refuses to consent to the provision of short-term emergency services to his child, the services shall be terminated.

§ 3897. Liability of parents

The provision of short-term emergency services by the department or any agency to a child, shall not affect a parent's obligation for the support of the child.

The department may, by agreement or court order, obtain payments from a parent to reimburse the department for the support of the child while receiving short-term emergency services.

§ 3898. Rules

1. Rules promulgated. The commissioner of the department shall adopt rules and standards necessary for the effective implementation of this chapter within 90 days of the effective date of this Act. These rules and standards shall include, but need not be limited to, rules and standards for the specific types of short-term emergency services to be provided, the staffing requirements of the agencies providing the services, and the procedures for the notification of parents.

2. Public hearing. The commissioner shall hold at least one public hearing prior to adopting these rules. Notice of each hearing shall be published at least 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.

3. Rules amended or repealed. Rules may be amended or repealed at

any time by the commissioner after like notice and hearing of the portions amended or repealed.

Effective October 24, 1977

CHAPTER 578

AN ACT to Revise the Maine Tort Claims Act.

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

Whereas, the Maine Supreme Judicial Court has abrogated the common law doctrine of sovereign immunity effective February 1, 1977; and

Whereas, in response to that decision and the problems it created, the Legislature, as an emergency measure, enacted the Maine Tort Claims Act reestablishing immunity and defining certain exceptions to it; and

Whereas, as a result, state employees may be exposed, without the protection of insurance, to liability in areas where the State is immune from liability; and

Whereas, certain additional revisions of the Maine Tort Claims Act are necessary to enable governmental entities to obtain insurance before the exceptions to immunity take effect on July 1, 1977; 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. 14 MRSA § 8103, as enacted by PL 1977, c. 2, § 2, is repealed and the following enacted in its place:

§ 8103. Immunity from suit

1. **Immunity.** - Except as otherwise expressly provided by statute, all governmental entities shall be immune from suit on any and all tort claims seeking recovery of damages. When immunity is removed by this chapter, any claim for damages shall be brought in accordance with the terms of this chapter.

2. **Examples.** Notwithstanding section 8104, a governmental entity shall not be liable for any claim which results from: