

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1646

S. P. 450

In Senate, April 13, 1977

Referred to Committee on Health and Institutional Services. Sent down for concurrence and 1,800 ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Snowe of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Authorize Services to Children and Youth.

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

Sec. 1. 22 MRSA sub-T. 6, 1st line, as enacted by PL 1975, c. 719, § 6, is repealed and the following enacted in its place:

PART 4. FACILITIES FOR CHILDREN AND ADULTS

Sec. 2. 22 MRSA sub-T. 4, Pt. 5 is enacted to read:

PART 5. CHILDREN'S SERVICES

CHAPTER 1701

GENERAL PROVISIONS

§ 8501. Short title

This chapter shall be cited as the Children's Services Act of 1977.

§ 8502. Declarations

1. Crisis. It is declared that thousands of Maine families are in crisis, that thousands of Maine children are at risk due to abuse, neglect, developmental disabilities, dropping out of school, exploitation, incorrigibility, juvenile delinquency, mental illness, mental retardation, running away from home or truancy; and that thousands of Maine youths are at risk with the law enforcement or judicial system.

2. Continued problems. It is further declared that in the immediate future increasing numbers of Maine families, children and youth will continue to have these problems.

3. Needs. It is further declared that the demonstrated needs of these citizens definitively documents urgent conditions which require immediate remedies.

4. Dilemmas; cause; solution. It is further declared that just as there is no one cause of human problems, there is no one solution to the dilemmas faced by families in crisis and children at risk.

5. Assistance in crisis. It is further declared assisting families in crisis and children at risk is the joint and several duty of the family, relatives and friends, the community and private agencies of the community; political subdivisions of this State, the State of Maine and the United States of America.

§ 8503. Objectives

The objectives of this Part are to:

1. Strengthen family life. Strengthen family life and encourage wholesome childrearing;
2. Prevent detrimental circumstances. Prevent development of circumstances detrimental to children;
3. Rehabilitation. More effectively rehabilitate families in crisis and children at risk;
4. Reduce protective services. Reduce the time a family or child is in protective services, substitute care or residential treatment through intensive casework and maximum use of community services;
5. Reduce long-term state custody. Reduce the excessively high number of children in long-term state custody, substitute shelter or residential treatment;
6. List available care and services. List care and services expected to be available on a priority basis to families in crisis and children at risk;
7. Strengthen care and services. Strengthen through coordination and integration the current care and services provided by state and community agencies responding to families in crisis and children at risk; and
8. Protective services. Increase the efficiency and effectiveness of protective services, substitute shelter or residential treatment.

§ 8504. Definitions

For the purposes of this Part, unless the context otherwise indicates, the following words shall have the following meanings.

1. Agreement. "Agreement" means a legally binding document between 2 parties including such documents as are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement or purchase of service.
2. Child at risk. A "child at risk" means a child, an adolescent or a youth who is or is alleged to be abused, neglected, developmentally disabled,

a dropout from school, exploited, incorrigible, a juvenile delinquent, mentally ill, mentally retarded, a runaway from home, a truant, a youth at risk with the law enforcement or judicial system, and members of the immediate family of such a child, and other children designated as children at risk by rules and regulations established pursuant to and consistent with the intent of this Part.

3. Community-based shelter. "Community-based shelter" means, but is not limited to, a full spectrum of shelter care or services provided in foster homes, juvenile facilities, including facilities for holding juveniles awaiting adjudication, group homes, respite care facilities, and youth shelters available as emergency or longer term shelters in the political subdivisions of the State.

4. Departments. "Departments" mean the Departments of Human Services and Mental Health and Corrections and their successors and such other agencies of the State as may conduct services related to this Part.

5. Family in crisis. "Family in crisis" means a family in which one or more members is a child at risk and other families designated as families in crisis by rules and regulations established pursuant to and consistent with the intent of this Part.

6. Homecare services. "Homecare services" means services provided in the home including, but not limited to, home health, homemaker or caretaker services available as emergency or longer term services in the political subdivisions of the State.

CHAPTER 1703

CHILDREN'S SERVICES AND POLICIES

§ 8511. Comprehensive services

1. Policy and intent. It is the policy of the State that the family should be primarily responsible for the care and nurture of children, having the right to bring up children and to meet special needs of children. To carry out its portion of the joint and several duties of the parties responsible for assisting families in crisis and children at risk, the State shall be one source of assisting families in crisis and children at risk. Subject to the limits of available funds and subject to policies, rules and regulations adopted pursuant to and consistent with the intent of this Part, the State shall provide a broad spectrum of comprehensive care and services offered directly by the departments or offered through agreements supporting and funding services provided by public or private nonprofit community level agencies which have a demonstrated capacity to positively impact on families in crisis or children at risk. The intent of this subsection is to establish the policy that the State, as one of several parties responsible for assisting families in crisis or children at risk, shall, subject to the limits specified in this Part, provide comprehensive services and care as authorized in this chapter and including a wide range of the spectrum of services needed to assist people.

§ 8512. Service priorities

1. Policy. When assisting a family in crisis or child at risk, it shall be the policy of the State to provide services in accordance with these priorities:

- A. To prevent development of detrimental circumstances;
- B. To promote strengthened family life by helping a family remain intact and encouraging wholesome development of children and youth;
- C. To support and reinforce parental care;
- D. To supplement parental care to compensate for its inadequacies; and
- E. To substitute in part or in whole for parental care.

§ 8513. Preventive services

1. Preventive services. The State shall provide preventive services including family crisis and court intake services to families in crisis and children at risk. Family crisis and court intake services shall function as integral elements of preventive service units. Court intake positions shall be established as state employees who are officers of the court.

§ 8514. Protective services

1. Protective services. The State shall provide protective services to families in crisis and children at risk. This service shall include staffing, funding and conducting 24 hours per day, 7 days per week, emergency services uniformly available statewide. The service shall include a single in-wats statewide toll free telephone for 24-hour hot line service backed up by a full spectrum of substitute shelter, community services and emergency services.

2. Services. This service shall have the capacity to respond in no more than 3 hours to a high percent of reports to the State alleging abuse, neglect or circumstances which seriously and imminently threaten the life or safety of a child at risk. That capacity to respond will be sufficient so that a reasonable person would conclude that the State is making a reasonable effort to protect children. That capacity to respond may include taking various actions, not limited to taking action to petition a court to order protective custody to adequately care for a child, or taking no action if administratively an agent of the State determines that the facts reported do not require immediate investigation or personal observation of a child and that the child will be adequately protected without further action by an agent of the State.

3. Circumstances defined. Abuse, neglect and circumstances which seriously and imminently threaten the life or safety of a child at risk respectively shall have the meaning defined by law or judicial actions, or in the absence of these shall have the meaning defined by rules and regulations adopted administratively pursuant to and consistent with the intent of this Part.

§ 8515. Substitute shelter care

1. Substitute shelter. The State shall provide substitute shelter care including return to home services to families in crisis and children at risk. This care shall consist of a comprehensive full spectrum of community based shelter available on a priority basis as alternative shelter for children at risk.

2. Institutional care. Institutional care shall be provided as a last resort and shall be provided on a temporary, exceptional basis, unless the identifiable needs of a family in crisis or a child at risk clearly require care and treatment properly provided in a residential treatment facility, or if necessary, in an institution. The detention or placing of juveniles in adult jails or corrections facilities shall be strictly prohibited.

3. Return to home services. Return to home services functioning as an integral element of substitute care units shall be established and assigned specifically to monitor and evaluate children in custody of instrumentalities of the State to determine if the child may be returned to parental care when the child's safety and continued protection is assured.

§ 8516. Family contact

1. Notice. In each instance when a court orders a child committed into protective custody, within 10 calendar days of such order, the parents shall be given notice of their legal right to petition a court to have custody of the child restored pursuant to section 3798. Such notice shall be expressed in language that a reasonable person would conclude is understandable to the average citizen.

2. Policy. When providing service pursuant to sections 3792 or 3794, it shall be the policy of the State that its employees or agents shall maintain a concentrated effort to provide service to the parents and children for the purpose of returning a child to its family unless the best interests of the child indicate otherwise.

3. Decision. When an administrative decision is made by the Department of Human Services that, in the best interests of the child, return to home is no longer a viable objective and the parents of the child under current circumstances are unable to care for a child, the parents shall be given notice of such action.

4. Exception. The policy set forth in subsection 2 shall not apply when notice has been given under subsection 3, nor when the parents have been given notice of the intent to place a child for adoption, unless adoption is not legally completed within 2 years.

§ 8517. Agencies to cooperate

1. Service on priority and coordinated basis. All agencies of the State or services supported by funds provided through the State shall provide appropriate services on a priority basis to families in crisis or children at risk. The intent of this section is to have the vast variety of state programs and resources available to provide service on a priority and coordinated basis to families in crisis or children at risk, rather than attempting to meet human problems solely through corrections, institutional, judicial, law en-

forcement, protective, substitute shelter or residential programs, except in the severest cases.

2. Responsibilities. Each state agency operating services supported by state funds shall develop policy specifying for all appropriate units that may serve families and children, its responsibility for providing, coordinating and integrating preventive, protective, substitute or rehabilitation services to families in crisis or children at risk.

CHAPTER 1705 ADMINISTRATION

§ 8521. Plan

1. Plan. Within 90 days following the effective date of this Part and thereafter on January 1st of each year, the departments and the Maine Human Services Council shall prepare and present jointly to the Legislature and Governor a plan for providing to families in crisis and children at risk comprehensive care and services organized in a coordinated and integrated manner.

§ 8522. Policies and rules

1. Additional. The State is authorized to adopt administratively, with the advice and consultation of the Maine Human Services Council, additional policies, rules or regulations pursuant to, consistent with, and necessary for administration of this Part.

2. Uniform policies. The State shall adopt uniform statewide policies consistently carried out throughout the State to assure uniform response to citizens needs and statewide availability of care and services for a family in crisis or a child at risk.

§ 8523. Training

1. Training. The State shall give high priority to offering and encouraging training of all appropriate employees of state and community agencies related to families in crisis and children at risk. At a minimum, training shall be available for protective and substitute care staff, juveniles probation staff, aftercare workers, law enforcement personnel, physicians, foster parents and other human service workers and professionals. Training shall emphasize topics such as abuse, neglect, families with domestic problems and children who are mentally retarded. Fully utilized shall be currently available funds such as the Title XX training portion of the U.S. Social Security Act and community resources such as education components of the community mental health centers, the Human Services Development Institute, the New England Resource Center and regional administrators of state agencies including mental retardation. Leadership should be exercised in organizing multidisciplinary community symposiums.

§ 8524. Personnel and contracts

1. Authorization. For the purpose of providing services pursuant to this Part, the departments are authorized to hire staff subject to the Personnel

Law and to make, subject to review by the Maine Human Services Council, agreements supporting and funding services provided by public and private nonprofit community level agencies which have a demonstrated capacity to positively impact on families in crisis and children at risk.

2. Staff ratios. The State shall employ a sufficient number of qualified service staff to maintain the basic minimum standard of one worker for not more than 25 families in crisis receiving services, and a sufficient number of qualified substitute care staff to maintain the basic minimum standard of one worker for not more than 30 children at risk receiving substitute care.

3. Coordinated and integrated services. Whenever possible and appropriate to the human service needs of a family or a child, services to a family in crisis or a child at risk shall be provided by one human service practitioner. At a minimum, services to a family in crisis or a child at risk shall be coordinated by one human service practitioner.

4. Separate positions offering coordinated service. Each family crisis, court intake or return to family worker shall fill a position which is separate from and not integrated in any way with another position. Each such worker shall not concurrently hold another position or title. Each shall perform duties solely germane to their respective positions. While other human service practitioners may, as one of their services, provide family crisis services, perform court intake services, and provide return to home services, family crisis, court intake and return to family workers respectively shall not perform other functions such as protective services, substitute care, court administration, probation and parole or corrections service. Family crisis, court intake and return to home workers shall function in a coordinated way with other human service practitioners to provide service on a priority basis to families in crisis or children at risk who are not primarily or adequately served by other human service practitioners.

§ 8525. Substitute shelter

1. Substitute shelter services. Substitute shelter services shall be administered at a single fixed point in State Government, rather than being administered in several units specialized along categorical lines of service.

§ 8526. Limitations on expenditures

1. Limits. Services authorized by this Part shall be provided subject to the limits of available federal, state, local and private voluntary funds.

2. Expenditures. In view of the demonstrated need of the services authorized in this Part, the State shall make all reasonable efforts to expend fully such sums as are appropriated or allocated to carry out the purposes of this Part, particularly all funds allocated pursuant to Title XX of the U.S. Social Security Act for children's services in the service specialties of protective services and substitute care of children, day care, homemakers, mental health, mental retardation or youth services. Agreements shall be executed making all reasonable efforts to expend fully funds allocated to protect and care for children via purchasing services pursuant to Title XX of the U.S. Social Security Act, and pursuant to chapter 1503.

3. Fund balances. Notwithstanding any other provision of law, funds appropriated to carry out the purposes of this Part shall not be transferred or used for other purposes and shall not lapse at the end of a fiscal year, but shall be carried forward from year to year to be expended for the same purpose.

STATEMENT OF FACT

Childrens' problems and service to remedy these problems is one of the most significant issues under consideration by the 108th Legislature. Many current and proposed state services are authorized by the Legislature with unclear legislative guidelines for administration of programs expending tens of millions of dollars each year. Various state agencies operate a large number of separate, distinct and categorical programs which frequently are fragmented, uncoordinated, overlapping or even competing with each other.

There is a great need to legislatively define the State of Maine's basic policies relating to what services will be available to children and how the services will be administered in a coordinated and effective manner.

This proposed bill reaffirms that the family is primarily responsible for the care and support of children. Subject to the limits of available funds, authorization is given for assisting families in crisis and children at risk through comprehensive and coordinated state administered services.

This bill proposes a state policy that service to families and children be provided in accordance with these priorities :

- A. Preventing development of circumstances detrimental to a child ;
- B. Promoting strengthened family life ;
- C. Reinforcing parental care of children ;
- D. Supplementing parental care to compensate for its shortcomings ;
- E. Substituting for parental care of children living in circumstances which jeopardize their health, welfare or morals.

The proposed bill specifies that 3 basic services will be available and defines general policies for administering each service. The 3 basic services are: Preventive services, protective services and substitute shelter care.

The proposed bill establishes general policy guidelines for administering services in a coordinated and effective way. A plan to be submitted to the Legislature and Governor will be prepared. Guidelines are set forth for adopting administratively, rules and uniform policies. Authorization is provided to improve coordination of services available through state employees and through private human services agencies. Limitations are established for expending state and federal funds.

Most importantly, this bill proposes a framework for offering coordinated, rather than fragmented services to children supported by taxpayers dollars.