

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 925

H. P. 711 House of Representatives, February 19, 1969
Referred to Committee on State Government. Sent up for concurrence and
ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Rideout of Manchester.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Reorganization and Revision of Public Rehabilitation Services.

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

Sec. 1. R. S., T. 22, Part 7, additional. Title 22 of the Revised Statutes is amended by adding a new Part 7 to read as follows:

PART 7

PUBLIC REHABILITATION SERVICES

CHAPTER 713

REHABILITATION ACT

§ 3051. Short title

This chapter may be cited as the Rehabilitation Act.

§ 3052. Rehabilitation services unit created

There shall be created within the Department of Health and Welfare a functional unit of rehabilitation services, which shall be equal in administrative level and status with the other major administrative units within the department.

§ 3053. Authority

The Department of Health and Welfare is designated and established as the sole state agency to provide rehabilitation services, including but not limited to vocational rehabilitation services, and to provide evaluation and

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work adjustment services for purposes of the Federal Vocational Rehabilitation Act and Social Security Act, and acts amendatory thereof and additional thereto. The Commissioner of Health and Welfare shall make such rules and regulations as he finds necessary and appropriate for the administration of a program of rehabilitation services and shall organize such a program within the Department of Health and Welfare in such manner as shall be consistent with existing federal and state laws, rules and regulations.

§ 3054. Definitions

For the purposes of this chapter the following terms are defined:

1. **Commissioner.** "Commissioner" means the Commissioner of the Department of Health and Welfare.
2. **Department.** "Department" means the Department of Health and Welfare.
3. **Disadvantaged individuals.** "Disadvantaged individuals" means:
 - A. Handicapped individuals as hereinafter defined; and
 - B. Individuals disadvantaged by reason of their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or delinquency records or other conditions, and
 - C. Other members of their families when the provision of rehabilitation services to family members is necessary for the rehabilitation of an individual described in paragraph A or B.
4. **Evaluation and work adjustment services.** "Evaluation and work adjustment services" include, as appropriate in each case, such services as:
 - A. A preliminary diagnostic study to determine that the individual is disadvantaged, has an employment handicap, and that services are needed;
 - B. A diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social and environmental factors which bear on the individual's handicap to employment and rehabilitation potential, including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;
 - C. Services to appraise the individual's patterns of work behavior and ability to acquire occupational skills, and to develop work attitudes, work habits, work tolerances and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;
 - D. Any other goods or services provided to a disadvantaged individual, determined in accordance with federal regulations to be necessary for, and which are provided for the purpose of, ascertaining the nature of the handi-

cap to employment and whether it may reasonably be expected the individual can benefit from vocational rehabilitation services or other services available to disadvantaged individuals;

- E. Outreach, referral and advocacy; and
- F. The administration of these evaluation and work adjustment services.

5. Gainful employment. "Gainful employment" includes employment in the competitive labor market; practice of a profession; self-employment; homemaking; farm or family work, including work for which payment is in kind rather than in cash; sheltered employment; and home industries or other gainful homebound work.

6. Handicapped individual. "Handicapped individual" means any individual who has a physical or mental disability which constitutes a substantial handicap to employment, but which is of such nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a gainful occupation, including a gainful occupation which is consistent with his capacities and abilities. "Handicapped individual" also means any individual who has a physical or mental disability which constitutes a substantial handicap to employment for whom vocational rehabilitation services are necessary for the purposes of the determination of rehabilitation potential. An 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.

7. Rehabilitation facility. "Rehabilitation facility" means a facility which is operated for the primary purpose of providing rehabilitation services to, or gainful employment for handicapped individuals, or evaluation and work adjustment services for disadvantaged individuals, and which provides singly or in combination one or more of the following services for handicapped individuals:

- A. Comprehensive rehabilitation services which shall include, under one management, medical, psychological, social and vocational services;
- B. Testing, fitting or training in the use of prosthetic or orthotic devices;
- C. Prevocational conditioning or recreational therapy;
- D. Physical and occupational therapy;
- E. Speech and hearing therapy;
- F. Psychological and social services;
- G. Evaluation;
- H. Personal and work adjustment;
- I. Vocational training, in combination with other rehabilitation services;
- J. Evaluation or control of special disabilities; and

- K. Extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor market.
8. Rehabilitation services. "Rehabilitation services" which may be provided directly or through public or private resources, means any goods and services necessary to render a handicapped or disadvantaged individual fit to engage in a gainful occupation, or to determine his rehabilitation potential including but not limited to vocational rehabilitation services. Vocational rehabilitation services to handicapped individuals shall include:
- A. Evaluation, including diagnostic and related services; incidental to the determination of eligibility for and the nature and scope of services to be provided;
 - B. Counseling, guidance and placement services for handicapped individuals, including follow-up services to assist such individuals to maintain their employment;
 - C. Training services for handicapped individuals, which shall include personal and vocational adjustment, books and other training materials;
 - D. Interpreter services for the deaf;
 - E. Recruitment and training services for handicapped individuals to provide them with suitable employment opportunities;
 - F. Physical restoration services, including but not limited to:
 - (1) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes a substantial barrier to employment, but is of such nature that such correction or modification may reasonably be expected to eliminate or substantially reduce the handicap within a reasonable length of time;
 - (2) Necessary hospitalization in connection with surgery or treatment;
 - (3) Prosthetic and orthotic devices;
 - (4) Eye glasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist;
 - G. Maintenance as necessary during rehabilitation, as established by the rules and regulations of the department;
 - H. Occupational licenses, tools, equipment and initial stocks and supplies;
 - I. In the case of any type of small business operated by the severely handicapped, the operation of which can be improved by management services and supervision provided by the department, the provision of such services and supervision, alone or together with the acquisition by the department of vending stands or other equipment and initial stocks and supplies;
 - J. The construction or establishment in accordance with federal regulations of public or other nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute sub-

stantially to the rehabilitation of a group of individuals but which are not related directly to the rehabilitation plan of any one handicapped individual;

K. Transportation in connection with the rendering of any other rehabilitation service;

L. Any other goods and services necessary to render a handicapped individual employable;

M. Services to the families of handicapped individuals when such services will contribute substantially to the rehabilitation of such individuals.

§ 3055. Powers and duties of department

In carrying out this chapter, the commissioner:

1. Cooperates with other departments. Shall cooperate with other departments, agencies and institutions, both public and private, in providing for the rehabilitation of handicapped individuals and the evaluation and work adjustment of disadvantaged individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this chapter, such programs, facilities and services as may be necessary or desirable;

2. Reciprocal agreements with other states. May enter into reciprocal agreements with other states to provide for the rehabilitation of handicapped and disadvantaged individuals who are residents of the states concerned;

3. Rehabilitation facilities. May establish, construct and operate rehabilitation facilities and make grants to public or other nonprofit organizations for such purposes;

4. Vending stands and other businesses. May supervise the operation of vending stands and other small businesses established pursuant to this chapter to be conducted by severely handicapped individuals;

5. 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 rehabilitation;

6. Joint project. May share funding and administrative responsibility with another state agency in order to carry out a joint project to provide services to handicapped individuals;

7. Joint undertakings. May enter into joint undertakings with public and private agencies to further the effectiveness of evaluation and work adjustment services for disadvantaged individuals.

8. Eligibility and priority. Shall determine the eligibility of individuals for rehabilitation services or evaluation and work adjustment services and the priority therefor, in accordance with rules and regulations established by the department.

§ 3056. Acceptance of federal provisions

The department shall cooperate with the Federal Government in carrying out the purposes of any federal statutes 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 other conditions as may be necessary to secure the full benefits of such federal statutes to the State and its residents.

The department is authorized, subject to the approval of the Governor and Council to:

1. Apply for assistance. Apply for federal assistance under the Federal Vocational Rehabilitation Act and Social Security Act and acts amendatory thereof and additional thereto; and to comply with such conditions, not inconsistent with this chapter, as may be required for such assistance.

2. Perform for Federal Government. May perform functions and services for the Federal Government in addition to those provided for in this section.

§ 3057. Receipt and disbursement of funds

The Treasurer of the State shall be the appropriate officer of the State to receive federal grants for rehabilitation programs and the administration thereof, as contemplated by the Federal Vocational Rehabilitation Act and Social Security Act and acts amendatory thereof and additional thereto, and the State Controller shall authorize expenditures therefrom as approved by the department.

§ 3058. Gifts

The commissioner is authorized and empowered, with the approval of the Governor and Council, to accept and use gifts made unconditionally by will or otherwise, for carrying out the purposes of this chapter. Gifts made under such conditions as in the judgment of the department are proper and consistent with this chapter may be so accepted, with the approval of the Governor and Council, 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 Rehabilitation of Disabled Persons, to be used by said department to defray the expenses of rehabilitation in special cases, as determined by the commissioner, including the payment of necessary expenses of persons undergoing training.

§ 3059. Determination of disability; federal-state agreement

The department is designated as the state agency to make determination of disability required under the Federal Social Security Act and acts amendatory thereof and additional thereto, and the commissioner, subject to the approval of the Governor and Council, is authorized and empowered to enter into an agreement on behalf of the State with the designated federal official to carry out the Federal Social Security Act and acts amendatory thereof and additional thereto relating to the making of determinations of disability.

§ 3060. Maintenance not assignable

The right of a handicapped or disadvantaged individual to maintenance under this chapter shall not be transferable or assignable at law or in equity; and none of the moneys paid or payable or rights existing under this chapter shall be subject to execution, levy, attachment, garnishment or other legal process, or to the operation of any bankruptcy or insolvency law.

§ 3061. Hearings and judicial review

Any individual applying for or receiving rehabilitation under this chapter 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 or his designated representative. An individual aggrieved because of the decision made on the basis of the fair hearing may appeal to the Superior Court. If the court shall find the appellant has not had a fair hearing, or that the decision of the commissioner or his designated representative was arbitrary, capricious or unreasonable, or inconsistent with the law, the court shall remand the proceedings for redetermination of the issues by the commissioner or his designated representative.

§ 3062. Misuse of lists and records

It shall be unlawful, except for purposes directly connected with the administration of the rehabilitation program and in accordance with its rules and 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 rehabilitation, directly or indirectly derived from the records, papers, files or communications of the State or subdivisions 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.

§ 3063. Employees not to engage in political activities

No officer or employee engaged in the administration of the rehabilitation program shall use his official authority to influence or permit the use of the rehabilitation program for the purpose of interfering with an election or affecting the results thereof or for any partisan political purpose. No such officer or employee, shall solicit or receive, or be obliged to contribute or render, any service, assistance, subscription, assessment, or contribution for any political purpose. Any officer or employee violating this provision shall be subject to appropriate disciplinary action.

§ 3064. Continuing study of rehabilitation needs

The department shall make continuing study of the needs of handicapped and disadvantaged individuals in the State and how these needs may be met most effectively. Such study and planning shall include appraisal of workshops and other rehabilitation facilities in the State, their effectiveness and adequacy in meeting the overall needs of the handicapped and disadvantaged.

Such continuing study and recommendations are to be reflected in the biennial reports of the commissioner.

§ 3065. Vocational Rehabilitation Services unit

The commissioner shall establish within the department a Vocational Rehabilitation Services unit which shall administer that group of rehabilitation services which are specifically related to the Federal vocational rehabilitation programs.

§ 3066. Provision of vocational rehabilitation services

Vocational rehabilitation services may be provided directly or through public or private resources to handicapped individuals, including those who are eligible therefor under the terms of an agreement with another state or with the Federal Government.

§ 3067. Regulations

The department is authorized to establish such rules and regulations as may be required for the proper administration of a vocational rehabilitation program under the Federal Vocational Rehabilitation Act and acts amendatory thereof and additional thereto.

Sec. 2. R. S., T. 20, §§ 3051 - 3067, repealed. Sections 3051 to 3067 of Title 20 of the Revised Statutes are repealed.

Sec. 3. Transfer of Division of Vocational Rehabilitation. The Division of Vocational Rehabilitation is transferred from the Department of Education to the Department of Health and Welfare. All functions of the Division of Vocational Rehabilitation of the State Department of Education, together with all authorized personnel, records, leases and unexpended balances of appropriations, allocations and other funds, available or to be made available and equipment and supplies, are transferred to the Department of Health and Welfare.

Sec. 4. Appropriation. There is appropriated from the General Fund to the Department of Health and Welfare, Rehabilitation Services, the sum of \$27,394, to carry out the purposes of this Act. The breakdown shall be as follows:

	1969-70	1970-71
HEALTH AND WELFARE, DEPARTMENT OF		
Rehabilitation Services		
Personal Services	(3)	\$10,324
All Other	1,000	(3) \$14,450
Capital Expenditures	520	1,100
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	\$11,844	\$15,550

STATEMENT OF FACTS

The Maine Commission on Rehabilitation Needs has completed a 2-year State-wide evaluation of the unfilled needs of handicapped persons. A single integrated and functional unit of rehabilitation services ranks high on the Commission's list of priorities if the State is to successfully face the challenge of handicapped people during the next decade. The proposed reorganization and revision will permit more effective use of available federal matching funds and increase coordination of services within a statewide rehabilitation program. For example, 71% of the State appropriation request above (Sec. 4) is matchable at a 4-1 ratio with Federal vocational rehabilitation funds and would thus generate a total of \$97,245.