

MAINE STATE LEGISLATURE

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PROPOSAL
TO RESTRUCTURE ADVOCACY SERVICES IN THE STATE OF MAINE

Introduction

The current fiscal crisis in government and questions that have been raised regarding state funding for community-based advocacy groups and independent commissions calls for careful review of state spending priorities and the cost effectiveness of the current structure of Maine's advocacy services and programs. Restructuring and consolidation would increase the efficiency of government and result in a cost savings.

The Office of Advocacy should include a number of departments and organizations and should become a quasi-independent agency of the State.

Currently, state government contributes to a number of community-based advocacy organizations whose charges are separate, but who are involved in similar efforts. In particular, there is a common connection between Maine's Regional Alcohol Councils, the Child Abuse and Neglect Councils, the Child Care Resource Centers, Maine Advocacy Services, and Maine's Rape Crisis Centers. Full consideration of how to best consolidate these separate organizations so that resources can be shared, services consolidated, and state dollars maximized is needed.

In addition, State government currently operates the Office of Advocacy within the Department of Mental Health and Mental Retardation, the Child Welfare Services Ombudsman within the Division of Community Services, the Maine Children's Trust Fund, the Committee on Aging, and the Commission on Mental Health, the Commission on Women, the Children's Trust Fund, the Public Advocate, the Human Rights Commission, the Division of Consumer Protection, the Developmental Disabilities Council, the Bureau of Veterans Services, and numerous advisory and oversight committees and commissions. These entities also share common goals and responsibilities.

Consolidation

Consolidating these various regional, state, and state funded advocacy organizations into a quasi-state advocacy agency which is independent from State government would make advocacy independent. The Office of Advocacy should be structured like the Maine State Housing Authority, the Vocational Technical Colleges, and FAME in that it should be independent and quasi-affiliated with the State.

The Office of Advocacy should consist of four divisions:

- * Individual, Institutional and Residential Services composed of: the Office of Advocacy from the Department of Corrections, the Office of Advocacy from the Department of Mental Health and Mental Retardation, the Child Welfare Services Ombudsman from the Division of Community Services, Maine Advocacy Services, the Elderly Ombudsman from the Maine Committee on Aging, the Bureau of Veterans Services from the Department of Defense and Veterans Services, and the Developmental Disabilities Office.
- * Consumer Representation composed of: The Public Advocate, the Maine Human Rights Commission, and the Division of Consumer Protection from the Department of Insurance.
- * Policy composed of: The Maine Commission for Women, the Children's Trust Fund, and The Maine Committee on Aging, the Maine Commission on Mental Health.

Volunteerism composed of: The Child Abuse and Neglect Councils, the Child Care Resource Centers, the Rape Crisis Centers, the Regional Alcohol Councils.

There are a variety of advisory boards and commissions currently connected with these organizations and with advocacy. These boards and commissions should be consolidated into three consolidated commissions, corresponding to the divisions of the office:

Some of the commissions and committees which should be consolidated include the Advisory Commission on Children with Special Needs, the Advisory Committee for the Division of Deafness, the Board of Trustees of the Maine Veterans Homes, the Board of Visitors to the Correctional Center, the Military and Naval Children's Home, the State Prison, the Maine Youth Center, and Pineland Center, the Advisory Committee on Mental Retardation, and the Maine Council on Alcohol and Drug Abuse Prevention and Treatment. Other advisory committees associated with the fields of mental health, mental retardation, human services, substance abuse, human rights, and advocacy should be evaluated for consolidation with the three advocacy boards.

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

Whereas, the management and oversight functions of State government concerning the protection of and advocacy for Maine citizens are scattered among at least nine state agencies; and

Whereas, the lack of effective coordination severely undermines the coherence and consistency of the State's advocacy and protection efforts and policies; and

Whereas, the maintenance of advocacy agencies within the departments of government which they oversee creates an inherent difficulty and limits effective advocacy efforts; and

Whereas, these difficulties could be reduced and/or eliminated through the creation and implementation of a single, integrated Office of Advocacy; and

Whereas, in the judgement of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Title X, Chapter _____

ADVOCACY

Part 1

Administration and organization

Chapter 1

Maine Office of Advocacy

101. Definitions

As used in this part, unless the context otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the Board of Directors of the Office of Advocacy.

2. Director. "Director" means the Executive Director of

the Maine Office of Advocacy.

3. Office. "Office" means the Maine Office of Advocacy.

102. Office Established

There is established the Maine Office of Advocacy, which shall be a body corporate and politic and a public instrumentality of the state and the exercise of the powers conferred by this chapter shall be deemed and held to be the performance of essential governmental functions. The Office shall exist to advocate on behalf of Maine citizens so that their rights and privileges are protected, their concerns and questions about government are heard and pursued, and their individual complaints about any agency of State government or any agency funded by State government may be investigated, and resolved. The office shall advocate for compliance by any institution, other facility or agency administered by the State or funded partially or in whole by the State with all laws, administrative rules and institutional or other policies relating to the rights and dignity of Maine citizens.

The Maine Office of Advocacy shall contain such divisions as may be of assistance to implement the programs and duties as defined in this chapter. The divisions shall include:

A. The Division of Individual, Institutional and Residential Services;

B. The Division of Consumer Representation

C. The Division of Policy

D. The Division of Volunteerism.

103. Board of Directors

The Board of Directors of the Maine Office of Advocacy shall consist of 5 voting members all appointed by the Governor. Members shall be subject to Legislative confirmation. No member shall be employed by the State of Maine. All members shall have expertise in the protection of individual rights and have background and experience as advocates for the protection of individual rights.

Members shall be compensated as provided in Title 5, chapter 379. Members terms of office shall be for four years, except for initial appointees. The initial terms of office shall be limited as follows: one of the first appointed members shall serve for one year, two of the first appointed members shall serve for two years, and two of the first appointed members shall serve for four years.

The board shall meet at least once a month and at the call

of the chair or at the request of a majority of the members. A quorum shall consist of a majority of the members and no action may be taken without the affirmative vote of 3 members.

104. Limitation of Liability

No member of the Board and no employee of the office may be subject to any personal liability for having acted within the course and scope of his membership or employment to carry out any power or duty under this chapter. The Board shall indemnify any member of the board and any employee of the office against expenses actually and necessarily incurred by him in connection with the defense of any action or proceeding in which he is made a party by reason of past or present association with the board or the office.

The board members shall be appointed no later than 30 days following enactment of this chapter and shall immediately establish a time table for the establishment of the office and the consolidation and transfer of the responsibilities of government which are transferred to them.

105. Administration

The board shall elect one of its members as chairman and shall employ an Executive Director.

106. Powers

The board of trustees shall have the following powers:

A. Policy. To develop and adopt policies governing operation of the office.

B. Administration. To oversee the administration of the office.

C. Bylaws and seal. To develop and adopt bylaws for the regulation of its affairs and the conduct of its business and to develop and adopt an official seal and alter it as necessary or convenient.

D. Budget development. To prepare and adopt a biennial, line-category, operating budget for presentation to the Governor and the Legislature, incorporating all projected expenditures and all resources expected or proposed to be made available to fund the operations of the program; the budget is to be used in support of any requests to the legislature for General Fund appropriations that the board may deem appropriate and necessary to supplement other resources available to the office and shall also serve as the foundation for an annual fiscal management plan for the office;

E. Fiscal management. To receive, expend, allocate and transfer funds within the office, as necessary to fulfill the

purposes of this chapter, in accordance with the biennial, line-category, operating budget. Cumulative transfers between line categories in excess of 10% of either the sending or the receiving category of the program operating budget shall be reported to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and to the joint standing committee of the Legislature having jurisdiction over human resources prior to becoming effective.

F. Receipt of loans, grants, contributions and gifts. To receive loans, grants and gifts that the board may deem appropriate and necessary to carry out the purposes of this chapter, subject to the conditions upon which the loans, grants, contributions and gifts may be made, including, but not limited to, loans, grants, contributions or gifts from any federal agency or governmental subdivision of the State and its agencies;

G. Contracts and agreements. To enter into any contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter;

H. Personnel policies. To develop and adopt personnel policies and procedures for the office. The board, subject to applicable collective bargaining agreements, shall determine the qualifications, duties and compensation of its employees and shall allocate and transfer personnel within the system as necessary to fulfill the purposes of this chapter. The provisions of the Civil Service Law, as defined by Title 5, section 7039, do not apply to the office;

I. Purchasing. To acquire consumable supplies, materials and incidental services through cash purchase, sole-source purchase orders, bids or contract, as necessary or convenient to fulfill the purposes of this chapter;

J. Advisory committees. To appoint or identify advisory committees to advise the board with respect to policies and programs, to procedures for modifying the office to meet the needs of those individuals for whom it is established to advocate and to the efficient operation of the office.

106. Powers and duties of the executive director of the office of advocacy

The director of the office shall implement the policies of the board and be responsible for the operation of the office. The powers and duties of the director of the office include:

A. Leadership. To develop policies, procedures, goals and objectives with respect to operation of the office, to be approved by the board. The director of the office shall meet regularly with the board chair to develop these policies and goals;

B. Office staff. Under procedures and standards developed by the board, to appoint the staff of the Office, including professional and nonprofessional personnel, and including, but not limited to, private legal counsel;

C. Staff oversight. To oversee the staff of the Office;

D. Personnel evaluation. Under policies and standards developed by the board, to evaluate the performance of the Office staff and to make personnel recommendations to the board of trustees;

E. Budget preparation. To assist the board in the preparation of the biennial operating budget for the office;

F. Accounting system and procedures. To provide for an accounting system and procedures that reflect and identify all appropriations, allocations, income and revenues and all expenditures of the office;

G. Interagency cooperation and communication. To promote cooperation and communication among the departments and agencies of government under its purview;

H. Coordination with the public and private sector. To work closely with other state, regional and local agencies, advocacy organizations and service providers that have responsibilities for or have an impact on the promotion and protection of individual rights;

I. Delegated duties. To undertake other duties as delegated by the board of trustees;

J. Fulfillment of mission and goals. To implement the mission and goals of the office including the pursuit of grievances and other remedies for citizens whose rights or privileges have been abridged.

107. Interim authority.

Notwithstanding the establishment of the office in this Part, the board and the director may not undertake the administration of programs and services currently administered by existing agencies and entities of government until July 1, 1992.

The board and the office shall be responsible for the sound management and administration of the office. On and after July 1, 1992, the board and the office shall have all of the responsibilities outlined in this chapter and shall make the most efficient use of the resources transferred for its use. The board shall resolve all questions over jurisdiction and the transfer of regulatory and other authority.

The board and office shall conduct an ongoing effort to plan for the availability of advocacy services on behalf of Maine citizens so that their rights and privileges are protected, their concerns and questions about government are heard and pursued, and their individual complaints about any agency of State government or any agency funded by State government may be investigated, and resolved. The office shall advocate for compliance by any institution, other facility or agency administered by the State or funded partially or in whole by the State with all laws, administrative rules and institutional or other policies relating to the rights and dignity of Maine citizens. The board shall establish a procedure for collecting public input into this effort and shall solicit the input of relevant State agencies and entities regarding the responsibilities of the office. By January 1, 1993, the board shall submit to the Legislature a 5-year agenda for advocacy services in Maine.

On July 1, 1992, the office shall assume all responsibilities, powers, and duties associated with the organizations, agencies, and entities of government which are consolidated to create the office.

PART B

B-1. Technical Advisory Committee on the formation of the Office of Advocacy

The Technical Advisory Committee on the formation of the Office of advocacy is created. This committee is charged with the development of a plan and necessary legislation to implement the office of advocacy and to effect a transition of some or all functions and necessary personnel from the following agencies to the new office:

- * The Office of Advocacy from the Department of Corrections.
- * The Office of Advocacy from the Department of Mental Health and Mental Retardation
- * The Child Welfare Services Ombudsman from the Division of Community Services
- * Maine Advocacy Services
- * The Elderly Ombudsman from the Maine Committee on Aging
- * The Bureau of Veterans Services from the Department of Defense and Veterans Services
- * The Developmental Disabilities Office.
- * The Public Advocate
- * The Maine Human Rights Commission
- * The Division of Consumer Protection from the Department of Insurance.
- * The Maine Commission for Women
- * The Children's Trust Fund
- * The Maine Committee on Aging
- * The Maine Commission on Mental Health.
- * The Child Abuse and Neglect Councils
- * The Child Care Resource Centers

- * The Rape Crisis Centers
- * The Regional Alcohol Councils.

The technical advisory committee shall also prepare legislation consolidating all existing boards and commissions which develop policy, oversee, or are affiliated with any of the agencies and entities listed above.