

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND SECOND LEGISLATURE

Legislative Document

No. 108

H. P. 99

House of Representatives, January 14, 1965

Referred to Committee on State Government, sent up for concurrence and ordered printed.

JEROME G. PLANTE, Clerk

Presented by Mrs. Carswell of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-FIVE

AN ACT to Create A Department of Rehabilitation.

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

Sec. 1. R. S., T. 22, subtitle 3, part 2-A, additional. Subtitle 3 of Title 22 of the Revised Statutes is amended by adding a new part 2-A to read as follows:

'PART 2-A

REHABILITATION

CHAPTER 1001

DEPARTMENT OF REHABILITATION

SUBCHAPTER I

ORGANIZATION AND ADMINISTRATION

Sec. 3601. Department. There is hereby created within the executive branch of the State Government a department whose primary function shall be the rehabilitation of persons handicapped by physical and mental disability to be known as the Department of Rehabilitation, hereinafter in this chapter called the "department." The department shall be the sole state agency to administer the plan for vocational rehabilitation in cooperation with the Federal Government. The department is created for the purpose of administering and strengthening programs of rehabilitation for disabled persons to the end that they may attain a maximum potential in employment, self-care and independent living. Ancillary to this purpose, which shall include the vocational rehabilitation of the blind and of individuals suffering from alcoholism, the department shall provide certain services to blind persons and to alcoholics.

Sec. 3602. Commissioner. The Governor, with the advice and consent of the Council, shall appoint as executive head of the Department of Rehabilitation a person competent in the fields of rehabilitation and public administration who shall have the title of Commissioner of Rehabilitation, hereinafter in this chapter called the "commissioner." The Commissioner of Rehabilitation shall serve for 5 years or during the pleasure of the Governor and Council and until his successor is appointed and qualifies.

The Commissioner of Rehabilitation shall devote his full time to the discharge of the duties of his office and shall receive such compensation as shall be fixed by the Governor and Council.

Sec. 3603. Employees. The commissioner shall employ, subject to the Personnel Law, such clerks and other personnel as he deems advisable, including the heads of administrative divisions of the department.

Sec. 3604. Advisory council. There shall be a state advisory council to the department which shall assist the commissioner in formulating policies and discussing problems related to the administration of the laws relating to vocational rehabilitation. The advisory council shall consist of the Commissioner of Health and Welfare, the Director of Employment Security, the Chairman of the Industrial Accident Commission, the Commissioner of Education, the Commissioner of Mental Health and Corrections and 8 persons qualified by training, experience or demonstrated interest in the rehabilitation of persons handicapped by physical or mental disability, to be appointed by the Governor, with the advice and consent of the Council, as follows: Two for a term of 3 years; 3 for a term of 4 years; and 3 for a term of 5 years. Of the 8 persons to be appointed by the Governor, one shall be appointed from among those qualified persons recommended by the Maine Hospital Association, one from among those qualified persons recommended by the Maine Medical Association and one from among those qualified persons recommended by the Maine Osteopathic Association. Upon the expiration of the term of any member of the advisory council a successor shall be appointed in like manner for a term of 5 years.

Said members of the advisory council shall elect a chairman and shall meet at least biannually, and upon the call of the Commissioner of Rehabilitation. They shall serve without compensation, but shall be reimbursed for expenses incurred in the performance of their duties.

SUBCHAPTER II

VOCATIONAL REHABILITATION

Sec. 3651. Short title. This subchapter may be cited as the "Vocational Rehabilitation Act of 1965."

Sec. 3652. Purpose. The purpose of this subchapter is to provide for and improve the rehabilitation of physically handicapped individuals, so that they may prepare for and engage in remunerative employment to the extent of their capabilities, thereby increasing not only their social and economic well-being but the productive capacity of the State and nation.

Sec. 3653. Definitions. For the purpose of this subchapter the following terms are defined:

1. Commissioner. "Commissioner" means the Commissioner of Rehabilitation.

2. Department. "Department" means the Department of Rehabilitation.

3. Handicapped individual. "Handicapped individual" means any individual who is under a physical or mental disability which constitutes a substantial handicap to employment, but which is of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a remunerative occupation.

4. Individual who is under a physical or mental disability. "Individual who is under a physical or mental disability" means an individual who has a physical or mental condition, which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting his activities or functions.

5. Vocational rehabilitation services. "Vocational rehabilitation services" means any goods and services necessary to render a handicapped individual fit to engage in a remunerative occupation, including:

A. Diagnosis and related services, including transportation, required for the determination of eligibility for service and of the nature and scope of the services to be provided;

B. Guidance;

C. Placement;

D. Acquisition of vending stands or other equipment, and initial stocks and supplies for small business enterprises conducted by severely handicapped individuals under the supervision of the department;

E. Training;

F. Physical restoration services;

G. Books and training materials;

H. Maintenance;

I. Tools, equipment, initial stocks and supplies, including equipment and initial stocks and supplies for vending stands;

J. Transportation not included under paragraph A;

K. Business, professional and occupational licenses; and

L. Other goods and services necessary to render a handicapped individual fit to engage in a remunerative occupation.

6. Workshop. "Workshop" means a place where any manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or during such time as employment opportunities for them in the competitive labor market do not exist.

Sec. 3654. Provision of services. Vocational rehabilitation services shall be provided directly or through public or private instrumentalities to any handicapped individual who is a resident of the State at the time of filing his application therefor, and whose vocational rehabilitation the commissioner determines, after full investigation, can be satisfactorily achieved or who is eligible therefor under the terms of an agreement with another state or with the Federal Government. Vocational rehabilitation services shall be provided at public cost only to those handicapped individuals who are found by the commissioner to require financial assistance with respect thereto, except as otherwise provided by law.

In case vocational rehabilitation services cannot be provided to all eligible handicapped individuals who apply for such services, the commissioner shall provide regulations for determining the order to be followed in selecting those to whom such services will be provided.

Sec. 3655. Powers and duties of department. In carrying out this subchapter the commissioner:

1. **Regulations.** Shall prescribe regulations governing the protection of records and confidential information, the manner and form of filing applications, eligibility, investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings, the establishment and operation of rehabilitation facilities and workshops and such other regulations as he finds necessary;

2. **Divisions within department.** Shall establish appropriate administrative divisions within the department;

3. **Reports.** Shall prepare and submit to the Governor annual reports of activities and expenditures and, prior to each regular session of the Legislature, estimates of sums required for carrying out this subchapter and estimates of the amounts to be made available for this purpose from all sources;

4. **Cooperate with other departments.** Shall cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of handicapped individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this subchapter, such programs, facilities and services as may be necessary or desirable;

5. **Delegation of powers and duties.** May delegate to any officer or employee of the department such of his powers and duties, not inconsistent with the law, as he finds necessary to carry out the purposes of this subchapter;

6. **Reciprocal agreements with other states.** May enter into reciprocal agreements with other states to provide for the vocational rehabilitation of handicapped individuals who are residents of the states concerned;

7. **Rehabilitation facilities and workshops.** May establish and operate rehabilitation facilities and workshops and make grants to public and other non-profit organizations for such purposes;

8. **Vending stands and other businesses.** May supervise the operation of

vending stands and other small businesses established pursuant to this subchapter to be conducted by severely handicapped individuals;

9. Research fellowships and traineeships. May make studies, investigations, demonstrations and reports, and provide training and instruction, including the establishment and maintenance of research fellowships and traineeships with such stipends and allowances as may be deemed necessary, in matters relating to vocational rehabilitation;

10. Other action. Shall take such other action as he deems necessary or appropriate to carry out the purposes of this subchapter;

11. Contracts for training and services. May contract with schools, hospitals and other agencies and with doctors, nurses, technicians and other persons, for training, physical restoration, transportation and other services required to carry on a program of vocational rehabilitation.

Sec. 3656. Cooperation with Federal Government. The department shall cooperate with the Federal Government in carrying out the purposes of any federal statute pertaining to vocational rehabilitation, and is authorized to adopt such methods of administration as are found by the Federal Government to be necessary for the proper and efficient operation of agreements or plans for such vocational rehabilitation and to comply with such other conditions as may be necessary to secure the full benefits of such federal statutes to this State and its residents. Upon designation by the Governor, the department may perform functions and services for the Federal Government in addition to those provided for in this section.

Sec. 3657. Appropriation. The Legislature shall appropriate for vocational rehabilitation services such sums as it finds necessary.

Sec. 3658. Cooperation with other agencies. In accordance with this subchapter, the department shall cooperate with and utilize the services of state agencies interested in problems related to vocational rehabilitation; shall make use of the services and facilities of the Maine Employment Security Commission especially as they relate to job placement and employment counseling services; and shall, subject to such standards and regulations as may be established by the department, cooperate with other public and nonprofit organizations and agencies as far as possible in providing vocational rehabilitation services.

Sec. 3659. Gifts. The commissioner is authorized and empowered to accept and use gifts made unconditionally by will or otherwise for carrying out the purposes of this subchapter. Gifts made under such conditions as in the judgment of the commissioner are proper and consistent with this subchapter may be so accepted and shall be held, invested, reinvested and used in accordance with the conditions of the gift. All moneys received as gifts or donations shall be deposited in the State Treasury and shall constitute a permanent fund to be called the Special Fund for the Vocational Rehabilitation of Disabled Persons, to be used by said department to defray the expenses of vocational rehabilitation in special cases, including the payment of necessary expenses of persons undergoing training.

Sec. 3660. State agency designated; federal-state agreement. The department is designated as the state agency to make determination of disability required under the Federal Social Security Act, Title II, Section 221, as set forth in Public Law 761, Section 106, 83rd Congress, and the commissioner, subject to the approval of the Governor, is authorized and empowered to enter into an agreement on behalf of the State with the Secretary of Health, Education and Welfare to carry out the Federal Social Security Act, Title II, relating to the making of determinations of disability.

If the Secretary of Health, Education and Welfare consents thereto, the department shall be bound by the terms of any such agreement entered into by the State Board of Education existing on the effective date of this Act as fully as if the commissioner had entered into such agreement by virtue of the authority granted by this section and the department shall succeed to the functions to be performed thereunder by the State Board of Education.

Sec. 3661. Receipt and disbursement of funds. The Treasurer of State is designated as the custodian of all funds received from the Federal Government for the purpose of carrying out any federal statutes pertaining to vocational rehabilitation of handicapped individuals or any agreements authorized by this subchapter. The Treasurer of State shall make disbursements from such funds and from all state funds available for the vocational rehabilitation purposes set forth in this subchapter upon the order of the commissioner or his designated representatives.

Sec. 3662. Maintenance not assignable. The right of a handicapped individual to maintenance under this subchapter shall not be transferrable or assignable at law or in equity.

Sec. 3663. Hearings and judicial review. Any individual applying for or receiving vocational rehabilitation under this subchapter who is aggrieved by any action or inaction of the department shall be entitled, in accordance with regulations, to a fair hearing by the commissioner. An individual aggrieved, because of the commissioner's decision made on the basis of a hearing, may appeal to a court of competent jurisdiction. If the court shall find the appellant has not had a fair hearing, or that the decision of the commissioner was arbitrary, capricious or unreasonable, or inconsistent with the law, the court shall remand the proceedings for redetermination of the issues by the department.

Sec. 3664. Misuse of lists and records. It shall be unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program, and in accordance with regulations, for any person or persons to solicit, disclose, receive or make use of, or authorize, knowingly permit, participate in or acquiesce in the use of any list of, or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files or communications of the State or subdivisions or agencies thereof, or acquired in the course of the performance of official duties. Any person who violates any provision of this section shall be punished by a fine of not less than \$50 nor more than \$300, or by imprisonment for not more than 60 days, or by both.

Sec. 3665. Cost of administration. Any cost of administering section 3660 shall be paid from funds received from federal sources in accordance with the agreement made under section 3660.

Sec. 3666. Saving clause. The Legislature reserves the right to amend or repeal all or any part of this subchapter at any time, and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges or immunities conferred by this subchapter or by Acts done pursuant thereto shall exist subject to the power of the Legislature to amend or repeal this subchapter at any time.

SUBCHAPTER III SERVICES TO THE BLIND

Sec. 3681. Services. The Department of Rehabilitation shall provide the following services to the blind: The locating of blind persons, the instruction of adult blind persons in their homes, and except with respect to applicants for or recipients of aid to the blind entitled to such services under sections 3402 and 3501 and, it shall provide services for the prevention of blindness, medical service for eye conditions and social services.

Sec. 3682. Education of blind children. Upon the request of the parents or guardians, the Department of Rehabilitation may send such blind children as it may deem fit subjects for education, for a term not exceeding 10 years, and thereafter in the discretion of the department, in the case of any pupil, to the Perkins Institution and Massachusetts School for the Blind at Watertown, Massachusetts or other school considered by the department to be qualified to provide suitable education for the blind child. In the exercise of the discretionary power conferred by this section, no distinction shall be made on account of the wealth or poverty of the parents or guardians of such children. No such pupil shall be withdrawn from such institution except with the consent of the proper authorities thereof or of the Governor; and the sums necessary for the support and instruction of such pupils in such institution, including all traveling expenses of such pupils attending such institution, shall be paid by the State. Nothing herein contained shall be held to prevent the voluntary payment of the whole or any part of such sums by the parents or guardians of such pupils.

SUBCHAPTER IV ALCOHOLISM

Sec. 3691. Treatment authorized. Alcoholism is declared to be an acute problem requiring such efforts as may reasonably be made in the treatment thereof. The Department of Rehabilitation is authorized to take such action as it may deem necessary to assist in bringing about the reduction of alcoholism.'

Sec. 2. R. S., T. 20, c. 401, repealed. Chapter 401 of Title 20 of the Revised Statutes which relates to Vocational Rehabilitation, is repealed.

Sec. 3. R. S., T. 22, § 1352, repealed. Section 1352 of Title 22 of the Revised Statutes is repealed.

Sec. 4. R. S., T. 22, § 3105, amended. Section 3105 of Title 22 of the Revised Statutes is amended to read as follows:

‘Sec. 3105. Vocational rehabilitation. The department, under the direction of the Governor and Council, may establish, conduct and maintain rehabilitation work as part of its program of aid and assistance. Such rehabilitation work shall be in cooperation with ~~vocational education, as provided by Title 20, chapters 307 and 401 in the Department of Education~~ the Department of Rehabilitation.

Funds provided for aid and assistance carried ~~on out~~ by the department may be used in providing such ~~vocational~~ rehabilitation.’

Sec. 5. R. S., T. 22, § 3501, amended. Section 3501 of Title 22 of the Revised Statutes is amended to read as follows:

‘Sec. 3501. Services for the blind. The department shall provide, or cooperate with other public agencies in providing a program of services for **applicants for or recipients of aid to the blind** ~~including the prevention of blindness, the locating of blind persons, medical service for eye conditions, vocational guidance and training of the blind, the placement of blind persons in employment, assistance to the blind in marketing the products of home industries, the instruction of the adult blind in their homes, and other social services to the blind.~~

Sec. 6. R. S., T. 22, § 3502, repealed. Section 3502 of Title 22 of the Revised Statutes is repealed.

Sec. 7. Transfer of records and employees. On the effective date of this Act, the Department of Rehabilitation shall succeed to all the records, documents and equipment in the hands of any state agency concerned with vocational rehabilitation which records, documents and equipment have been used or acquired in the performance of the rights, powers and duties of said state agency concerning vocational rehabilitation.

On the effective date of this Act, federal, state and other funds available for use by the Division of Vocational Rehabilitation of the Department of Education and for use by the Department of Health and Welfare for the vocational rehabilitation of the blind and for administrative expenses in connection therewith shall be transferred and made available for expenditure by the Department of Rehabilitation established by this Act.

On the effective date of this Act, the employees of the Vocational Rehabilitation Division of the Department of Education and the employees of the Department of Health and Welfare whose primary duties involve vocational rehabilitation of the blind and who are employed by these departments in accordance with the Personnel Law shall be transferred to the Department of Rehabilitation.

Sec. 8. Funds. All funds available to the Department of Health and Welfare on the effective date of this Act in connection with the functions transferred from the Department of Health and Welfare to the Department of Rehabilitation by the Revised Statutes, Title 22, sections 3681, 3682 and 3691 shall on that date be transferred to the Department of Rehabilitation, provided that to the extent

any such funds so available are also available to provide those services to applicants for or recipients of aid to the blind which remain the function of the Department of Health and Welfare, the Governor and Council shall make an equitable distribution of such funds between these departments. The Department of Rehabilitation, on said effective date, shall succeed to all the records, documents and equipment in the hands of the Department of Health and Welfare which are used in the performance of the functions so transferred and which are necessary to the future performance of such functions by the Department of Rehabilitation, except that any such records, documents or equipment which are essential to the performance of its functions with respect to applicants for or recipients of aid to the blind shall remain in the hands of the Department of Health and Welfare.

Sec. 9. Personnel. The personnel employed by the Department of Health and Welfare on the effective date of this Act in the performance of the functions transferred to the Department of Rehabilitation by the Revised Statutes, Title 22, sections 3681, 3682 and 3691 in accordance with the Personnel Law shall be transferred on said effective date to the Department of Rehabilitation, except that upon a request by the Commissioner of Health and Welfare to the Director of Personnel made subsequent to the passage of this Act and within 30 days prior to its effective date stating that some such personnel are necessary to the continuing performance of the functions of the Department of Health and Welfare which are not so transferred, the Director of Personnel shall make a determination of the extent and character of such need and the personnel required to fill such need and he shall name such personnel who in that event shall not be transferred but shall remain personnel of the Department of Health and Welfare.

Sec. 10. Appropriation. There is appropriated from the General Fund to the Department of Rehabilitation to carry out the purposes of this Act the sum of \$53,067 for the fiscal year ending June 30, 1966 and the sum of \$60,506 for the fiscal year ending June 30, 1967; the breakdown of which shall be as follows:

Department	1965-66	1966-67
REHABILITATION, DEPARTMENT OF		
Personal Services	(8) \$13,985	(8) \$14,474
All Other	37,616	45,851
Capital Expenditures	1,466	181
	<hr/>	<hr/>
Total	\$53,067	\$60,506