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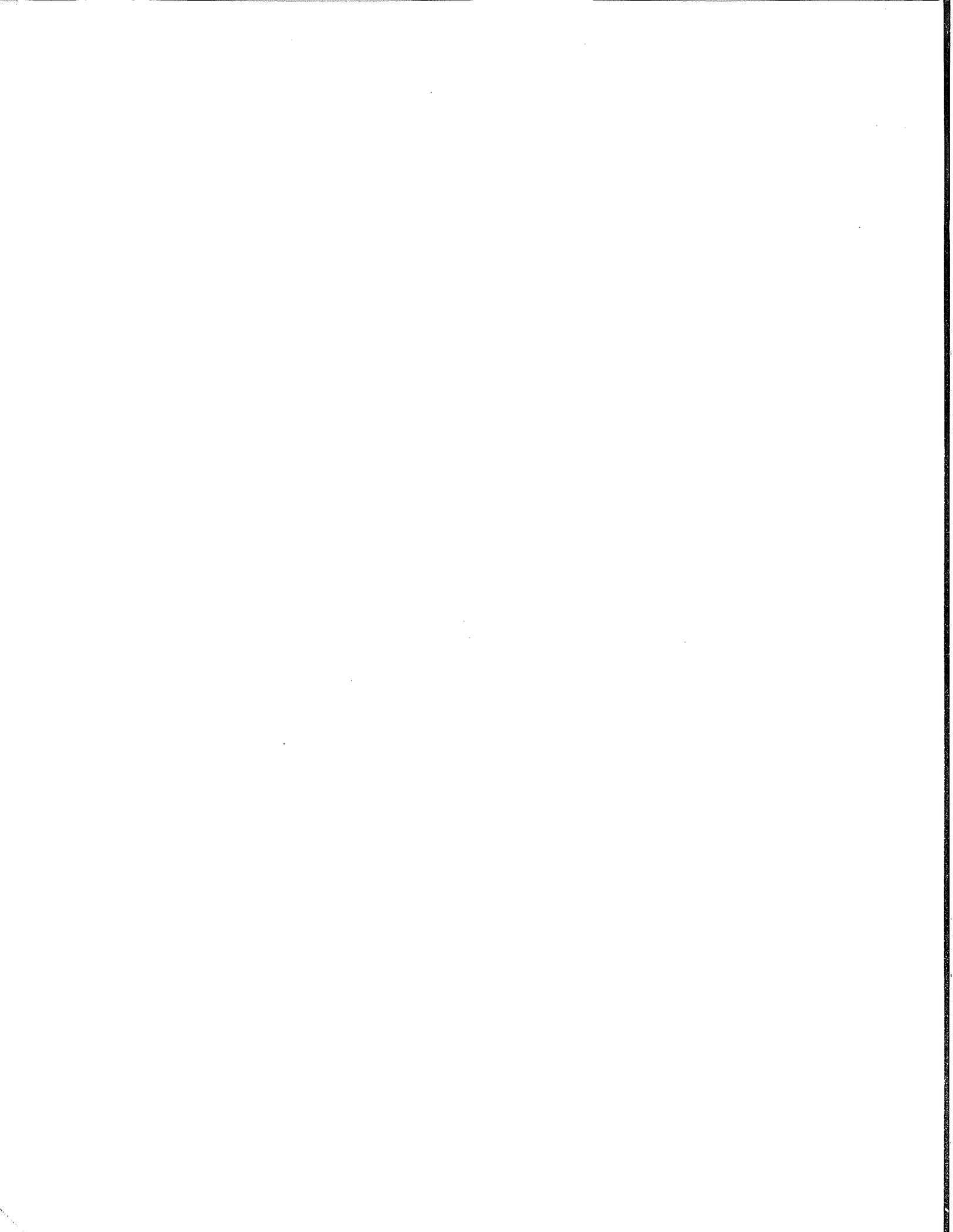


Review of

- Child Welfare Services
- Maine Emergency Medical Services
- Miscellaneous

Joint Standing Committee on Audit and Program Review 1989-1990





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STATE OF MAINE
 ONE HUNDRED AND FOURTEENTH LEGISLATURE
 COMMITTEE ON AUDIT AND PROGRAM REVIEW

April 1990

Members of the Legislative Council,

We are pleased to transmit the Committee's 1989-1990 report to you in four volumes. To simplify our process and reduce costs, this year the Committee used draft reports to circulate its initial recommendations. These four volumes represent our final conclusions about the agencies under review. The report includes statutory and administrative recommendations and findings on the:

- Department of Finance
 - Bureau of the Budget
 - Bureau of Taxation
- Finance Authority of Maine
- Office of the State Treasurer
- Maine Municipal Bond Bank
- Department of Audit
- Bureau of Capitol Security
- Maine's child welfare service delivery system;
- Department of Administration, Part II
 - Office of Information Services;
 - Bureau of Purchases;
 - Bureau of State Employee Health;
 - Division of Risk Management;
 - Capitol Planning Commission;
 - Educational Leave Advisory Board;
- Maine State Board of Licensure for Architects and Landscape Architects;
- Board of Trustees, University of Maine System; and
- Maine Emergency Medical Services System.

In addition to the diligent work of the Committee members, we would like to particularly thank the adjunct members who served on our subcommittees from other Joint Standing Committees and the many agency staff and public who assisted the Committee in its deliberations. Their expertise enriched and strengthened the review process.

The Committee's recommendations will serve to improve state agency performance and efficiency by increasing management and fiscal accountability, resolving complex issues, clarifying Legislative intent and increasing Legislative oversight. We invite questions, comments and input regarding any part of this report.

Sincerely,


 Beverly M. Bustin
 Senate Chair


 Neil Rolde
 House Chair

Table of Contents

Table of Contents	1
Committee Organization	3
The Committee Process	5
Summary of Recommendations	7
Child Welfare Services	11
Maine Emergency Medical Services	35
Miscellaneous	39



Committee Organization

AUDIT & PROGRAM REVIEW SUBCOMMITTEE #1 Review Assignment

- Maine's child welfare service delivery system;
- Department of Administration, Part II
 - Office of Information Services;
 - Bureau of Purchases;
 - Bureau of State Employee Health;
 - Division of Risk Management;
 - Capitol Planning Commission;
 - Educational Leave Advisory Board;
- Maine State Board of Licensure for Architects and Landscape Architects;
- Board of Trustees, University of Maine System; and
- Maine Emergency Medical Services Office.

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ADJUNCT MEMBERS:

Representative Ruth Joseph
Joint Standing Committee on State
and Local Government
Representative Mary Cathcart
Joint Standing Committee on Human
Resources
Representative Jean Dellert
Joint Standing Committee on Human
Resources



The Committee Process

The Joint Standing Committee on Audit & Program Review was created in 1977 to administer Maine's Sunset Act which "provides for a system of periodic justification of agencies and independent agencies of State Government in order to evaluate their efficacy and performance " [3 MRS Ch. 33 §921 et. seq.]. To carry out its mandate, the goal of the Audit Committee is to increase governmental efficiency by recommending improvements in agency management, organization, program delivery, and fiscal accountability.

The Committee process unfolds in five distinct phases:

PHASE ONE: RECEIPT OF PROGRAM REPORTS

The law requires that agencies due for review must submit a Program Report to the Committee. The Program, or Justification, Report prepared by the agency provides baseline data used to orient staff and Committee to the agency's programs and finances.

PHASE TWO: REVIEW BEGINS

At the start of each review, the Committee Chairs divide the full Committee into subcommittees, appoint subcommittee chairs, and assign each subcommittee responsibility for a portion of the total review. Each subcommittee is augmented by at least one member from the committee of jurisdiction in the Legislature; i.e. the subcommittee reviewing Maine's child welfare service delivery system will include a member of the Human Resources Committee.

PHASE THREE: SUBCOMMITTEE MEETINGS

The subcommittees created by the Committee meet frequently when the Legislature is in session and every three to four weeks to between the sessions to discuss issues regarding the agency and to make recommendations for change. Staff will prepare material for the subcommittee's deliberation and present it to the subcommittee in one of several forms; as an option paper, discussion paper, or information paper. The Committee has found that these formats facilitate its process by cogently and objectively describing the topic for discussion and the points necessary for expeditious decision-making. These subcommittee meetings are not formal hearings but are open to the public and are usually well attended by interested parties. The subcommittees conduct their business in an open manner, inviting comment, and providing a forum for all views to be heard and aired.

PHASE FOUR: FULL COMMITTEE MEETINGS

The full Audit & Program Review Committee considers the recommendations made by each subcommittee. These meetings are another opportunity for the public to express its views.

PHASE FIVE: THE LEGISLATURE

Following the full Committee's acceptance of subcommittee recommendations, Committee staff prepare a text and draft a bill containing all the Committee's recommendations for change. The Committee introduces this bill into the Legislative session in progress and the legislation is then referred to the Audit & Program Review Committee. As a final avenue for public comment prior to reaching the floor, the Committee holds public hearings and work sessions on all its recommendations. After the Committee concludes final deliberations and amendments, the bill is amended and placed on the calendar for consideration by the entire Legislature.

Summary of Recommendations

The Committee makes both Statutory and Administrative recommendations. In some instances, the Committee will issue a finding which requires no action but which highlights a particular situation. The Committee's bill consists of the Statutory Recommendations. Administrative recommendations are implemented by the agencies under review without statutory changes. A simple listing of the Committee's recommendations and findings appears here. Narratives describing the background and rationale for these proposed changes appear throughout the reports.

CHILD WELFARE SERVICES

STATUTORY

1. Establish a Coordinated Response System for child abuse referrals as a two-year model project in Penobscot and Piscataquis Counties, in order to improve the State's response to child abuse and neglect.
-

STATUTORY

2. In order to significantly increase the array of treatment services available in Maine to support children and their families, establish a revolving fund through use of a bond issue to provide start-up and first-year operating loans to facilities providing shelter, care, and treatment to children and their families.
-

STATUTORY

3. Establish the authority of the Department of Human Services to make requests for, attend, and participate in Pupil Evaluation Team meetings for exceptional students who are state wards.
-

STATUTORY

4.

Provide that the automatic appointment of the foster parent as the surrogate parent for a state ward who is an exceptional student, will not occur over the objection of the Department of Human Services.

ADMINISTRATIVE

5.

Direct the Department of Educational and Cultural Services, with the assistance of the Department of Human Services, to study the implications of establishing a pool of qualified volunteers willing to serve as surrogate parents. Focus on the issues of contracting with a non-state agency to administer the pool and the training needs of surrogate parents. Report to the Joint Standing Committee on Audit and Program Review by September 1, 1990.

STATUTORY

6.

Authorize the retention, for five years, of unsubstantiated child protective services' records for persons who are eligible for Medicaid services. Further stipulate that these records must be retained in a segregated location.

ADMINISTRATIVE 7. Direct the Department of Human Services and the Bureau of Human Resources to review the educational, experiential, and training requirements of child protective professionals in order to ensure high quality service delivery. Submit any subsequent recommendations to upgrade the skills, knowledge, and caliber of child protective professionals to the Joint Standing Committee on Audit and Program Review by November 1, 1990.

EMERGENCY MEDICAL SERVICES

STATUTORY 8. Direct the Maine Emergency Medical Services office and the Department of Human Services to prepare a plan to establish the Maine Emergency Medical Services office as an independent entity. Submit this plan to the Joint Standing Committees on Audit and Program Review and Human Resources by March 1, 1991.

STATUTORY 9. Adopt certain provisions to improve the effectiveness of the office of Maine Emergency Medical Services in meeting its administrative and statutory mandate.

MISCELLANEOUS

STATUTORY

10.

Clarify that nonprofit entities in Maine may engage in Legislative liaison activities, in order to preserve access to the Legislative process.

CHILD WELFARE SERVICES

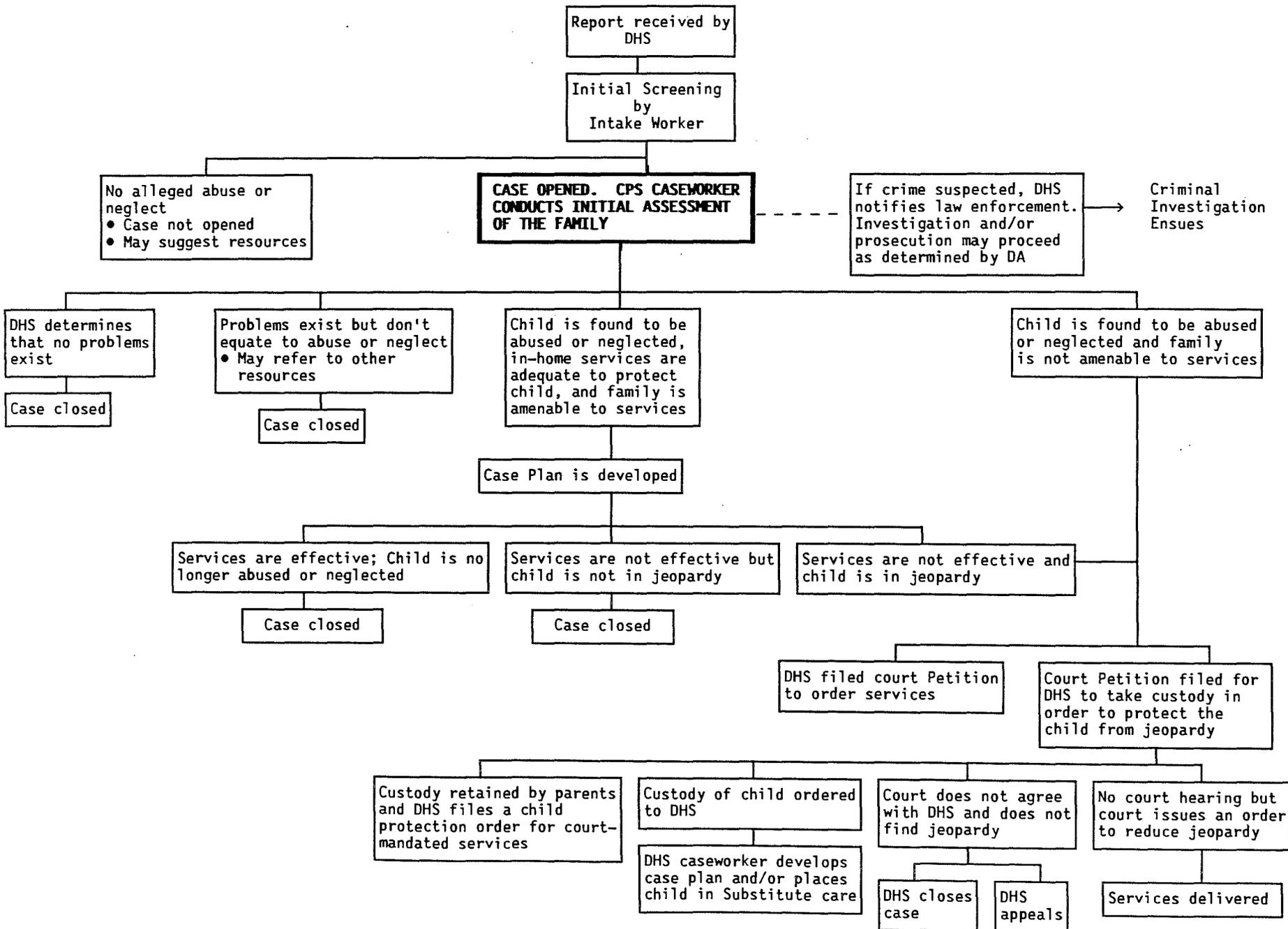
- STATUTORY 1. Establish a Coordinated Response System for child abuse referrals as a two-year model project in Penobscot and Piscataquis Counties, in order to improve the State's response to child abuse and neglect.
-

Maine's child welfare service delivery system is distinguished by the overriding significance that the initial assessment of a child abuse and neglect referral holds over the entire process. The Committee has found that every event and decision made throughout the service delivery system is strongly influenced by the quality of the initial assessment. Members of the child welfare community, as well as individuals personally involved in the system, unanimously testify to the need to ensure that the initial contact with the family and child is comprehensive, consistent, thorough, and objective.

The flow chart of the current assessment procedure which appears on the following page illustrates the importance of the initial assessment to all subsequent actions. As indicated, a single caseworker may often have sole responsibility for conducting the initial interviews and collaborating with others as needed (or available) for the purpose of deciding whether the child is at risk, the action needed to protect the child from harm, and whether law enforcement officials need be contacted to investigate an action that may constitute a crime. In other circumstances, a Department of Human Services's caseworker may sometimes be accompanied by an available state, county, or local law enforcement officer for the initial assessment of referrals involving alleged criminal acts of child abuse.

Despite carefully designed protocol, specialized training, commendable diligence, and highly motivated and competent caseworker and law enforcement professionals, the Committee finds that current practice is not satisfactory in providing consistent, objective, and thorough assessments of child abuse and neglect referrals. The Committee concludes that the fluctuating quality of assessments threatens the health and welfare of Maine children and families and fails to adequately uphold, in a fair and expeditious fashion, the State's responsibility to address child abuse and neglect.

**CURRENT CIVIL INVESTIGATION PROCESS
- TO PROTECT THE CHILD FROM HARM -**



To consider other alternatives, the Committee surveyed various types of team approaches to child abuse and neglect assessment that are being established in many communities around the country. Although the composition and specific purpose of these teams varies, one feature shared by all teams is the coordinated collaboration of relevant professional disciplines. Teams in such geographically disparate locations as Huntsville, Alabama; Cambridge, Massachusetts; Wheaton, Illinois; and San Diego, California all use some variation of this multidisciplinary team approach. Each locality reports similar benefits of improved case management expertise, not only within the team as a whole but also among individual team members. In addition, use of the coordinated team approach has facilitated interagency and cross-disciplinary communication and cooperation. Finally, service gaps within the community have been addressed more expeditiously through use of these teams.

To review the possible need for such a team approach in the State of Maine, the Committee consulted with and solicited testimony from many members of the child welfare community, which included the Child Welfare Services Ombudsman; DHS professionals; the mental health community; physicians; the legal, law enforcement, and judicial communities; service providers of all dimensions; and numerous advocacy groups.

As a result of these discussions and, in response to the compelling need for better assessment services, the Committee has designed a new and innovative system to assess child abuse and neglect referrals. The proposed System employs a separate assessment approach for each of the two categories of referrals; those which appear to be crimes and those which appear to rise to the level of abuse and neglect but which are not statutory crimes. The Committee's proposal, referred to as a **Coordinated Response System** for child abuse and neglect referrals, is a balanced and collaborative combination of assessment personnel and support services. As proposed by the Committee, the Coordinated Response System consists of six interrelated and integral components:

1. A three-team Child Abuse Assessment System;
2. Initial intervention, treatment, and support services;
3. Training for law enforcement and case worker professionals who will be part of the Assessment System;
4. An Advisory Committee to guide development and implementation of the Response System as a whole;

-
5. An Operational Planning Committee to plan for the practical implementation of the System; and
 6. An evaluation of the model over the two year period.

The Coordinated Response System is an integrated system of people and services. The Response System consists of a highly trained and coordinated group of professionals representing disciplines with an interest or mandate in child abuse and neglect. The System is also a series of diagnostic and support services which will assist the child and family while ensuring speedy, comprehensive, and accurate assessments of child abuse referrals.

Due to the innovative nature of the proposal, the Committee further proposes that the System first be established as a model project in DHS Region IV, encompassing Penboscot and Piscataquis counties. The model is intended to operate for a two-year period to allow a full and complete evaluation of its effectiveness in improving the State's response to child abuse and neglect.

The following narrative, with an accompanying flow chart, provides a more detailed description of each of the six components of the Coordinated Response System.

Component #1 A three team Child Abuse Assessment System

- The first team in the Assessment System is called the Initial Assessment team. The Initial Assessment team has two separate components for two distinct purposes. The first component, referred to as the "criminal referral team", consists of caseworkers and law enforcement personnel, working in partnership to assess referrals of alleged crimes against children. The other component, referred to as the "civil referral team", consists solely of caseworker partnerships who will assess the referrals which involve alleged statutory abuse and neglect but which are not crimes. The overall Initial Assessment team shall have no ongoing social service delivery responsibilities.

The "criminal" and "civil" referral teams will be composed of a total of 23 positions. The personnel for the Initial Assessment Team's two components are displayed below.

Composition of the Initial Assessment Team

"Criminal" referral team

1 Supervisor
6 CPS Caseworkers
5 Law Enforcement officers
1 Clerk Steno III

"Civil" referral team

1 Supervisor
6 CPS Caseworkers
1 Clerk Steno III

For Both Teams

1 System Coordinator
1 Paralegal Assistant

The Department of Human Services will be authorized to contract with the district attorney for Penobscot and Piscataquis counties, who shall work in cooperation with state, county, and local law enforcement agencies to provide the law enforcement officers needed for the "criminal" assessment team.

- The second team in the Assessment System is referred to as the Diagnostic Team which will, as necessary, provide medical, psychological, social or developmental data to augment the initial assessment of the referral. The team will be composed of physicians, social workers, psychologists, child development specialists, and nurses.
- The third, and final team in the Assessment System is the Dispositional Team which is composed of experienced professionals from relevant disciplines. This team will analyze whatever data is presented to it by the Initial Assessment Team or Diagnostic Team and decide the most appropriate disposition of the case to not only protect the child from harm and support the family, but also to pursue any need for prosecution.

Component #2 Initial intervention, treatment, and support services.

The precise configuration of initial intervention, treatment, and support services will be decided by the Operational Planning Committee which is described below. However, within the limits of funds allocated by law, the Coordinated Response System will include, but not be limited to, such initial intervention, treatment, and support services as:

- **crises mental health services** consisting of mental health assessments and crises intervention to any family member in immediate need and victim trauma assessment;

-
- **case planning mediation** whereby families participate in an ombudsman-like process of negotiating the components of the family's case plan with the caseworker; and
 - a **family shelter** option to provide an opportunity to learn parenting and life skills for the non-offending parent and child in a safe environment.

Component #3 High-level training in child abuse investigation will be provided for the law enforcement and caseworker professionals on the Initial Assessment Team, to ensure improved, comprehensive, and state-of-the-art assessments of referrals.

As raised by members of VOCAL (i.e. Victims of Child Abuse Laws), the Committee acknowledges and affirms the importance of comprehensive training that stresses objectivity and thoroughness. The Committee finds that the quality of the training to be provided as part of this proposal is critical to the proposal's ultimate success. The Committee recognizes that adequate training will remain a high priority not only for members of the Coordinated Response System but for all child protective personnel.

Component #4 An Advisory Committee limited to no more than 12 members will be created, consisting of the following members:

- a. Child Welfare Services Ombudsman, co-chair;
- b. Director of DHS's Division of Child Welfare, co-chair;
- c. one Senator and two Representatives appointed by the President and the Speaker;
- d. a mental health provider;
- e. a physician;
- f. a representative from the Court Appointed Special Advocate program;
- g. a representative from the Maine Foster Parents Association;
- h. one member from a victims'/survivors' advocacy group;
- i. one member from a citizens' advocacy group; and
- j. one representative from a law enforcement agency.

The purpose of the Advisory Committee will be to guide the development and implementation of the Response System by working with the Operations Planning Committee in solving problems and adjusting the operation of the Team to conform with Legislative

intent. The Advisory Committee may seek advice from and consult with members of the judiciary. The Committee will also consider the feasibility of expanding the model to other areas of the State. The co-chairs of the Advisory Committee will seek to fill the non-legislative membership positions with members who will work harmoniously and in good faith to fulfill the Committee's purpose.

The staff to the Coordinated Response System will submit a status report to the co-chairs of the Advisory Committee each month and refine the reporting mechanism at the direction of the Advisory Committee, as needed.

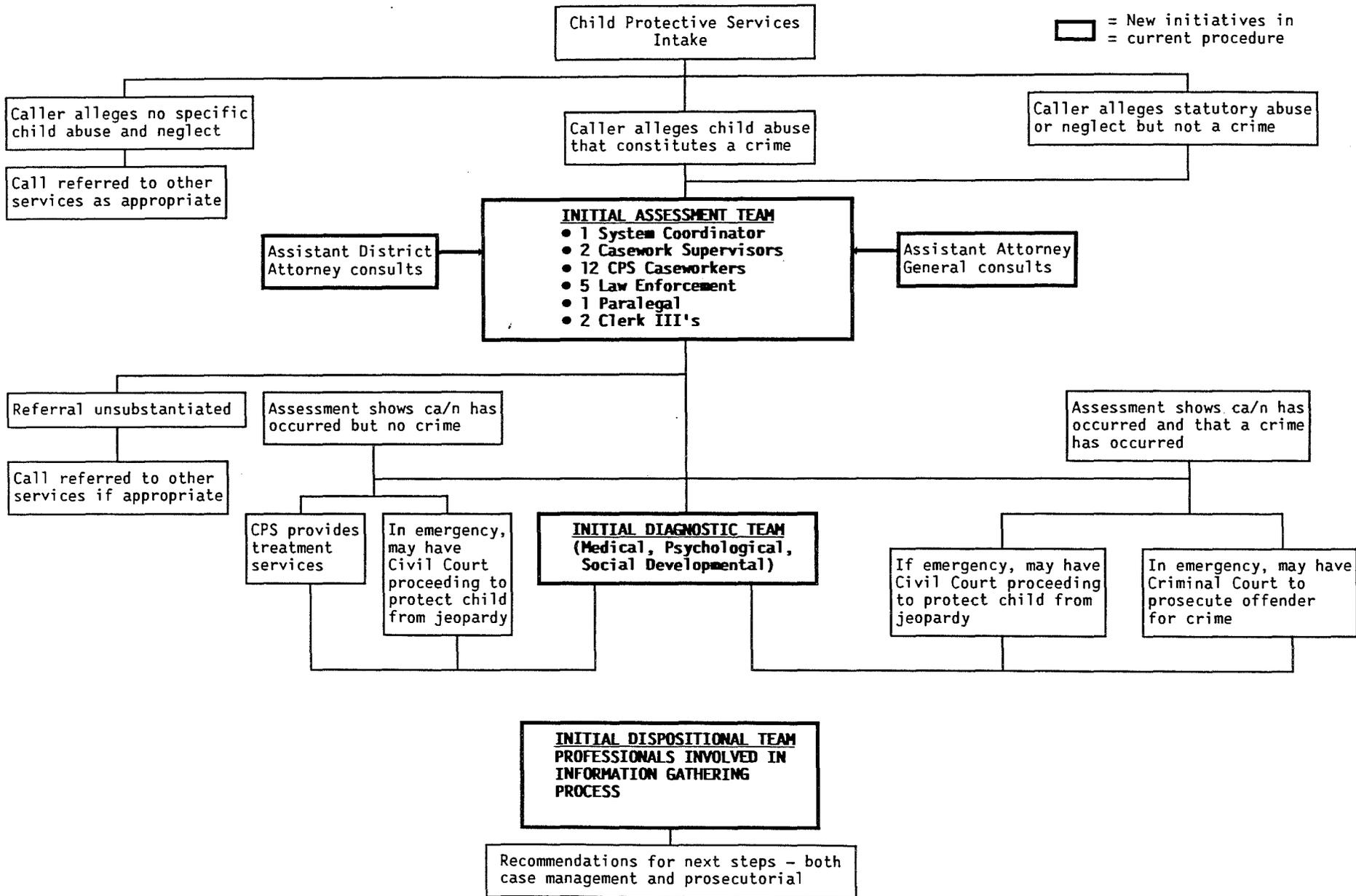
Meetings of the Advisory Committee will be held at the discretion of the co-chairs. Staff needed to carry out Legislative intent will be provided to the Advisory Committee by the Department of Human Services.

Component #5 An Operational Planning Committee will be created to plan for the practical implementation of the System. Permanent members of this Committee will be the DHS Region IV Program Manager (chair), the Director of DHS's Child Protective Services Unit, and the District Attorney (or designee) from prosecutorial District IV. Up to four additional members will be chosen by the permanent Committee members. Furthermore, as the model project develops, the Committee strongly encourages the use of videotape to record interviews conducted during the initial assessment of child abuse and neglect referrals. Nevertheless, the Committee recognizes that the use of electronic recording equipment is controversial and appears to have significant implications concerning the child and family members who are the subjects of a referral, the constitutional rights of a prospective defendant, and the prosecutorial process. Accordingly, the staff of the Coordinated Response System is charged with exploring the implications of videotaping initial interviews and identifying means to resolve apparent issues with the intent of incorporating videotaping as a tool used during the initial assessment phase of the investigation to record initial interviews of the child and family member.

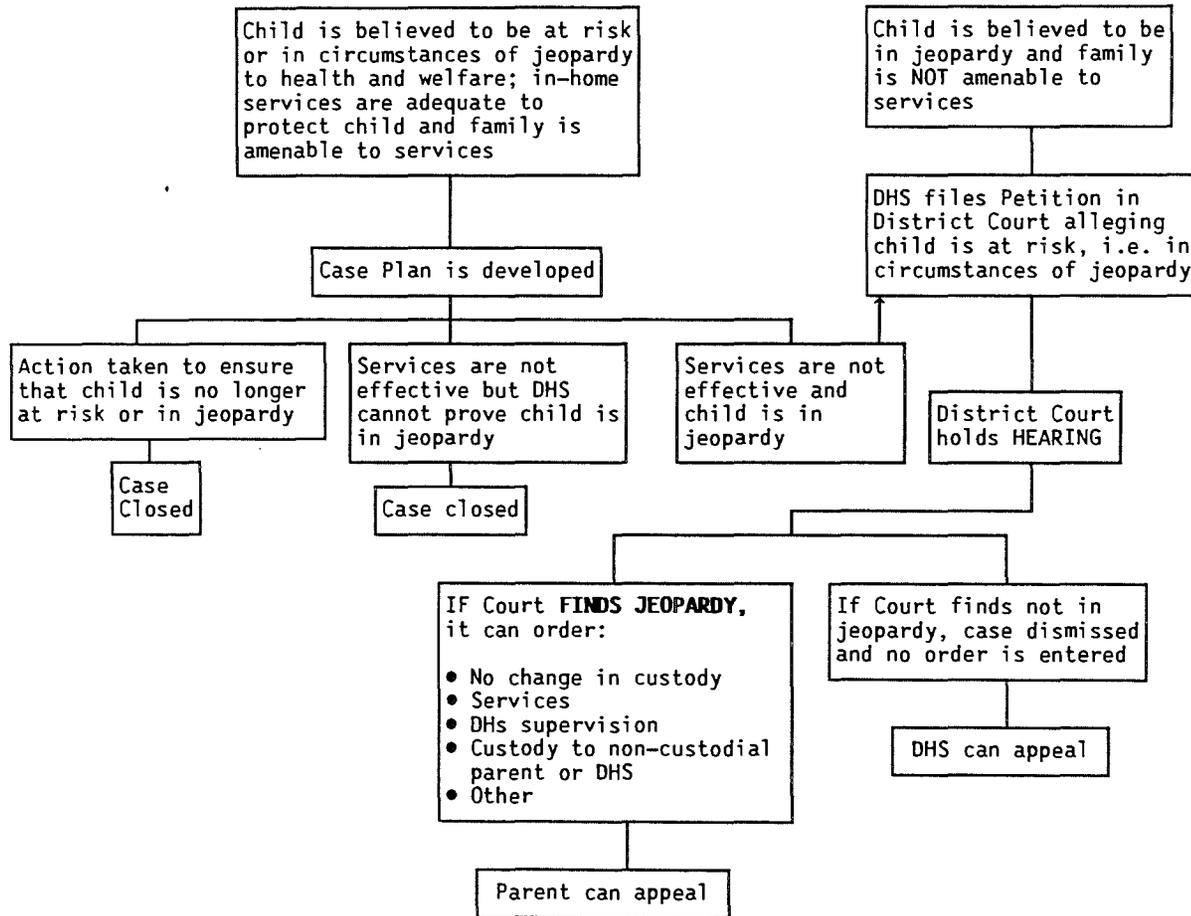
Component #6 Evaluation. With the advice of the Advisory Committee, staff to the Coordinated Response System will submit an evaluation of the effectiveness of the Coordinated Response System to the Joint Standing Committees on Audit and Program Review and Human Resources, the Commissioner of Human Services, and the Office of the Executive Director of the Legislative Council at the end of the first two years of full operation. The report will contain a specific section on the status and effectiveness of employing videotape to record interviews during the initial assessment phase of child abuse and neglect

referrals. The report will also contain statistical data and information relevant to guide future decision-making in the Legislative and Executive branches regarding replicating the Coordinated Response System in other areas of the State.

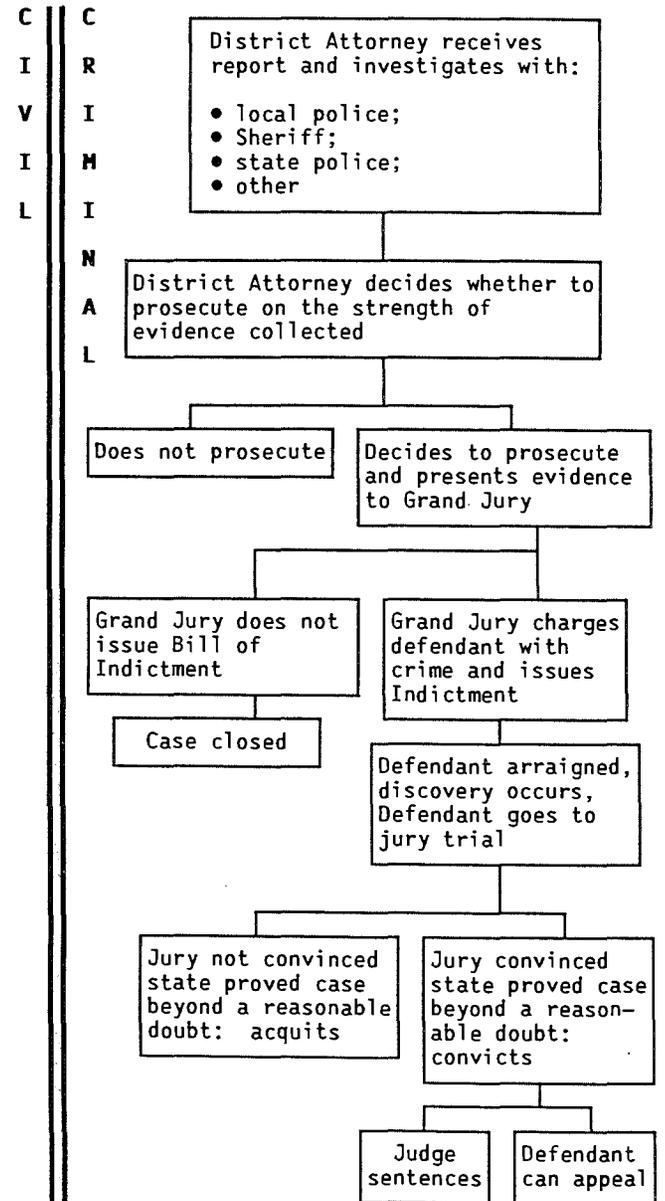
COORDINATED RESPONSE SYSTEM
DHS REGION IV, PENOBSCOT AND PISCATAQUIS COUNTY



CIVIL INVESTIGATION
TO PROTECT THE CHILD FROM HARM



CRIMINAL INVESTIGATION
TO PROSECUTE THE ALLEGED OFFENDER



The Committee intends the multifaceted and multidisciplinary Coordinated Response System to serve as an innovative and effective turning point in the state's response to referrals of child abuse and neglect in Penobscot and Piscataquis counties, with possible statewide applications. Although the Committee recognizes that no administrative system can be expected to resolve all the disputes and anguish created by an investigation of alleged child abuse and neglect, the Committee anticipates the benefits of the Coordinated Response System to include, but not necessarily limited to, the following:

ANTICIPATED BENEFITS OF THE SYSTEM AS A WHOLE:

1. **The state's response to child abuse and neglect will be made by an experienced group of professionals representing relevant disciplines - social work, law enforcement, law, medicine, and mental health.** The Coordinated System will include every professional discipline which has an interest, a mandate, or an expertise in child abuse and neglect.
2. **The state's response to child abuse will be firmly based on information collected from all parties involved, and will reflect a thorough understanding of the law.** The Coordinated System will have the capability of collecting relevant data needed to make a fully informed decision to ensure the welfare of the child, the family, and society.
3. **Job stress experienced by caseworkers will be reduced.** Investigations to protect a child from harm will no longer be conducted by an individual caseworker but rather will be done by two professionals working together in a coordinated fashion. As an additional benefit, retention of caseworkers may improve, thereby resulting in a proportionate increase in experienced caseworkers.
4. **Maine's child welfare system will deliver improved intervention, treatment, and support services.** Comprehensive and accurate assessments of referrals, the increased availability of diagnostic data, and the inclusion of relevant professional disciplines in the decision-making process, as well as the provision of start-up money for new treatment services for children and their families, will serve to reduce trauma to families involved in the child protective system. Improved assessments will also provide additional support services to children and families thereby supporting family unity, and highlight the importance of protecting children in our society from abuse and neglect.

ANTICIPATED BENEFITS OF THE INITIAL ASSESSMENT TEAM:

5. **Initial assessments of referrals will be comprehensive and consistent.** The Assessment Teams will receive special training which crosses both social work and law enforcement disciplines. This cross-training will ensure comprehensive and consistent assessments of screened-in referrals.
6. **Redundant, duplicative interviews will be eliminated through the team interview process.** Referrals which appear to constitute a crime will be assessed jointly and concomitantly by law enforcement and caseworker personnel; other referrals will be assessed by a partnership of two caseworkers. Accordingly, needed information will be collected in a single interview and will satisfy the interests of all relevant disciplines.
7. **The trauma of child victims will be reduced.** Fewer interviews and immediate provision of support services will make the process less traumatic for children.
8. **The rights of individual Maine citizens will be preserved.** Through the routine involvement of law enforcement officers in the initial assessment, the criminal rights of individual Maine citizens will be protected and evidence will be preserved.
9. **Caseworkers will no longer have the dual role of investigating referrals and then delivering social services to the investigated family.** The Assessment Teams' sole responsibility will be to conduct assessments; the Teams will have no case management responsibility.
10. **The predominant role of caseworkers who are not part of the Assessment Team will be to deliver social services to families.** The job of most child protective caseworkers will be to provide case management supportive services to children and families.

ANTICIPATED BENEFITS OF THE DIAGNOSTIC TEAM

11. **A Diagnostic Team will be available to provide medical, psychological, social, or developmental data.** The Diagnostic Team, composed of community based professionals, will be called upon as needed to provide additional information of a medical, psychological, social, or developmental nature.

ANTICIPATED BENEFITS OF THE DISPOSITIONAL TEAM

12. **Decisions made regarding the future of a family involved in an allegation of child abuse and neglect will be made by a Team.** Any decision made to uphold the state's interest in protecting children from harm and to prosecute criminals will ultimately be made by a Dispositional Team of experienced professionals who, as part of its decision-making process, will review the data made available to it by the other two teams.
13. **Decisions will reflect the collective thought process of a trained group of professionals.** The team of professionals working together will ensure that the ultimate decision is objective and reflects the current law and the realities of the particular case as accurately as possible.
14. **The Team approach will improve the evidence gathering process.** The team approach to investigations will ensure a more comprehensive and thorough evidence-gathering process in order to increase the likelihood of successful prosecution, when appropriate.

ANTICIPATED BENEFITS OF INITIAL INTERVENTION, TREATMENT, AND SUPPORT SERVICES

15. **Support services will be more readily available.** The family shelter, crises mental health services, and case planning mediation will support the family in a timely manner.

Therefore, in response to the apparent need for improvement in the assessment of child abuse and neglect, the Committee recommends establishing a Coordinated Response System for child abuse referrals as a two-year model project in Penobscot and Piscataquis Counties.

STATUTORY

2. In order to significantly increase the array of treatment services available in Maine to support children and their families, establish a revolving fund through use of a bond issue to provide start-up and first-year operating loans to facilities providing shelter, care, and treatment to children and their families.
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An enduring theme in the Committee's extensive review of Maine's child welfare system is the need to develop additional treatment facilities for Maine children and families within the State of Maine. A constellation of agencies in every sector have vigorously supported this need, including the Child Welfare Services Ombudsman, the Department of Human Services, law enforcement representatives, the Judiciary, service providers, and advocacy groups. In addition, the Committee has found that the will and expertise to develop or attract needed placement facilities in Maine already exists but that the major barrier to progress, as reported from all sources, is the **lack of start-up funds**. The Committee concludes that without start-up funds and first year operating costs, plans for development of additional facilities will continue to be stymied.

Testimonials about the need for in-state placement facilities have come from many different sources over the last half-decade and have highlighted the compelling need for these facilities in every area of the state. These testimonials are summarized below and are included in their entirety in Appendix 1 (page 35 et.seq.) of this report:

- In 1985, the Committee helped to document the need for placement facilities by noting that the "...need to ensure the availability of an **adequate number of substitute care facilities** designed to deal with the serious problems exhibited by the substitute care population is of **critical importance**". The Committee followed up this finding with a directive to the Interdepartmental Coordinating Council in 1986 to develop a plan to reduce the number of children being placed in out-of-state facilities;
- As a whole, the Legislature has taken several actions which have established the various needs associated with the issue of in-state placement facilities:
 - PL 1987, c. 816, part GG expressed public policy for the desirability for in-state treatment facilities by the following statement, "...encourage[d] to the maximum extent feasible, **the placement of Maine children in treatment programs located within the State**";
 - PL 1989, c. 7, part O, sec. 9, established the need for start-up funding by requiring "...a plan of action concerning the **start-up** of professional and therapeutic homes for children, therapeutic group homes for children and residential treatment services for children;" and

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- In a March 1989 letter to the Commissioner of Human Services, the Joint Standing Committee on Appropriations and Financial Affairs stated that, "...it was the consensus of the Committee members that out-of-state placements should continue only to January 1, 1990. It is the intent of the Committee that the State of Maine **should be developing in-state placements** for those children in need."
- In a 1989 letter to the Joint Standing Committee on Appropriations and Financial Affairs, the Commissioner of Human Services flatly declared that **adequate in-state programs and facilities to house them simply did not exist, nor was there any reliable source of start-up funds;**
 - In December of 1987, the Interdepartmental Coordinating Council issued a report which concluded that the best treatment programs were those that allowed children in need to be "in close proximity to their families and communities". The Council also found that out-of-state placements occurred as a direct result of the lack of appropriate in-state programs and facilities;
 - In a 1988 letter, Department of Human Services' caseworkers from Region I in southern Maine documented that "...over 100 children in York and Cumberland Counties ... are living in inappropriate placements" and that in February of that same year there were more than 80 children being underserved;
 - In 1989, these same Department of Human Services's caseworkers reiterated their concerns about the placement programs and facilities by stating their opinion that, because of a lack of resources, the Department of Human Services was unable to meet its legal mandate to protect children. In addition, these caseworkers spoke of their dilemma in choosing between unsafe home situations and inadequate placement alternatives. Finally, the Department of Human Services's caseworkers advocated for a range of placement options in the State of Maine;
 - The Committee also received a November 1989 letter from a service provider in Aroostook County which spoke to the lack of resources, start-up funding, and residential treatment facilities in that part of the state;

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- In a report issued in December of 1989, the Maine Attorney General concluded that, "[the lack of] sufficient appropriate placements for the children in its custody...[has] severely impeded our ability to aggressively enforce the child protective statute". The Attorney General also stated that the Department of Human Services did not have adequate resources to fulfill many placement and service directives and that compliance with court orders was often not possible due to lack of appropriate placement programs and facilities; and
 - In 1989, District Attorney Janet Mills spoke of the "tremendous increase" in cases of sexual abuse for children living in Androscoggin, Franklin, and Oxford Counties and the lack of appropriate facilities to deal with these children.

The Committee recognizes that the Legislature has made a number of attempts to address the issue of inadequate in-state placement programs using standard measures, such as conducting studies, drafting proposals, taking testimony, and submitting legislation to fund individual facilities. However, the Committee finds that additional efforts are needed.

To help remedy this situation, the Committee has developed a new proposal to establish a **revolving fund, to be used to provide start-up and working capital loans to qualifying facilities providing care, treatment, or shelter to children and their families.** The fund will be created via a bond issue of \$3,000,000 to be approved by the voters in the next general election. Loans will be available to prospective facility operators who meet financial criteria and demonstrated needs, but without regard to geographic location. In this way, needed facilities could be developed throughout the State. As examples, the Committee understands that facilities for which there is an immediate demand include:

- a. therapeutic and professional foster homes;
- b. a treatment facility for juvenile sex offenders;
- c. a short-term (overnight) shelter in Bangor;
- d. therapeutic group homes; and
- e. a facility to provide the multiple functions of a long-term child psychiatric care facility, a diagnosis and assessment unit, and a behavior stabilization unit.

The loan fund will be administered by the Finance Authority of Maine which is the agency created by the Legislature to provide financing assistance to businesses. The \$3 million fund will be used to fund 45% of the loan request, with the other 55% coming from a commercial bank loan. To encourage private participation, a subordinate financing mechanism will be used to ensure that, in the case of a default, the bank will recoup its investment first. After the involved bank's investment has been covered, the state would attempt to recover its share of the defaulted loan. This is the same financing mechanism successfully employed by the Legislature to build storage sheds for potatoes in Aroostook County.

FAME will administer the fund with the assistance of a "Treatment Loans for Children" Advisory Committee. The Advisory Committee will include the Director of the Bureau of Child and Family Services or designee, the Child Welfare Services Ombudsman or designee, one member of the Interdepartmental Coordinating Council or designee, one member representing a commercial lender with experience in construction lending, two members experienced in providing care, treatment, shelter or education to children in need of care, treatment, or shelter, 2 representatives of organizations or agencies providing services to children in need of care, treatment or shelter, and one member representing the public. The statutory purpose of the Advisory Committee will be to advise the Chief Executive Officer of the Finance Authority of Maine on the development of facilities, on the loans made from the Treatment Loans for Children Fund, and on any proposed change in the use of a project.

The Committee is proposing this approach to the problem of inadequate availability of treatment facilities for the following reasons:

- a well documented need for new types of treatment facilities obviously exists in Maine for children and their families;
- treating children and their families within the State is preferable to out-of-state treatment;
- the State has a commitment to healthy children and families;
- a revolving loan fund is the most likely mechanism to achieve the state's goal of increasing treatment facilities in Maine; and
- job stress on caseworkers due to placement shortages will reduce.

Therefore, in order to significantly increase the array of treatment services available in Maine to support children and their families, the Committee recommends establishing a revolving fund through use of a bond issue to provide start-up and first-year operating loans to facilities developing shelter, care, and treatment to children and their families.

STATUTORY 3. Establish the authority of the Department of Human Services to make requests for, attend, and participate in Pupil Evaluation Team meetings for exceptional students who are state wards.

STATUTORY 4. Provide that the automatic appointment of the foster parent as the surrogate parent for a state ward who is an exceptional student, will not occur over the objection of the Department of Human Services.

The sole procedure available in Maine for children needing placement in residential treatment facilities is governed by the federal Education for All Handicapped Children Act (20 USC 1401 et.seq.). The purpose of the Act is "to assure that all handicapped children have available to them...a free appropriate public education which emphasizes special education and related services designed to meet their unique needs..."[20 USCS §1400(c)].

The Maine Department of Educational and Cultural Services administers the placement process, which requires the convening of a Pupil Evaluation Team (PET). A student may be referred for a Pupil Evaluation Team conference by school staff, parents, or, in cases where local school policy allows, by individuals, agency representatives, or by pre-school coordination site personnel with knowledge of a student. Each PET includes a representative of the student's school administrative unit, the student's regular education teacher, the student's special education teacher, and the student's parent. Other participants, such as the Department of Human Services, may be invited at the discretion of either the parent or the school administrative unit.

The purpose of the PET is to identify the special education needs of the student in order to develop an appropriate individualized education program. The first step in identifying the special education needs of a student is to determine whether a referred student has an "exceptionality" which adversely affects the student's educational performance. Current Department of Educational and Cultural Services rules list "exceptionalities" that would qualify a student for special education as:

-
- mental retardation;
 - hardness of hearing;
 - deafness;
 - speech and language impairment;
 - visual impairment;
 - behavioral impairment;
 - orthopedic impairment;
 - other health impairment;
 - learning disabled;
 - deafness and blindness; and
 - multiply handicapped. (Ch. 101 §3)

If the natural parents or guardian of an exceptional student cannot be identified or located, the Commissioner of Educational and Cultural Services has the responsibility to appoint a "surrogate parent" to the PET. The role of the surrogate is to represent the student in all matters relating to the student's identification, evaluation, educational programming, or placement to ensure that the student will be provided with a free appropriate public education (§10.6). If the exceptional student is a state ward residing in a foster home, the foster parent is automatically recognized as the child's surrogate parent. A surrogate parent may not be an employee of a public agency involved in the education or care of the student.

In reviewing the Pupil Evaluation Team process, the Committee finds that current regulation leaving the attendance of the Department of Human Services to optional discretion of the parent or school is inadequate to protect the interests of exceptional students who are also wards of the State. Even though federal law bars the Department of Human Services from collaborating in the ultimate decision of the PET team, the Maine Attorney General's Office is not aware of any statutory provision which would prohibit the Department from requesting a PET, attending a PET, or participating in the discussion of a PET involving a state ward.

Furthermore, the practice of automatically appointing the foster parent as a State ward's surrogate parent appears to present a number of serious concerns.

- First, the Committee finds that the concept of automatic appointment is generally acceptable. However, in some important instances, such as reunification with biological parents or objection of the foster parent, on principle, to residential placement, automatic appointment may not serve the child's best interests.
- Second, in other cases, appointment of the biological parents, or someone other than the foster parents, may be therapeutically important to the child.

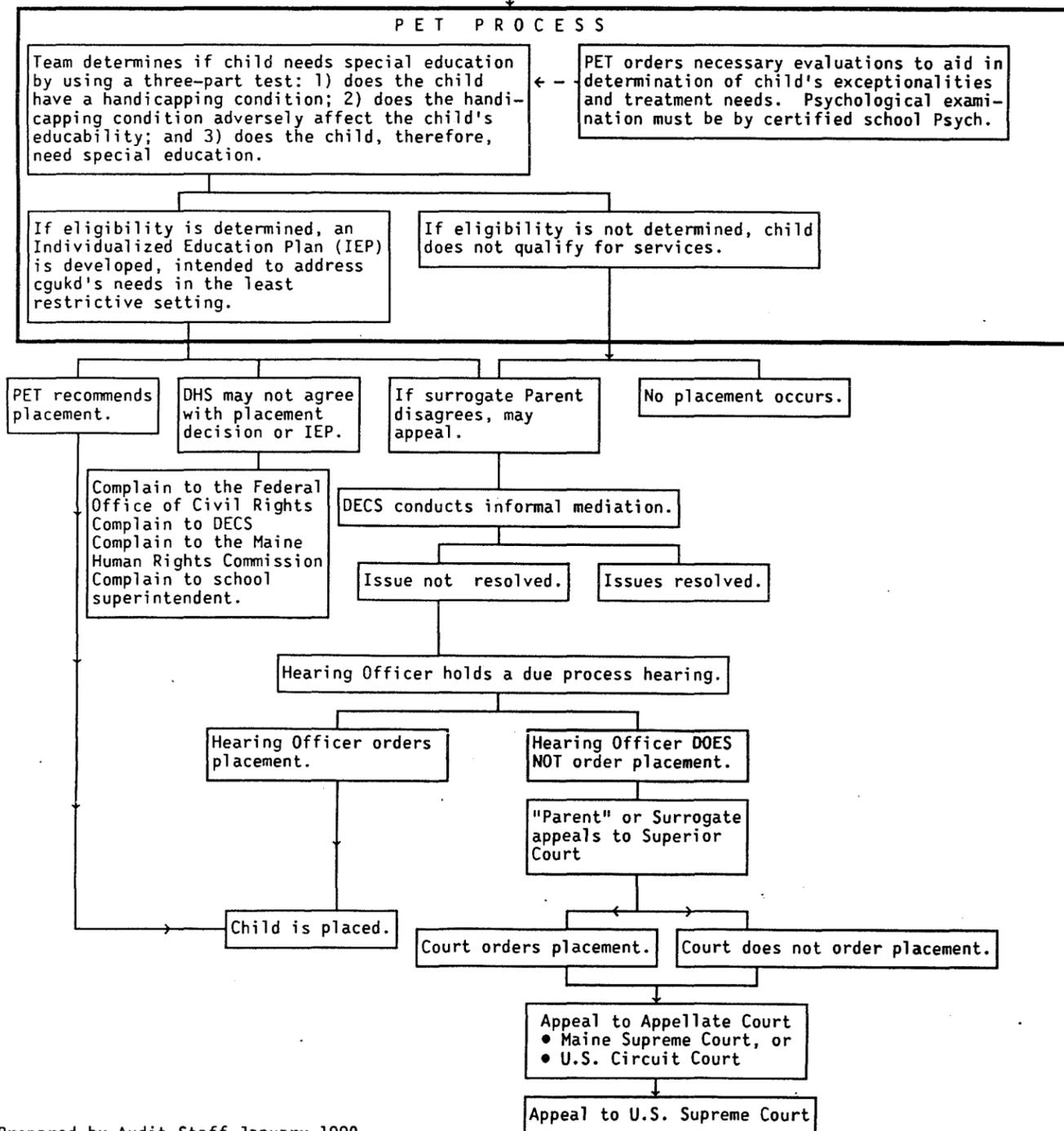
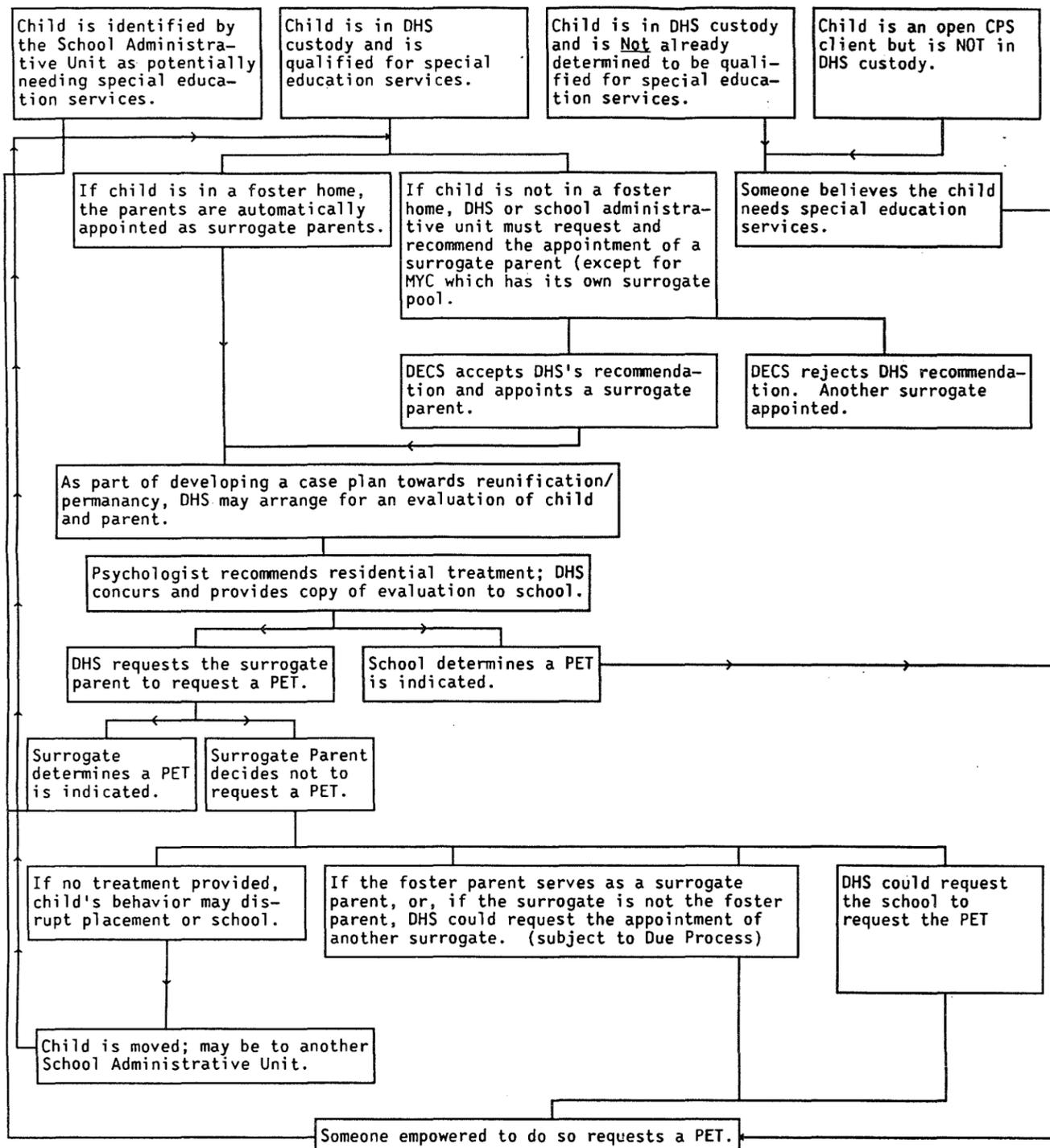
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- Third, for disruptive children who may be moved to several foster homes, appointment of several sets of foster parents may result in a lack of continuity in special education services and additional confusion for the child.
 - Finally, the Committee notes that a significant number of State wards are in placements other than a foster home. Therefore, current regulations which are predicated on the initiation of a PET by a foster parent appointed as surrogate are inadequate in dealing with these children.

In recognition of the need to ensure DHS participation in PET meetings for State wards, and the need to build flexibility into the process of automatically appointing foster parents as surrogate parents, the Committee recommends establishing the authority of the Department of Human Services to request, attend, and participate in Pupil Evaluation Team meetings for exceptional students who are state wards. The Committee also recommends that the automatic appointment of the foster parent to a Pupil Evaluation Team to serve as surrogate parent for a State ward who is an exceptional student will not occur over the objection of the Department of Human Services.

ADMINISTRATIVE	5.	Direct the Department of Educational and Cultural Services, with the assistance of the Department of Human Services, to study the implications of establishing a pool of qualified volunteers willing to serve as surrogate parents. Focus on the issues of contracting with a non-state agency to administer the pool and the training needs of surrogate parents. Report to the Joint Standing Committee on Audit and Program Review by September 1, 1990.
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One of the first steps in the procedure to provide special education services to children in need is the assignment of an individual known as a "surrogate parent" (see flow chart on next page). The duty of a surrogate parent is to represent the child's educational interests in order to ensure that the child is provided with a free appropriate public education.

**SPECIAL EDUCATION PLACEMENT PROCESS
FOR
CHILDREN DEMONSTRATING "EXCEPTIONALITIES"**



The appointment and selection of a surrogate parent usually requires varying degrees of collaboration among the Departments of Educational and Cultural Services and Human Services, and the child's school administrative unit. This collaborative process occurs in one of several ways:

- if the natural parents or guardian for a child in need are unknown, the superintendent of the child's school administrative unit must request the Commissioner of Educational and Cultural Services to appoint a surrogate parent;
- if a child in need is a state ward who resides in a licensed foster home, the foster parent automatically serves as the surrogate parent, unless the foster parent declines to serve or the Department of Human Services objects to automatic appointment;
- in the event DHS objects to automatic appointment of the foster parent as surrogate parent, DHS must request the Department of Educational and Cultural Services to appoint another individual. Prior to formal appointment, this individual must submit an application to the Department of Education;
- if the individual nominated by the Department of Human Services to serve as surrogate parent fails to meet relevant criteria in the special education regulations, the Department of Educational and Cultural Services will nominate another individual; and
- if a child in need is a state ward but is not placed in a foster home, the school administrative unit may request the Department of Educational and Cultural Services to appoint a surrogate parent.

The Committee notes that an identifiable pool from which to appoint surrogate parents does not exist. Furthermore, the Committee finds that the surrogate parent appointment process does not work well for a state ward in any of several circumstances; i.e.:

- a state ward who has changed placements frequently;
- a state ward who has briefly attended a sequence of schools all in different school administrative units;
- a state ward who has not consistently attended school for an extended period of time;
- a state ward who is not placed in a foster home;
or

-
- a state ward who selects his or her own unlicensed placement.

The Committee concludes that the establishment of a pool of qualified individuals willing to serve as surrogate parents may significantly improve the surrogate parent appointment process by reducing procedural delays, enhancing the knowledge of surrogate parents, reducing miscommunication that may occur among state agencies and the school administrative unit, and simplifying an often cumbersome appointment process. Accordingly, the Committee recommends that the Department of Educational and Cultural Services, with the assistance of the Department of Human Services, study the implications of establishing a pool of qualified volunteers willing to serve as surrogate parents. Focus on the issues of contracting with a non-state agency to administer the pool and the training needs of surrogate parents. Report to the Joint Standing Committee on Audit and Program Review by September 1, 1990.

STATUTORY

6. Authorize the retention, for five years, of unsubstantiated child protective services' records for persons who are eligible for Medicaid services. Further stipulate that these records must be retained in a segregated location.
-

In its 1985-1986 review of Maine's child welfare service delivery system, the Legislature enacted the Committee's statutory recommendation to require the Department of Human Services to retain unsubstantiated child protective services case records for no more than 18 months following a finding of unsubstantiation, and then expunge unsubstantiated case records from all departmental files or archives unless a new referral has been received within the 18-month retention period. "Unsubstantiated" cases are those for which a Departmental case study could find no evidence of abuse or neglect to substantiate the original referral. In proposing this recommendation, the Committee had found that the then current practice of retaining unsubstantiated records for an undeterminate period was unwarranted and provided no useful public benefit.

Recently, however, the Committee has found that General Fund dollars spent for case management services provided by the Department to certain families may be reimbursable by Medicaid funds. In these cases, a record of the services provided must be retained by the Department for five years in order to meet federal eligibility and auditing requirements. In order to take advantage of all available funding sources, the Committee finds that retention of unsubstantiated case management records for Medicaid eligible families beyond 18 months appears to be warranted.

However, ensuring that these records remain strictly unavailable for any child protective purpose is important and must be preserved. Accordingly, the Committee recommends authorizing the retention, for five years, of unsubstantiated child protective services' records for persons who are eligible for medicaid services. Further stipulate that these records must be retained in a segregated location.

ADMINISTRATIVE 7.

Direct the Department of Human Services and the Bureau of Human Resources to review the educational, experiential, and training requirements of child protective professionals in order to ensure high quality service delivery. Submit any subsequent recommendations to upgrade the skills, knowledge, and caliber of child protective professionals to the Joint Standing Committee on Audit and Program Review by November 1, 1990.

Both the Legislature and the Executive Branch recognize that the quality of service delivered by the child welfare system is directly dependent on employing well-trained, qualified, and competent professionals. A number of actions have been taken in recent years to assist human services aides, caseworkers, and casework supervisors to improve their proficiency. These actions have included upgrading entry and on-the-job training requirements, increasing salary, and increasing the number of positions to reduce caseloads.

Furthermore, the Committee notes that the Department of Human Services has prepared an innovative training proposal for casework professionals which it has submitted to the Legislature (December 1989). The report concludes that the current training system needs "radical revision", noting that the current training regimen is:

- inefficient, incomplete, inconsistent, and perhaps inappropriate;
- dependent on on-the-job training; and is
- reliant on training consultants who have varying degrees of familiarity with State law, policy, and procedure.

As a result, the report points out that caseworkers may demonstrate "gaps and inconsistencies in the knowledge, skills, and attitudes necessary to provide consistent casework service of high quality...".

The Committee continues to be concerned with the quality of casework services and recognizes that service quality is directly proportional to the skills, knowledge, and caliber of the professionals charged with delivering the service. Recognizing that ongoing efforts are being made to improve the professionalism and skills of child welfare personnel, the Committee is not prepared to recommend any specific course of action at this time. Rather, the Committee is directing the Department of Human Services and the Bureau of Human Resources to review the educational, experiential, and training requirements of child protective professionals in order to ensure high quality service delivery. Submit any subsequent recommendations to upgrade the skills, knowledge, and caliber of child protective professionals to the Joint Standing Committee on Audit and Program Review by November 1, 1990.

MAINE EMERGENCY MEDICAL SERVICES



STATUTORY

8. Direct the Maine Emergency Medical Services office and the Department of Human Services to prepare a plan to establish the Maine Emergency Medical Services office as an independent entity. Submit this plan to the Joint Standing Committees on Audit and Program Review and Human Resources by March 1, 1991.
-

STATUTORY

9. Adopt certain provisions to improve the effectiveness of the office of Maine Emergency Medical Services in meeting its administrative and statutory mandate.
-

In 1985, the Office of Emergency Medical Services was organized under the Bureau of Health within the Department of Human Services. The Audit & Program Review Committee reviewed the Office at that time because of a perceived lack of responsiveness to the needs of the emergency medical services system.

As a result of the 1985 review, the Committee recommended the transfer of much of the regulatory authority previously exercised by the Department of Human Services and the Office of Emergency Medical Services to a Board of Emergency Medical Services. The Board was established as "a separate, distinct administrative unit, which shall not be integrated in any way as a part or function of any other administrative unit of the Department. It shall be equal in organizational level and status with major organizational units..." In addition, the Committee's recommendations increased the responsiveness of Maine EMS to the system's needs, increased the governing authority of the Regional Councils, and directed that the primary goal of Maine EMS is to facilitate and support, rather than regulate, the delivery of high-quality volunteer emergency medical services.

The Committee's recommendations retained a statutory relationship between the Department of Human Services and the Maine Emergency Medical Services office. The Maine Emergency Medical Services office was retained within the Department of Human Services with the Commissioner of Human Services assigned the responsibility of "reviewing" the operation of Maine EMS.

Also, staff of the Maine Emergency Medical Services office remained employees of the Department of Human Services, with routine administrative support provided to the office by the Department.

Since the reorganized Maine Emergency Medical Services office began operation in 1986, a new Director and staff have been hired; the democratic decision-making structure has proven successful, and Maine EMS staff have increased their support of the volunteers in the field. In addition, new rules have been promulgated in accordance with the "facilitate first, regulate second" philosophy, paperwork associated with the licensing process has been reduced; and EMS training programs, testing, and treatment protocols have been improved and standardized statewide.

The Committee finds that a number of questions continue to exist regarding the functional relationship between the Maine Emergency Medical Services office and the Department of Human Service. The Executive Director of the Maine Emergency Medical Services office reports that:

- the exact nature of the Office's relationship to the Department of Human Services continues to be unclear to both organizations;
- the revitalized EMS Board has clearly demonstrated its ability to provide guidance, planning, and oversight to the Office, without the need for mandated guidance and input from the Department;
- the Commissioner of Human Services has statutory responsibility for the operation of the Office but is given little actual authority with which to fulfill this mandate; and finally
- the expectation that the Office will adhere to DHS administrative procedures may actually serve to reduce the Office's ultimate effectiveness in carrying out its own mandate.

Accordingly, the Committee directs the Maine Emergency Medical Services office and the Department of Human Services to prepare a plan to establish the Maine Emergency Medical Services office as an independent entity for consideration by the Joint Standing Committees on Audit and Program Review and Human Resources by March 1, 1991. In addition, the Committee recommends that a number of minor statutory changes designed to promote the efficient operation of the Maine Emergency Medical Services be adopted at this time.

MISCELLANEOUS



STATUTORY

10.

Clarify that nonprofit entities in Maine may engage in Legislative liaison activities, in order to preserve access to the Legislative process.

The Department of Finance has promulgated rules to administer the "Maine Uniform Accounting and Auditing Practices for Community Agencies Act." These rules constitute the accounting and financial management standards by which community agencies are expected to comply.

Currently, the State rules require compliance with federal auditing standards promulgated by the U.S. Office of Management and Budget. One of the federal standards disallows reimbursement for costs incurred by the audited organization for legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation.

The Committee finds that the Legislature needs access to information from all sources in order to ensure a democratic decision-making process. Furthermore, any attempt to dissuade individuals or organizations from full participation in public policy-making is undesirable.

Accordingly, the Committee recommends clarifying that nonprofit entities in Maine may engage in Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, in order to preserve unencumbered access to the Legislative process.

APPENDICES

**The Joint Standing Committee
on
Audit & Program Review
1985-1986 Reviews**

FINDING 33 The Committee finds that the quality and relevance of placement resources and services currently available to children in substitute care should be assessed.

Placement resources currently available to children in substitute care include:

<u>TYPE</u>	<u>DESCRIPTION</u>	<u>RATE PAID</u>
1. Family Foster Care	Provides parental care and supervision on a regular, 24 hour/day basis within a family setting in a private dwelling by people serving as substitute parents to children under age 18.	\$232 - 337/Month
2. Relative Care	Provides parental care and supervision on a regular, 24 hour/day basis for a child under age eighteen by a person(s) related to the child by blood, marriage, or adoption.	
3. Therapeutic Foster Care	A Family Foster Home in which the foster parents serve as a primary agents in addressing and treating identified behavioral and emotional problems.	\$400 - 1100/Month
4. Long Term Foster Care	Substitute parental care provided to a child by a single set of foster parents until the child attains the age of 18. The State retains legal custody of the child and delegates to the foster parents certain responsibilities regarding the life and development of the child.	
5. Adoptive Placement	Parental rights of the biological parents are terminated and transferred to another person(s) who then serves as the child's legally binding parent(s).	
6. Emergency Shelter	A facility which serves children needing shelter or assessment for no more than 30 days.	\$1410 - 1890/Month
7. Group Home	A residential facility which provides board and care to the children under age 18. It may also provide education or mental health treatment.	\$805 - 1500/Month
8. Residential Treatment Center; In-State and Out-of-State	A residential facility which provides board and care, mental health treatment, and education to children under age 18 on either a 24 hour or a daily basis.	\$1153 - 5000/month approximately
9. Semi-Independent Living	A living arrangement which is not licensed as a residential child care facility or family foster home and where no adult, other than the department, has responsibility for the youth's supervision or care.	

As of December 1985, 2,348 children were in substitute care in Maine supported by 100.5 substitute care caseworkers. The Committee has received considerable testimony regarding the limited availability of substitute care placements, particularly in regard to children with severe behavioral and emotional problems. Caseworkers regularly spend long hours seeking a placement for one child for one night only to have to repeat the search the following day. Further, the concept of family foster homes was intended to deal with children whose primary need is a stable nurturing family-type setting. Instead, family foster homes are forced to deal more and more frequently with children whose behavior and emotional problems include fire-setting, damage of self and property, severe acting out and overt and public sexual behavior; few facilities specially equipped to deal with this level of need are available.

The Committee finds that the need to ensure the availability of an adequate number of substitute care facilities designed to deal with the serious problems exhibited by the substitute care population is of critical importance.

As the first step in accomplishing this goal, the Committee finds that placement resources and services currently available to children in substitute care should be examined to determine:

- whether and what types of additional services are needed; and
- the effectiveness of the current array of resources and services at meeting current and anticipated needs of the sub care population.

Therefore, the Committee recommends that the quantity and relevancy of placement resources and services currently available to children in substitute care be assessed.

**The Joint Standing Committee
on
Audit & Program Review**

1986-1987 Reviews

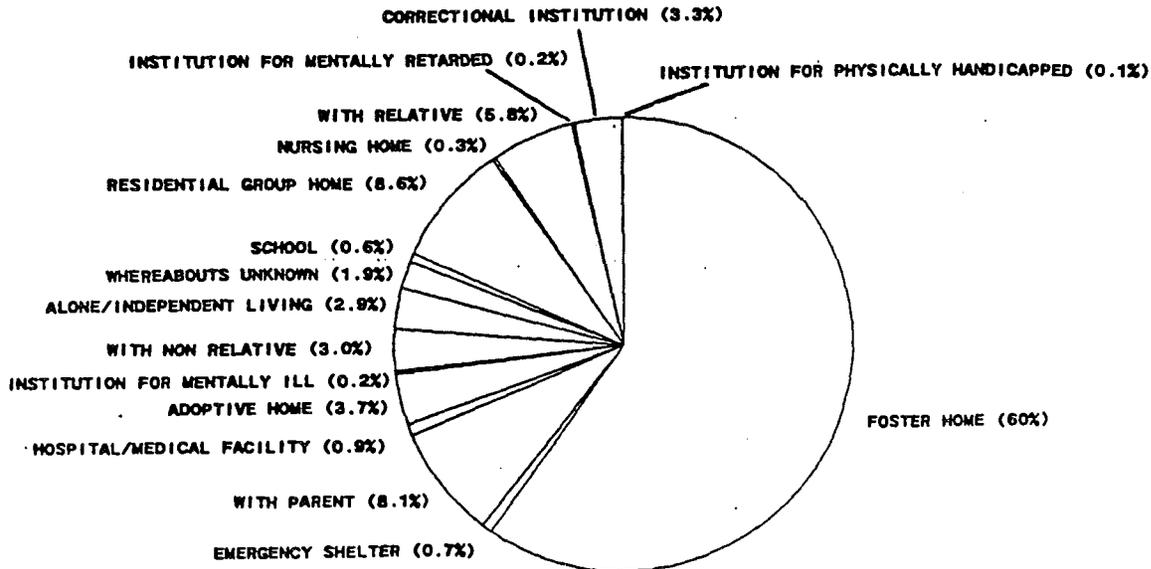
STATUTORY

140.

Convene an interdepartmental Task Force to identify and implement a course of action to immediately minimize the number of children placed in substitute care facilities out-of-state. Report to the Joint Standing Committee on Audit & Program Review by September 1, 1987.

The Committee has reviewed considerable testimony regarding the quality and relevance of placement resources and services currently available to children in substitute care, including review of a number of actual case histories.

A look at the types of substitute care placements in use by the Department on September 5, 1986 reveals the following:



As the data indicates, the largest percentage of children generally receive substitute care services from foster homes within Maine, with far fewer numbers of children receiving services in all other types of facilities, such as Residential Treatment Centers or Emergency Shelters. However, the Committee turned its attention to placements made out-of-state when it found that these types of placements consumed substantial amounts of financial and staff resources. For example, the Committee found that the out-of-state placements for 36 DHS wards in August 1986 cost over \$75,000, as the following table indicates:

<u>Out of State Facility</u>	<u># of DHS Children Placed 8/86</u>		<u>Going Rate/Child/ Month</u>
Odyssey House, New Hampshire	1	x	\$ 1,285
Eagleton Institute, Mass.	6	x	1,335
Spaulding, New Hampshire	2	x	1,469
Pike School, Connecticut	3	x	1,836
Dr. Franklin Perkins, Mass.	1	x	1,890
Kolburne, Mass.	4	x	1,987.50
May Institute, Chatham, Mass.	1	x	2,033
Lake Grove, New York	1	x	2,077.50
Lake Grove, Connecticut	1	x	2,321.70
Hillcrest, Mass.	2	x	2,715
Vision Quest, Arizona (mailing)	13	x	2,026
Timberlawn, Texas	<u>1</u>	x	<u>11,467</u>
TOTAL	36		\$77,248.20

A follow-up check for the month of February 1987 revealed that 30 children were placed in out-of-state facilities at a cost of over \$67,000.

The Committee found that DHS out-of-state placements have increased 87.5% since 1982 with out-of-state placements made by the Departments of Mental Health and Mental Retardation, Educational and Cultural Services, and Corrections, increasing a concomitant 8% as follows:

	<u>1982</u>	<u>March 1985</u>	<u>% Increase</u>
DHS Placements	16	30	87.5%
All Other Agency Placements	<u>50</u>	<u>54</u>	<u>8%</u>
TOTAL PLACEMENTS	66	84	27%

The total cost of out-of-state placements increased by 51% during this same three year time period.

In addition to the increasing cost of out-of-state placements, the Committee found that no objective or definitive data exists to quantify the effectiveness of these placements. Although caseworkers are often able to provide anecdotal evidence as to the success of the rehabilitative services provided in these out-of-state facilities, state agencies do not generally maintain follow-up data on children once the children are released from care.

Furthermore, the Committee found that placements may be selected on the basis of availability of space rather than on the needs of the child and that no systematic procedure exists to match the needs of the child with the correct facility.

As a result, the Committee finds that the lack of data quantifying effectiveness coupled with poor assessment capability raises serious questions due to the following:

- neither State agencies, taxpayers, nor Legislators are able to satisfactorily gauge the value of treating children by sending them to these out-of-state facilities;
- the value of these placements to the child him or herself is largely unknown;
- planning for the provision of substitute care services is difficult; and
- accounting for or controlling out-of-state placement costs is difficult.

Finally, the Committee finds that because of the sheer distances involved, placing children out-of-state increases the difficulty of properly monitoring their progress. Traveling to other states consumes a significant amount of the caseworker's time and energy, as well as limited financial resources.

Therefore, the Committee recommends that an interdepartmental Task Force be convened to identify and implement a course of action to immediately minimize the number of children placed in substitute care facilities out-of-state. Report to the Joint Standing Committee on Audit & Program Review by September 1, 1987.

PUBLIC LAWS, SECOND REGULAR SESSION — 1987

CHAPTER 816

PART GG

Sec. 1. 22 MRSA §8152, sub-§§4-A and 6 are enacted to read:

6. In-state treatment. The committee, in consultation with the Committee for Interdepartmental Coordination of Services to Children and Families, shall establish guidelines and policies for their departments which shall encourage to the maximum extent feasible, the placement of Maine children in treatment programs located within the State. Funds expended for out-of-state placement in fiscal year 1989-90 shall be no greater than 75% of funds expended in fiscal year 1987-88, and in 1990-91 no greater than 50% of funds expended in fiscal year 1987-88. Funds retained pursuant to this section shall remain in the departmental budgets to be utilized in new or existing in-state programs.

PUBLIC LAWS, FIRST REGULAR SESSION - 1989

CHAPTER 7

PART O

Sec. 9. Report. The Commissioner of Human Services shall draft a plan of action concerning the start-up of professional and therapeutic homes for children, therapeutic group homes for children and residential treatment services for children. The commissioner shall report to the Joint Standing Committee on Appropriations and Financial Affairs on the proposed plan of action no later than April 14, 1989.

SENATE

MICHAEL D. PEARSON, DISTRICT 6, CHAIR
JOSEPH C. BRANNIGAN, DISTRICT 29
THOMAS R. PERKINS, DISTRICT 12

STAFF

OFFICE OF FISCAL AND PROGRAM REVIEW
BENT SCHLOSSER, DIRECTOR
JAMES A. CLAIR, PRINCIPAL ANALYST



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JUDITH C. FOSS, YARMOUTH

STATE OF MAINE

ONE HUNDRED AND FOURTEENTH LEGISLATURE

COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

March 8, 1989

Mr. Rollin Ives, Commissioner
Department of Human Services
State House Station #11
Augusta, Maine 04333

Dear Commissioner Ives:

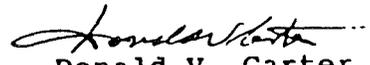
LD 24, the "Emergency FY 89" budget bill, included an \$80,000 General Fund appropriation "...for out-of-state placement for children in need." On behalf of the Joint Standing Committee on Appropriations and Financial Affairs, we are writing to inform you that it was the consensus of the Committee members that out-of-state placements should continue only to January 1, 1990. It is the intent of the Committee that the State of Maine should be developing in-state placements for those children in need.

Toward that end we would like you to develop a plan of action which will address the discontinuance of out-of-state placements by January 1, 1990 and the development of in-state placements for calendar year 1990. In order to coincide with our "Part 2" discussions, we would need to receive your proposed plan of action by April 14, 1989.

Please contact us if you require additional information or have any questions.

Sincerely,


Michael D. Pearson,
Senate Chair


Donald V. Carter,
House Chair

cc: Members, Joint Standing Committee on Appropriations and
Financial Affairs



John R. McKernan, Jr.

00000000

Ref: Ives
00000000

STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE 04333

April 14, 1989

Michael D. Pearson, Senate Chair
Donald V. Carter, House Chair
Committee on Appropriations and Financial Affairs
State House Station #2
Augusta, Maine 04333

Dear Senator Pearson and Representative Carter:

This is in response to your letter of 8 March, 1989 in which you request a proposed plan by 14 April, 1989.

Let me begin by stating that out-of-state placement of children for treatment purposes, while controversial, remains a necessary and essential component in DHS' service delivery system. The current number of residential treatment programs in Maine and the range of treatment modalities available are simply not sufficient to meet the increasing needs of youth requiring such services. The gap between identified treatment needs and the ability of in-state service providers to meet those needs, either due to a lack of beds or programming insufficient to deal with the multi-systems problem behaviors, is widening. Also contributing to the problem is the policy, established by the Bureau of Social Services and reinforced by the Legislature, that the Department send fewer children out-of-state for treatment. The insufficient number of programs in Maine has exacerbated the placement problem for children and youth who need a treatment program that does not exist in Maine but who cannot be placed out-of-state. The results of this impasse can readily be seen with youth in inappropriate placements "burning out" foster homes and caseworker staff, increased violence and interactions with Department of Corrections, more referrals to in-patient psychiatric facilities, behavior problems in schools, and a subsequent increase in coverage and concern expressed through the media.

There are growing numbers of youth placed in the Department's custody who require programs and treatment that do not currently exist in Maine. An increasing number of children exhibit more severe psychological, medical and social disorders, which produce disturbing and dangerous behaviors. Neither they nor their problems will disappear. The cost of treating these troubled and troubling youth may be expensive, but to wait and try to treat them later will be even more costly.

The Department of Human Services was given a mandate by the 113th Legislature concerning out-of-state placement with the following wording from FY '89 Appropriations Budget Bill: "Funds expended for out-of-state placements in fiscal year 1988-89 shall be no greater than 75% of funds expended in fiscal year 1987-88. Funds expended for out-of-state placements in fiscal year 1989-90 shall be no greater than 50% of funds expended in fiscal year 1987-88."

The Department adjusted it's placement policy to reflect this mandate, severely limiting the numbers of state wards placed out-of-state and simultaneously attempting to expand existing program capacity and create new programs in-state, all without increased funding. The serious placement problems encountered by DHS and other child-serving Departments today stem, in part, from that mandate. It is unrealistic to believe that sufficient programs can be developed in Maine without the availability of start-up funds. While DHS is able to pay for an already established program for youth in our custody, we lack the ability to create new ones without start up funds. The ability to place a Maine youth currently out-of-state in an in-state program is contingent upon an appropriate program already existing in Maine. These programs do not exist. This is precisely why I asked for start up funding in my Emergency Budget '89. Since the Legislature decided to postpone that issue, I believe it is imperative that the 114th legislature grant start-up funding to DHS in order to carry out the legislative mandate and to protect the children entrusted into our care.

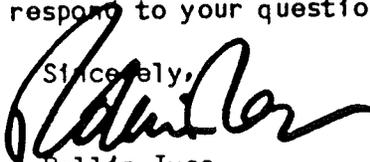
The attached report details the significant efforts which the Department has undertaken to develop new resources; the combined efforts undertaken in conjunction with the IDC to minimize out-of-state placements as presented in the attached report to the Joint Standing Committee on Audit and Program Review and the Joint Standing Committee on Human Resources; and planned efforts to develop appropriate additional resources for youth within Maine.

You should understand clearly however, that even with the Department's request for funding to establish new programs in Maine and to support youths placed in them, there will be a continued need to place some children out-of-state. Their treatment needs are such that no economy of scale exists in-state that would accommodate their specialized problems. We can, however, create much needed resources for a significant number of Maine's youth if the 114th supports Governor McKernan's proposed action plan.

I am eager to work with you to improve services to the children and families of Maine. Our current funding request in our Part 2 will be a worthwhile investment in the future of Maine youth; not just in this generation but for those that follow.

Thank you for the opportunity to respond to your questions.

Sincerely,



Rollin Ives
Commissioner

April 14, 1989

REPORT TO THE COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

The Supplemental Appropriation Bill, H.P. 26-L.D. 24 - was amended to require a report from the Commissioner of Human Services regarding a "...plan of action concerning the start up of professional and therapeutic homes for children, therapeutic group homes for children and residential treatment services for children." The following constitutes the Department of Human Services' plan of action addressing the development of these services.

The Department of Human Services is, and has always been, committed to the provision of quality child care services to the children of Maine. In spite of the allocation of additional federal and state funds for a variety of new services, there remain a number of foster children who need programs and services which are significantly different from those which have previously been effective. There are many reasons why this is the case. Many children and families today are experiencing significant difficulties that bring them to the attention of the Department of Human Services. Most children who are placed in state custody are victims of severe abuse and neglect; have been involved with juvenile crimes or abuse drugs and alcohol; have been victims of sexual abuse or are themselves sexual offenders; or suffer from psychological, medical, or behavioral disorders. More children are growing up in single parent families and poverty among all children has increased during the past decade. There continue to be high numbers of youth dropping out of high school; and too many youth are becoming sexually active at too early an age. These problems are certainly not unique to Maine but affect the entire nation. Solutions to these problems in times of very limited fiscal resources will require a great deal of creativity and commitment from social service agencies, private providers, and lawmakers.

The Department of Human Services was given a clear mandate by the 113th legislature to reduce the number of state wards placed out-of-state. This message is being reinforced by the 114th Legislature. While we agree that every possible effort should be made to place children in Maine, close to family, friends, and peers, the reality of a severe shortage of placements and the lack of appropriate placement options for some youth, makes it unlikely that the Department will discontinue out-of-state placements altogether, let alone by 1/1/90. There are a number of youth placed in DHS custody who require treatment options which are not available in Maine. These youth exhibit severe acting out and aggressive behavior, are frequent run aways, often are a danger to themselves or others, usually have moderate to severe substance abuse problems, are involved in the criminal justice system, and resist any and all services offered to them. They require a program of intensive therapeutic intervention which can control their aggressive, assaultive behavior, and who will accept them regardless of their willingness to participate in therapy. Program for these youth simply do not exist in Maine outside of the Corrections system.

To further underline the severity of this problem, I would like to quote from the "Interdepartmental Report on Legislative Directive to Develop a Plan to Minimize Out-of-State Placements", dated 12/28/87, which is attached for your reference. The report states, "as of 6/30/87, which is attached for your reference. The report states, "as of 6/30/87, there were 96 Maine children in out-of-state residential facilities. Of these children, according to Pupil Evaluation Team records, three were placed in out-of-state facilities because no placement was available at an appropriate in-state facility, and at least 88 children were placed out-of-state because no appropriate program existed in Maine. At least 26 of these children had been placed previously in Maine facilities, and an additional number had been referred to but not accepted at Maine facilities." Of the 96 children placed out-of-state, only 36 were in the

custody of DHS - the remaining 60 were placed by local school districts. The fact that the Department of Human Services has not placed the majority of Maine youth out-of-state has been overlooked in the past. Additionally, the total number of children this Department has placed outside of Maine has shown a definite decline during the past several years.

State Wards in Out of State Placements

7/1/86 - 6/30/87

7/1/87 - 6/30/88

7/1/88 - 1/30/89

34

37

28 1/2

The reason for this decline is the Department's response to the 113th legislature's mandate to place fewer children out-of-state. Due to an insufficient number of available or appropriate treatment programs in Maine, an already existing problem was intensified, whereby, children needing a treatment program which was not available in Maine, could not be placed out-of-state. Throughout this process of reducing Maine youth placed out-of-state, DHS staff looked at every available in-state resource and creatively established new ones. The cost in time, dollars, and energy to create an in-state placement, however, is inevitably equal to or greater than utilizing an already existing out-of-state placement. The following is a partial listing of recent DHS initiatives for youth in Maine:

1. The Department has strengthened the traditional foster care system which serves 1500 youth per year.
 - a) Provision of cost of living increases during the past 2 years;
 - b) Authorization of more than 200 special board rates for children with significant problems but who can be placed in traditional foster homes;

2. The Department has developed of new and better group homes in cooperation with the Department of Educational and Cultural Services, Department of Mental Health and Mental Retardation, and Department of Corrections.
3. The Department has increased the number of beds that it purchases from in-state residential treatment centers.
4. The Department has worked with Department of Mental Health and Mental Retardation and the Legislature to fund a new six bed facility at AMHI to serve children with long-term psychiatric problems.
5. The Department has funded a number of individualized therapeutic and professional homes for children with provider agencies. These include:
 - a) Hinckley - community-based residential treatment. 2 beds currently @ \$37,000 per bed per year.
 - b) Spurwink - community-based residential treatment. 2 homes of 2 beds each at a cost of \$47,125 per year. Additional beds are in the developmental stage.
 - c) Youth Alternatives of Southern Maine - 2 therapeutic foster homes of 2 beds each @ \$32,400 per year.
 - d) Opportunity House - 5 youth currently in placement - borderline MR, actively attempting development of 4-5 additional beds. Cost range between \$36,500 to \$54,000 per year.

- e) Community Health and Counseling - 1 specialized foster home for teen mother and child who would otherwise need residential treatment placement and lose her child - cost \$34,630 per year.
- f) Lighthouse Shelter - shelter for 16 homeless teens @ \$67.00 per day.
- g) Wellspring - long-term, residential substance abuse program. Cost \$30,000 per year.
- h) The Department has held numerous consultations as part of the Interdepartmental Council with both in-state and out-of-state service providers interested in operating in-state programs. These efforts have been frustrated due to lack of start-up funds.

Another proposal, from Sweetser, to provide 10 therapeutic foster home beds has been stalled for several years directly due to a lack of start-up funds.
- i) The Department recently approved a new in-patient psychiatric program in Bangor with community aftercare services required as part of the Certificate of Need Approval Process.

Even with these intensive efforts, significant gaps exist in treatment services available to children placed in the Department's custody. The "Immediate Action Plan" presented to the Committee on Appropriations and Financial Affairs in February, would provide a necessary first step to create more programs to serve Maine youth in Maine. The Department's plan calls for \$165,000 in start-up funding for "therapeutic" and "professional" homes of 1-2 children each, "therapeutic group homes" of 6-8 children each, and residential treatment

services. The wide ranging services are necessary due to the chronological and developmental stages of various youth and their degree of interaction with peers and with society as a whole.

Generally, the types of children who require these services are pre-adolescent youth who has been severely sexually abused and who exhibits sexually aggressive behavior toward other youth, preventing placement in programs or homes with same-age or younger children. Such a child can, however, often be appropriately treated in a home-like placement with intensive therapy in a highly structured setting. Also, behaviorally disturbed adolescents, often will not accept such a "family" setting, are physically more aggressive, abuse substances, are more resistant to treatment, and have often had a succession of previous placements. These youth are often more appropriately treated in a group or residential treatment setting.

The Department has identified 20-30 youth whose treatment needs cannot be currently met within Maine, but for whom a delay in meeting their needs creates a dangerous situation, both for the youth and for society. The Department proposes to set up individualized treatment programs for these youth where none currently exist.

To this end, we are inviting service providers from Maine and elsewhere in and out-of-state to a "Child Resources Meeting" which will be held in May. Departmental caseworkers will present case vignettes of youth requiring services. If the requested \$165,000 for start-up funding is approved, the Department would be able to negotiate on the spot with service providers willing and able to establish programs in Maine for these youth. Many of the invited agencies have expressed a willingness to develop programs within Maine for these youth, but a lack of start-up funding has curtailed each of these efforts. The following is a listing of invited programs currently serving Maine youth or who have expressed a desire to do so:

In-State

Spurwink School
Sweetser School
Homestead
Community Health and Counseling
Opportunity Housing
Youth Alternatives
Goodwill-Hinckley
Diocesan Human Relations Services
Sandy River Group
Youth Horizons

Out-of-State

Lake Grove
Pike School
Hebron Schools
Vision Quest
Eckerd Foundation
Valley Head
Eagleton
Bellefaiire
Devereux
Spaulding Y.C.
Harmony Hill
Wackenhut, Inc.
Wiley House
Odyssey House

The Department plans to hold a similar meeting in Aroostook County because children placed outside that County are often hundreds of miles from home.

Members of the Interdepartmental Council will also be invited as other agencies and Departments will be utilizing these programs when they are on-line.

The second part of the Department's action plan is the annual funding to support children placed in the new programs. As the youth requiring these programs in Department of Human Services custody are eligible for Title IV-E matching federal funding at a rate of 67% federal dollars for 33% state dollars, the state funds requested will generate additional federal dollars necessary to support new programs. Again, the requested funding is not a cure-all for youth placed out-of-state, but it represents a giant step forward in addressing the needs of a population of children with many problems.

The Department of Human Services has been given a mandate by both the 113th and 114th Legislature to limit, and now perhaps, to curtail placement of youth out-of-state. It is unrealistic to assume that we can treat youth in Maine

where services do not exist to meet their treatment needs, nor can we place them out-of-state where those services do exist. The Legislature has, presently and in the past, mandated that the Department of Human Services not place youth out-of-state yet has not provided sufficient funds to develop appropriate placements in-state. The problems resulting from this approach, as stated in my cover letter, can readily be seen in youth in inappropriate placements, on the streets, in dangerous and life-threatening placements, "burning-out" foster parents and casework staff, increased violence, involvement with law enforcement, more longer and more expensive referrals to psychiatric hospitals, behavior problems in schools, increased truancy, and increased coverage by the media. A recently released study by the U.S. Department of Health and Human Services confirmed that "... the incidence - not just the reporting - of child abuse and neglect rose 150% between 1980-1986." A study by the House Select Committee on Children, Youth, and Families stated in the same article, "Meanwhile the resources available to child welfare agencies rose only 2% between 1981-1985." The choice is ours. Continue to be a national leader in child welfare services, or to allow our shortsightedness to cripple us, not paying the price now for a problem that certainly will not go away and which will be dramatically more expensive in the future.

The Department stands ready to work cooperatively with the Legislature to provide more and better services to troubled youth.

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The Department stands ready to work cooperatively with the Legislature to provide more and better services to troubled youth.



STATE OF MAINE

December 28, 1987

Beverly M. Bustin, Senate Chair
Neil Rolde, House Chair
Joint Standing Committee on
Audit & Program Review
State House
Augusta, Maine 04333

N. Paul Gauvreau, Senate Chair
Peter J. Manning, House Chair
Joint Standing Committee on
Human Resources
State House
Augusta, Maine 04333

Dear Senator Bustin, Senator Gauvreau, Representative Manning, Representative Rolde and Committee Members:

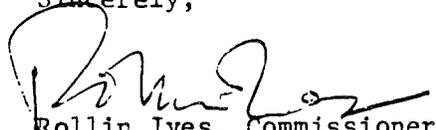
We are pleased to transmit to you the enclosed report on a plan to minimize out-of-state placements. As you may recall, Chapter 395, AN ACT Relating to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Laws was enacted June 24, 1987, mandating the development of a plan to minimize out-of-state placements.

We are in agreement that the best placements for children are those with programs appropriate to meet individual needs in close proximity to their families and communities. A review of all of the children placed in out-of-state facilities on 6/30/87 found that most of these children were placed out of state because no facility with appropriate programs to meet their diverse needs existed in Maine. Many of these children had been referred to, and refused admission by, existing in-state programs.

We recognize there are sound economic and programmatic reasons to spend Maine dollars in Maine. However, there is a cost associated with the development of new and expanded services in-state. Serving these children in Maine will require the expenditure of additional funds to develop new resources. Out-of-state placements are not necessarily more expensive than in-state placements. Some of Maine's most severely disturbed adolescents have been served in out-of-state programs with tangible results at a rate lower than that charged by some in-state programs.

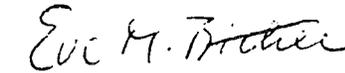
The proposed plan represents the Departments' collective response at this time to a very difficult problem. Implementation of this plan for this very limited population will cost additional dollars, will focus on a small number of youth and will not entirely eliminate out-of-state placements. The assumption of using funding recouped from placements of children who will age-out of the system is problematic and needs further research. It assumes that caseloads will not increase and additional children needing specialized services available only out-of-state will not be identified. While we are in agreement that Maine children should be served in programs appropriate to meet their individual needs located in close proximity to the families and communities, the IDC Commissioners do not endorse the expenditure of additional resources to implement this plan at this time. We do believe that the required research should be done in order to further refine this plan and identify possible funding sources.

Sincerely,


Rollin Ives, Commissioner
Human Services



For: Susan B. Parker, Commissioner
Mental Health and Mental
Retardation


Eve M. Bither, Commissioner
Educational and Cultural Services


Donald L. Allen, Commissioner
Corrections



John R. McKernan, Jr.
Governor

Rollin Ives
Commissioner

STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE

ADDRESS REPLY TO
208 Graham Street
Biddeford, Maine 04005
Tel: 207-282-6191
Toll Free: 1-800-322-1

Dear Audit and Program Review Committee:

We are sending you a list of over 100 children from York and Cumberland Counties who are in the protective custody of the State of Maine. These children, ranging in age from 2-19 years old, are living in inappropriate placements. That means anything from needing treatment for emotional disturbance and not receiving it to living at home with the parent from whom custody was taken to living on the streets with pushers and pimps. A similar list was circulated from October 1987 to February 1988. In February there were approximately 80 children who were actively being underserved. Now there are more.

The cover memo attached to the list has been sent to the Department of Human Services Director of the Bureau of Social Services, Peter Walsh and to his staff as well as to Commissioner Ives. It outlines our concerns and our purpose in compiling this list on a monthly basis.

We want to increase your awareness of the conditions faced by many children after they are committed to state custody. For most of them their situation wouldn't have deteriorated if there existed adequate resources to meet their needs. These include but are not limited to residential treatment programs, group homes, a secure treatment facility, also known as a behavior stabilization unit, substance abuse treatment programs, adoptive homes, semi-independent living situations and therapeutic and professional foster homes. As you read the list, you will see that the behaviors and characteristics of these children demonstrate an immediate need for a range of specialized services. It is no longer reasonable to expect ordinary families to assume the care of these children.

Our purpose is to further educate those of you who are involved in the decision-making on children's issues. We believe strongly that the citizens of Maine, our elected officials and the Department of Human Services must work together to make informed choices regarding laws, policies and funding committed to improving the fate of these children.

The caseworker committee welcomes your questions, responses and input. If invited, we would be glad to meet with you. Please contact us through Penny Burns and Karen Hayes at the Portland DHS office. The address is 509 Forest Avenue, Portland 04101 and the phone number is 774-4581. In the Biddeford DHS office, the contact people are Bryan Gordon and Margaret Goodspeed. The address is 208 Graham Street, Biddeford 04005 and the phone number is 282-6191.

Sincerely,

Margaret Goodspeed
Margaret Goodspeed for the Region I
Caseworker Committee

MG/jem

STATE OF MAINE

Inter-Departmental Memorandum

Date September 27, 1988To Peter Walsh, Director, Bureau of Social Services Dept. _____From The Region I Caseworker Committee Dept. _____Subject Children not receiving adequate care

Once again we are compiling a list of children who are in inappropriate placements. This list will be sent out on a monthly basis. We are motivated by our concern for their unmet needs and for their safety. We can identify why existing resources fail and the type of placements that are needed, but as caseworkers we can't solve the problem because the necessary resources don't exist in Maine.

We believe the Department should acknowledge to the community that it cannot meet its legal mandate to protect children. We would like to see immediate steps taken to procure funding for the range of necessary placement options.

The Department is not solely responsible for these children. The citizens of the state have the initial obligation and the Department has been given the responsibility for enforcing the child protection statutes. It is ironic that some children are in equal or more serious jeopardy after they become wards of the state.

Also attached is the list of available foster homes in Region I with notations of the behaviors they can't deal with. This list is substantially shorter than it was a year ago.

Our hope is that this information will be utilized to improve our ability to meet the needs of all of the children in state custody.

The caseworker committee welcomes your input. Please direct your response to the committee through one of the following people: Penny Burns or Karen Hayes in the Portland Office and Bryan Gordon or Margaret Goodspeed in the Biddeford Office.

jem

cc: Barbara Churchill
 Freda Plumley
 John McDonald
 Terry Tibbetts
 Rhama Schofield
 Peter Morgan
 Richard Totten

John R. McKernan, Jr.
Governor



STATE OF MAINE
DEPARTMENT OF HUMAN SERVICES
AUGUSTA, MAINE

Rollin Ives
Commissioner

ADDRESS REPLY TO

December 18, 1989

Dear Senator Bustin and Representative Rolde:

Once again, the Department of Human Services Caseworker Committee in Region I (York and Cumberland Counties) has updated the list of children in state custody for whom the appropriate living situation has not been found. One star beside a name indicates that the child was on the December 1988 list. Two stars indicate that the child was on the initial list of October 1987.

There are fewer children on this year's list, however, this does not mean we can relax and rejoice. Community people are indicating a reluctance to refer cases to DHS because of what they perceive as the Department's inability to provide a child with a safer, healthier environment.

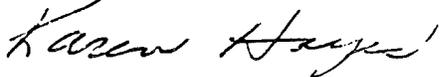
Protective workers are acutely aware of the lack of resources. This does not mean that a child is not removed from a jeopardous situation, however, in marginal cases workers may leave the child in the home because there is no appropriate resource. They must weigh the jeopardy in the home against the jeopardy of placing the child in an inadequate system that cannot assure safety and protection.

Questions have been raised regarding what is meant by "inappropriate placement." The children on the list reflect the caseworker's assessment of what the child needs. For example, a child may be placed in a licensed foster home. This appears to be appropriate, but under the present conditions this may mean only a foster home has an opening. Matching the foster parents' skills to the needs of the child cannot be considered due to the limited number of available homes. The child's identified problems indicate that a more restrictive environment is needed. There is always a need for more foster families, however, for the severely damaged children entering the system a foster home is not the answer. There must be a range of placement options including traditional foster homes, therapeutic foster homes, group homes, residential treatment facilities and a secure treatment facility.

Although many children are in foster homes and some are doing well, others are precariously perched on the brink of disruption. Many foster families hang on by a thread knowing that they cannot provide for the child, but realizing that DHS has nothing else to offer.

The last legislative session provided no immediate resource relief. Children continue to remain in crisis looking forward to a bleak 1990. The responsibility for these children rests with all of us.

Sincerely,



Karen Hayes



Margaret Goodspeed
for the Region I Caseworker Committee

TESTIMONY BEFORE THE AUDIT AND PROGRAM REVIEW COMMITTEE

Robert Vickers, Executive Director

Aroostook Mental Health Center

NOVEMBER 14, 1989

Members of the Audit and Program Review Committee, my name is Robert Vickers. I am the Executive Director of the Aroostook Mental Health Center. I am here today as a representative of an Interdisciplinary Group that was formed to review placement problems in Aroostook County. This group was formed at the request of the Commissioner of Human Services after I had requested that he and his staff look into what we felt was a serious situation of a child being misplaced and inappropriately placed due to lack of resources. This Committee has met several times and has discussed with their staffs two dozen children, ages 6 to 12, who are felt to be in need of placement, treatment, and appropriate education. Represented on this committee was the Department of Education by a Special Education Director, Bureau of Children With Special Needs, Department of Human Services, and the Department of Mental Health Services. We would like to share with you five case summaries and five issues that we feel your consideration would be helpful in addressing. The five cases are

only intended to demonstrate examples of two dozen cases that we discussed and to help point out the need in Aroostook County. The issues are: 1) Lack of appropriate residential treatment alternatives in Aroostook County; 2) Lack of start-up and first-year deficiency funding and vacancy funding so that a treatment center could be developed; 3) Lack of a balanced approach in decisions regardgin residential treatment, i.e., PET must agree or child does not get placed; 4) Lack of appropriate funding mechanism for residential treatment. School systems do not get paid for year and a half. One small rural district was goind to have to raise 3 mills to send one child to treatment; and 5) Lack of interdisciplinary participation in that decision-making process at PETs. If school system does not want mental health or human services involved in PET, they are not invited.

STATE OF MAINE

DEPARTMENT OF THE ATTORNEY GENERAL

TO: James E. Tierney, Attorney General

FROM: Child Welfare Assistant Attorneys General

SUBJECT: Reassessment of the Impact of the Lack of Foster Care and Alternative Placement resources on the Enforcement of the Child Protective Law

DATE: December 28, 1989

You have asked that we provide you with a reassessment of the availability of foster care and alternative placement resources in regard to the impact, if any, on this office's enforcement of the child protective law. In December, 1988, we conveyed to you our perception that there was a crisis in the ability of the Department of Human Services to provide sufficient appropriate placements for the children in its custody pursuant to child protective orders and that the situation severely impeded our ability to aggressively enforce the child protective statute. In our memorandum of December 29, 1988, we outlined six ways in which the lack of resources directly affected the discharge of our legal obligations. It is our consensus that there has been no improvement in the placement situation and that, on all six points, the crisis continues to affect enforcement of the law. Moreover, in expanding our analysis beyond the York and Cumberland County areas, we have concluded that the problems which trouble York and Cumberland counties, also exist statewide.

At the close of last year's memorandum, we provided you with brief descriptions of actual cases which illustrate the kinds of problems we believe have a direct impact on legal proceedings designed to protect the children of this state. Set forth below is an update on those children.

1. 1988:

"Al, a 13 year old boy in the Department's custody, has lived on the streets for the last 9 months, spending many nights in temporary shelters in Portland. The caseworker was unable to locate him to arrange a psychological evaluation for him which is the prerequisite for designing treatment programs. A social service program has declined to accept Al, feeling his needs are so severe that he will be maintainable only in a secure facility".

1989:

Al lived at a shelter until mid-winter of 1989. He was then arrested and charged with minor juvenile offenses, and ultimately sent to the Maine Youth Center, primarily because there existed no alternative residential programs for his behavioral needs. He was recently accepted into an out-of-state treatment program, but the possibility now exists for an in-state placement. Whether the State facility will ultimately enroll Al remains an open question at this point.

2. 1988:

"Carol turned 5 in the Department's custody where she was placed following physical and sexual abuse at Home. The first foster home placement lasted only 2 days due to Carol's aggressive behavior. Because no other placement could be found, she went home with a Departmental employee for several weeks. During that time, her behavior deteriorated. Subsequently, a teacher took her home where she now resides. That placement is not yet licensed by the Department."

1989:

Carol remained in her placement with the teacher, and has done reasonably well with continued therapy. Reunification with her mother remains the case plan.

3. 1988:

In York County, there are at least three teenagers under the age of 17 who have each had at least 25 placements in the last four years."

1989:

The following events have occurred with regard to these three teenage girls:

a) Penny, who was 14 years old in 1988, ran away to another state to be with her boyfriend. She became pregnant, and now, at age 15 is the mother of a two-month old child.

b) Cindy was placed in several inappropriate foster homes, none of which met her special behavioral needs. She found a boyfriend, became involved with drugs, and gave birth to her first child recently. Cindy is in need of a secure behavioral treatment unit, but none is available.

c) Rhonda recently turned 18, after having a baby last year. Rhonda lives in our own apartment now, and a second baby is on the way.

1988:

"Daniel, a 4 year old in the Department's temporary custody, remains at Jackson Brook Institute although he has been slated for discharge by that facility which relates that he has drained their staff resources. His behavior has included eating garbage and licking wall sockets. Although he needs a therapeutic foster home, none are available."

1989:

Daniel was discharged by Jackson Brook Institute to a foster home developed by Jackson Brook Institute. While there, he abused another foster child and was removed to another foster home. He has remained there for six months, and is improving. His mother is also working to reunite with Daniel, and caseworkers are optimistic.

1988:

"Elton, 6 years old, was abandoned by his mother and has been in foster care for one year. In that year he has been in 6 placements; no further placements are available due to his behavioral problems. His behavior led the first foster home, in which he attempted oral intercourse with the foster parent's child, to refuse placements for any child over 5 years old or any sexual abuse victims."

1989:

Elton's mother reappeared and successfully addressed her severe alcoholism. Elton is currently in a trial placement back at home with her. Due to recent reports of domestic disturbances, however, the Department is monitoring the situation closely.

1988:

"Frank, now 8 years old, remains in a foster home from which the parents asked that he be removed in August of 1988. In that home, he frequently misses necessary counseling sessions because his foster home fails to keep the scheduled appointments. The school has declined to work with the foster mother on special programs for Frank due to the lack of cooperation by that foster parent."

1989:

"Gail has been in foster care since 1984; she is now 16 years old. She has moved 26 times, including placements at Augusta Mental Health Institute, shelters, and the Maine Youth Center. After she completed a substance abuse rehabilitation program, she was placed in a temporary shelter awaiting an opening at a residential program. When her shelter placement expired with no new opening available, she went to live at her sister's house where she has since resumed her drug use."

1989:

Gail has continued to have placements at AMHI, and is now at the Maine Youth Center for selling drugs. She also has several outstanding charges for assault. She is pregnant.

1988:

"Jason, 13 months old, was removed from the custody of his 16 year old mother who is herself a ward of the State. He was initially placed in a foster home from which he was removed by the Department due to concerns about his safety in that placement. He was then placed in an unlicensed foster home at which his mother also resided. Jason was brought to the Portsmouth Hospital last week severely beaten and with a broken leg. He is now in a partial body cast and has been placed in yet another foster home. His mother's whereabouts is currently unknown."

1989:

Jason has been cleared for adoption.

All of the illustrations noted above were drawn from the York-Cumberland County region in 1988. This year, however, the child welfare AAG's inquiry was expanded to include other areas of the state. Uniformly, the problems identified in our 1988 report are experienced in every region served by the Department of Human Services. Those problems are re-stated and updated below:

A. The Redefinition of Jeopardy. We believe that there continues to be a redefinition of "jeopardy" by workers in the field in an attempt to avoid filing Petitions for Child Protection Order in those cases where the worker feels the Department has inadequate resources to alleviate the condition pursuant to court order. Perhaps no single point in our prior memorandum generated more disagreement on the part of supervisors and administrators in the Department than our assertion that there were workers making decisions based upon a perception of bureaucratic impotence rather than on assessments of jeopardy. However, conversations with caseworkers continue to confirm that such assessments did and

continue to occur. Moreover, both caseworkers and supervisors, at least in the central and northern parts of the state, acknowledge that while an objective analysis of whether or not a child is in jeopardy is the threshold question required for caseworkers, the practical reality is that such analysis is tempered by caseworker awareness that, should the Department obtain legal custody, it may not have an appropriate place for the child to go.

This problem is especially acute in terms of short-term emergency needs in the northern half of the State, which lacks even basic emergency shelters. Thus, a child from Fort Kent, for example, must go to Skowhegan or Waterville for emergency shelter.

Illustration: In northern Maine, a 15-year old boy has been in long and serious conflict with his mother, who has a significant drinking problem. He has been assaultive to her on a number of occasions and otherwise shows signs of emotional problems. There are no placements for him, although it is generally agreed that he should be out of the home. He remains there for lack of alternative placement and treatment.

B. The Best Disposition is Not Requested. The Department continues to temper its recommendations to the court for disposition for a child placed in its custody based upon the knowledge that it does not have the resources to fulfill many placement and service directives. The crisis in resources includes not only the inability to provide sufficient appropriate placements for a child, but also the services necessary to support that child and attempt family reunification which is a cornerstone of the child protection act. Those services include counseling for the child and family members, transportation for frequent meaningful visitation, and training and educational services designed to enhance an individual's ability to parent a child. Realizing those placements and services are limited, the Department continued to be reluctant to advocate for orders which simply do not exist.

Nowhere is the crisis more significantly felt than with juvenile sex offenders, or the children who are so unstable that foster home placement is wholly inappropriate. Caseworkers point out that the age of juvenile sex offenders is lower now than has been previously identified, and that children below the teen years offend against children younger than themselves. Foster homes, frequently housing several children, simply cannot risk accepting young sex offenders, and the State has extremely limited places for them. In emergency situations, caseworkers are forced to make inappropriate placements, and hope that the foster parent can supervise.

Illustration: In a central part of the State, a 15-year old identified sex offender was placed in an emergency placement over a weekend in a foster home housing four other children, all under the age of eight.

Caseworkers also point out that the level of damage suffered by children now coming into care is significantly more than in the last 5 to 10 years. Children whose problems manifest themselves in the abuse of other children or animals, or who exhibit fire-setting or suicidal behavior (which has been documented in a child as young as three) are extraordinarily difficult, and foster parents are simply unable to cope with their dangerous behavior. As a result, such children remain in psychiatric wards because there are few alternative treatment programs or residential homes. For children whose behavior is abusive or self-abusive, there is no facility in Maine which might stabilize their behavior before they can be placed in foster care.

Illustration: A male sex offender, and a female showing severe acting-out behavior, each requiring residential group treatment are "on hold" in a psychiatric facility pending placement. The hospital agrees that this hospitalization is not clinically indicated, but also agrees that no alternatives exist. Consequently, although the hospital is willing to work with children until placement can be found, in the interim, the children remain, inappropriately, on a psychiatric ward.

Illustration: An 11 year-old boy whose criminal behavior is recognized as amenable to treatment only in residential care, waits in the Maine Youth Center until such treatment out-of-state can be found. There is no guarantee that out-of-state facilities will accept him, and Maine has no appropriate treatment center.

C. Inability to Comply with Court Orders This point is the natural outgrowth of the one cited above. Because the disposition in a particular case may be the result of an independent court determination based upon the facts presented or a necessary compromise among the parties, it is not infrequent that the Department, despite its wishes to the contrary, is court-ordered to provide specific services and placements. When it cannot fulfill that obligation, it is technically, in contempt of the court order. Although the courts are informed time and again of the Department's placement and services crisis, they have become increasingly impatient with that explanation for the Department's failure to comply with court orders. This is not to say that the courts lack pragmatism; they are, almost uniformly, aware that there are financial limitations to any department's ability to provide services. However, it is unreasonable to expect the court to sanction such inability when it directly contradicts legislative mandates of suitable placement and aggressive reunification efforts.

Illustration: A Court, impatient with the Department's assertion of resource problems, orders all-day, supervised Saturday visitation between a child and parent; or specific three-times-per week supervised visits in the home. Precious time which could be used to provide caseworker support and services to several other families is siphoned away transporting the parties and watching visits. While this function could be assumed by case aides, few are available.

D. Substantial Delay in Reunification and Permanency Planning.

The Child Protection Act requires that the Department and the Court make family reunification a priority whenever possible if that can be accomplished within a reasonable period of time. Successful reunification is one of several possible outcomes in the overarching goal of permanency for a child in the Department's custody. Any permanency planning for a child is impeded when that child cannot be stabilized and the child and the family cannot receive early, consistent provision of services. As long as placements continue to be unavailable, it will be unrealistic for the department to expect the parents and child to focus on the issues which caused the child to come into custody. When a parent is placed on a waiting list of three to six months to obtain counseling services, it essentially delays effective reunification for at least that period of time. In most cases, only after reunification has been attempted and failed is it appropriate for the Department to look at other permanency plans such as long-term foster care or adoption.

Illustration: In one part of the State, an experienced adoption worker with a large caseload was able to make only two adoptive placements in a two year period, and one of the adopting families was out-of-state.

Illustration: Over six months elapsed between the termination of the parents' rights to two young girls, and the children's first introduction to their adoption worker. Another child, Charles, continues to reside in a foster home where his emotional needs are unmet, although he has been cleared for adoption.

E. Incoherent Presentation of Legal Cases. The Department continues to experience a turnover in caseworkers which is attributable, in part, to the workers' frustration with lack of resources. The effect of that turnover is to create a disjointed presentation of court cases, particularly in Petitions for Termination of Parental Rights which often require a historical perspective of the Department's and parents' actions. Some caseworkers are no longer available, thereby leaving "holes" in that continuity. In addition, a parade of caseworkers to the stand often reinforces a parent's common complaint that reunification could not proceed smoothly because he never knew with whom to communicate or the conditions imposed by the department for reunification. In addition, there often is a delay between the departure of one caseworkers and the assignment of a new caseworkers which further slows the planning process for the child.

F. Increased Legal Intervention. The Department's inability to provide suitable placement and services prompts more frequent judicial reviews of child protection orders by parents who are concerned about their children's situation. More and more of the

court's attention is focused on what the Department does with a child once that child is in its custody. Although the statute allows the Court to review a case as infrequently as every two years, it is rare for such period of time to elapse between reviews, particularly in the case of younger children. Admittedly, when reunification is ongoing or there has not yet been a permanent plan made for a child, it is appropriate for the court to maintain periodic overview of the situation. However, the statute never contemplated that the purpose of such overview would be essentially, to ensure that the child was safely placed while in the Department's custody. That has become the focus of many reviews as placement options have dwindled.

It is not surprising that child welfare AAG's have noticed no change in the problems described above; none of the factors identified in the original 1988 memorandum as the basis for the difficulties listed have been alleviated over the past year. There still are insufficient numbers of foster homes prepared to accept the type of children we should all anticipate would be placed in the department's custody as a result of child protective orders. As before, although there may be a number of open slots for foster care, it is important that it be ascertained whether or not those homes are willing to take children with seriously disruptive behaviors.¹ It is not sufficient that homes be available for several days or one week. The Department requires foster parents who are willing to make a long-term commitment to a child and can be realistic about what that commitment entails. The Department, in turn, must require that foster homes require a level of support, both financial and emotional, that is not currently being provided in most instances. This is a result of an inability on the part of many workers to establish a sense of partnership with foster homes as well as the unrealistic expectation that a caseworker with twenty-five cases can also function as a support mechanism for every foster home with whom he deals.²

1. The lack of resources can lead to inappropriate requests of the children in care. One child, Susan, was requested to sign an agreement that she would be a "good child" or would be asked to leave by the foster family.

2. Education and support are necessary to ensure that a foster family is realistic about the children placed with it and able to work through difficult adjustment periods. Cheryl was placed in a foster home which demanded her removal less than twenty-four hours later because her presence was incompatible with the foster family's dog. Gail and her belongings were placed, literally on the doorstep of the house while she waited for the caseworker to retrieve her.

Foster homes will never meet the needs of many of the children who have come into the Department's custody. Therefore, there continues to be a need for alternative residential placements for children, particularly teenagers. However, over the past year, we are aware to no new residential facilities which have been developed by the Department by the community at large to address this crisis. This is not merely a function of finances; the community and the Department must assess what buildings, programs, personnel and legislative changes are needed to fully address all of the children at risk. There is an entire class of adolescents who are not being served by the Department in large part because there is no resource which meets their needs and accepts their idiosyncrasies. It is, we believe, incorrect to assume that simply building more temporary shelters will alleviate this problem. This Department must assess whether those shelters are meeting the needs of those children; if they are not, the Department must define a protocol which addresses that population.

The assumption has been made, we believe incorrectly, that once the legislature, the Department, and the general population determine they should resolve the placement and resource crisis, they could so simply with a large infusion of money. Certainly any resolution would require a financial commitment of substantial proportions. But to ascertain the amount of money required and the manner in which it should be allocated demands serious examination of why the current system does not work. Will a minimal increase in the board rate for children either encourage more people to enter into or remain in an arrangement where payment never meets the actual financial cost of maintaining a child? Can we and should we transform foster care into a true profession, involving a smaller number of better-trained, well-paid foster parents? Can we afford to continue to eviscerate that component of the placement system which provides the most home-like setting possible for a child in custody?

If "traditional" foster homes are not accepted by adolescents, what might work? Do we want legal authority to detain children for evaluation and treatment? If so, how do we create that without erecting a legal mechanism for subjugation more abusive than the situation from which the child is removed? What do out-of-state programs entail that we should or could duplicate here in Maine?

It appears certain that until there is a major reevaluation of the placement systems upon which the Department depends and the allocation of sufficient money to support the building, people and programs required, this office shall continue to encounter increasing difficulties in enforcing the laws designed to protect children at risk.

Maine sees growing number of children sexually abusing other children

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By Mal Leary
Capitol News Service

AUGUSTA — Six-year-old Jay has sexually assaulted three other children, all younger than he, but state officials say they are at a loss to provide him the array of services he needs, and are predicting he has started down the road that will lead him to Maine State Prison before he is 20.

Jay is not his real name, of course, but his case history is real and is one example of a growing number of cases in which children sexually abuse other children. Officials from Gov. John R. McKernan to police investigators say the "system" is not prepared to handle the problem, and children are falling through the cracks of a system that is supposed to protect them from harm.

"I am very disturbed by the reports of increasing cases," McKernan said. "There are a lot of changes, major changes, taking place in our society and the changes are going to continue and I think will lead to a change in the way government responds."

McKernan said existing laws aim at protecting children from abuse by adults, and the growing problem of children abusing children has left

"The old way of providing child protective services may not be sufficient."

— Gov. John R. McKernan

the state trying to catch up and cope with a situation before it becomes a crisis.

"The old way of providing child protective services may not be sufficient, but I hope legislation will be ready for the January session to deal with the problem," he said.

The most recent crime statistics show that arrests for sex crimes by those under 18 years old increased by more than 50 percent from 1987 to 1988.

District attorneys, police investigators and social workers believe that is just the tip of the iceberg, with as few as one in 10 cases actually leading to an arrest.

"Our preliminary figures are that we know of at least 400 juvenile offenders, but we also know that (figure) may be low," said Rollin Ives, commissioner of the Department of Human Services.

Ives said an interdepartmental committee on child abuse, including representatives of private groups and the clergy, have commissioned a study of all those in the state that

deal with child sexual abuse to better determine the scope of the problem. The group also will develop recommendations for Ives on what services are needed and how much the services will cost.

"But yes, it is clear that we are not prepared to deal with this very serious and growing problem," Ives said.

Those on the frontline, state child protective workers and law enforcement personnel, say the problem has increased rapidly in recent years and has caused serious problems trying to cope with behavior that is often more violent than sexual, even though the acts are sexually oriented.

"What do you do with an 8-year-old boy who has held a knife to a 6-year-old and forced that child to commit oral sex?," asked Sandra Hodge, director of the state's Child Protective Service programs. "In Maine, we just don't have anyplace for them, and the numbers are growing."

Hodge said her staff has been overwhelmed by the serious and unique

problems of dealing with young children sexually assaulting other young children. She said programs are in place to deal with older teenagers who sexually assault other teens, but those programs will not work for the younger children, and they already are overburdened.

District Attorney Janet Mills said there has been "a tremendous increase" in cases of sexual abuse of children by other children in Androscoggin, Franklin and Oxford counties. She said prosecutors often are faced with a serious dilemma of assessing blame for an incident of sexual contact between juveniles.

"Say we are talking about two 14-year-olds — is it consensual? Who is responsible? Just who is the perpetrator and who is the victim?" Mills asked. "These kids need help, but sending them to the Youth Center, which doesn't have the facilities to handle them, or binding them over and trying them as adults and sending them to Thomaston and throwing away the key just isn't the answer."

Mills, president of the District Attorneys Association, said other prosecutors across the state say they are faced with similar, very difficult choices because of a lack of treatment facilities and the difficulty in

determining criminal responsibility. Mills said it was very difficult for a judge to convict an 8-year-old of rape, when the judge realizes the state does not have the facilities to treat the child.

National experts, several of whom have been brought to Maine over the last year as the problem became more evident, say that although the offenders come from a wide variety of backgrounds, most of them were victims of sexual abuse.

The crimes most often occur in playgrounds or in the homes of friends or acquaintances, and often parents confuse aggressive sexual behavior for the normal sexual experimentation they remember from their youth, experts say.

"There's denial by the family. There's community denial. I think to some extent, there is national denial," said Rob Freeman-Longo, director of Oregon's Sex Offender Treatment Program. "We're still trying to come to grips with the fact that adults do it."

State officials are finding that same response among judges, prosecutors and police officials. Investigations of young children sexually abusing other young children is often the most trying and emotionally

draining investigations.

"The first one I had, I just couldn't believe it," said one police investigator. "He looked like my own son. He had the same mannerisms, but he had viciously attacked a little girl, seriously hurt her. It was one of the most difficult cases I have ever had."

Ives said the reaction by many of his staff members is similar. He said the younger the child, the more difficult it is for many workers to cope with the very aggressive behavior.

Ives, who holds a doctorate in psychology, said it's hard to determine what has led to the sudden upsurge in cases of children abusing children, not just in Maine, but across the country.

"I think that we have got to look at the media, in part, and the exposure to sexuality in the media of youngsters," Ives said. "When you put all the changes going on in our society, together with that exposure, and kids who are emotionally disturbed coming out of violent environments, it's like mixing gasoline and fire."

State officials hope to have new programs ready for lawmakers to consider in January, but no one can say for sure they will be in place in time to help Jay.