

MAINE STATE LEGISLATURE

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(New Title)
New Draft of S. P. 447, L. D. 1644

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1893

S. P. 579

In Senate, June 29, 1977

Reported by Senator Snowe of Androscoggin from Committee on Health and Institutional Services. Sent down for concurrence and ordered printed under Joint Rules No. 2.

MAY M. ROSS, Secretary

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Authorize Family Crisis Workers and Short-term Emergency Services for Children, to Require the Designation of Return to Family Workers and to Enact Objectives and Priorities for Services to Children.

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

Sec. 1. 22 MRSA c. 1051, as amended, is repealed and the following enacted in its place:

CHAPTER. 1051

CHILDREN'S SERVICES: GENERAL PROVISIONS

§ 3700. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. Child. "Child" or "minor child" means any person who has not attained the age of 18 years.

2. Child at risk. "Child at risk" means a child who is or is alleged to be abused, neglected, abandoned, exploited, or a runaway from home. This definition shall not be construed to mean that the department has no responsibility to provide services to a child who is affected by other handicapping conditions or other adverse circumstances in combination with the conditions and circumstances included in the definition.

3. Family in crisis. "Family in crisis" means a family in which one or more members is a child at risk.

§ 3701. Objectives

When providing services to children at risk and families in crisis under this chapter the department shall have the following objectives:

1. Strengthen family life. To strengthen family life and to encourage wholesome childrearing;
2. Prevent detrimental circumstances. To prevent development of circumstances detrimental to children;
3. Rehabilitation. To more effectively rehabilitate families in crisis and children at risk;
4. Reduce protective services. To reduce the time a child receives protective services, substitute care or residential treatment through intensive casework and maximum use of community services;
5. Reduce long-term state custody. To reduce the number of children in long-term state custody, substitute shelter or residential treatment;
6. List available care and services. To list on a priority basis, care and services expected to be available to families in crisis and children at risk;
7. Coordination of services. To 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. Increase efficiency. To increase the efficiency and effectiveness of protective services, substitute shelter and residential treatment.

§ 3702. Priorities

When providing services to children at risk and families in crisis, the department shall, where possible, provide the services in accordance with the following priorities in the following order:

1. Prevention. To prevent development of detrimental circumstances;
2. Strengthen family life. To promote strengthened family life by helping a family remain intact and encouraging wholesome development of children and youth;
3. Support parental care. To support and reinforce parental care;
4. Supplement parental care. To supplement parental care to compensate for its inadequacies; and
5. Substitute parental care. To substitute in part or in whole for parental care.

§ 3703. Cooperation with Federal Government; provision of child welfare services

1. Authorization to provide welfare services. The department is authorized to cooperate with the Federal Government in providing child welfare

services and to expend funds available for these services. These services are defined as public social services which supplement or substitute for parental care and supervision. The purposes of these services are:

- A. To prevent, remedy, or assist in the solution of problems which may result in the neglect, abuse, exploitation or delinquency of children;
- B. To protect and care for homeless, dependent, or neglected children;
- C. To protect and promote the welfare of children of working mothers; and
- D. To otherwise protect and promote the welfare of children, including
 - (1) The strengthening of children's own homes, where possible, and
 - (2) Where needed, the provision of adequate care for children away from their homes in foster family homes or day care or other child care facilities.

2. Acceptance of provisions of federal law. The department is authorized to:

- A. Apply for federal aid under Title IV, Part B, of the Federal Social Security Act, as amended;
- B. Cooperate with the Federal Government in the establishment and administration of such child welfare services on the basis of plans developed jointly by the state agency and the Federal Government, and acceptable to both; and
- C. Make such reports in such form and containing such information as the Federal Government may from time to time require, and comply with such provisions as the Federal Government may from time to time find necessary to assure the correctness and verification of such reports.

3. Federal grants. The Treasurer of State shall be the appropriate fiscal officer of the State to receive federal grants on account of child welfare services and administration thereof, as contemplated by Title IV, Part B, of the Federal Social Security Act, as amended, and the State Controller shall authorize expenditures therefrom as approved by the Department of Human Services.

§ 3704. Family crisis workers

In order to carry out the objectives of this chapter, the department is authorized to establish additional lines to be designated "family crisis workers," to be attached to the child protective care units of the department, and to work with children at risk and families in crisis.

§ 3705. Parental consent

Nothing in this chapter shall be construed as authorizing any public official, agent or representative, in carrying out this chapter, to take charge of any child over the objection of either the father or the mother of such child, or of the person standing in loco parentis to such child, except pursuant to a proper court order.

Sec. 2. 22 MRSA § 3803 is enacted to read:

§ 3803. Family contact

1. Policy. Whenever the Department of Human Services provides services to a child under sections 3792 and 3794, it shall be the policy of the department to provide services for the purpose of returning the child to his family, unless such return would not be in the best interests of the child.

2. Notice required. Notice shall be given to the following persons in the following situations. Such notice shall be expressed in a manner which is understandable to the average person.

A. Whenever the court has ordered a child to be committed into custody under section 3792, this court, within 10 calendar days of the order, shall give written notice to the child's parents of their right to petition the Superior Court to have their custody of the child restored pursuant to section 3798.

B. Whenever a child has been committed into custody under section 3792 the department shall give prompt written notice to the parents or guardian of:

- (1) The residence of the child;
- (2) Any change in the residence of the child;
- (3) Any hospitalization of the child; and
- (4) Any serious injuries to and major medical care received by the child;

provided that such notice is in the best interests of the child.

C. Whenever an administrative decision is made by the Department of Human Services, that in the best interests of a child committed into custody under section 3792, return of the child to his family is no longer a viable objective and that the parents of the child are, under the current circumstances, unable to care for the child, the department shall notify the parents of this decision.

3. Visitation. The parents or guardian shall be afforded ample opportunity to visit with and to be visited by a child committed into custody under section 3792, provided that such visitation is in the best interest of the child.

4. Adoption. When a child who has been committed into custody under section 3792 is placed for adoption under title 19, Chapter 9, the department shall indicate to the court the specific departmental efforts to maintain contacts with the parents of the child, as required under this section.

5. Return to family workers. The commissioner of the department shall designate "return to family workers" in each region of the department. These workers shall be solely responsible for maintaining contact with the families of children who are in State custody and for assisting these families and evaluating the children so that these children may be safely returned to their custody.

Sec. 3. 22 MRSA c. 1059 is enacted to read:

CHAPTER 1059

SHORT-TERM EMERGENCY SERVICES FOR CHILDREN

§ 3891. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

1. Agency. "Agency" means any person, facility, organization, or agency approved by the department for the purpose of providing short-term emergency care services. This definition shall not be construed to prohibit an agency from providing services other than short-term emergency care services;

2. Child. "Child" means a minor who is or appears to be abandoned or lost or seriously endangered in his home surroundings, or who has or appears to have run away or escaped from his parents, guardian, or legal custodian; and

3. Short-term emergency services. "Short-term emergency services" means services which include protective, substitute shelter care and other services which are essential to the care, maintenance and protection of a child.

§ 3892. Authorization

The Department of Human Services is authorized to provide short-term emergency services to any child for the purpose of preventing or ameliorating emergency circumstances which may result in the abuse, neglect, exploitation or delinquency of the child or which may harm or threaten the health, welfare or morals of the child.

§ 3893. Mechanism

The department may provide short-term emergency care:

1. Directly. Directly; and

2. Contracts. Through contracts with agencies approved by the department, provided that the department and the agency have in force a written agreement which includes, but needs not be limited to, the consent of the agency to provide emergency services pursuant to this chapter.

§ 3894. Length of care

Except when consent is given pursuant to section 3896, or when custody is ordered pursuant to section 3792, the provision of short-term emergency services shall be limited to no more than 3 consecutive days per incident.

§ 3895. Notification of parents

At the initiation of short-term emergency services for a child, the department or agency, whichever is providing the services to the child, shall take reasonable steps to notify the parent, guardian or legal custodian of the child that the child is receiving the care.

§ 3896. Consent of child and parent

Unless custody of the child has been ordered under section 3792, the consent of both the child and one parent or the legal guardian of the child shall be required for the child to receive short-term emergency services and shall be subject to the following provisions:

1. Child's consent. The child's consent shall be required before any short-term emergency services are provided to him; and

2. Parent's consent. Short-term emergency services may be provided to a child prior to the consent of the child's parent or legal guardian. If, after the parent or legal guardian has been notified, he refuses to consent to the provision of short-term emergency services to his child, the child shall cease to receive these services.

§ 3897. Liability of parents

The provision of short-term emergency services by the department or any agency to a child, shall not release the parent or parents:

1. Support. From the liability for the support of the child if the child is under 18 years of age; or

2. Penalties. From the penalties for failing to support the child, as provided in Title 19, sections 481, 483 and 486.

When short-term emergency services have been provided to a child, a court may order the parent or parents to make weekly, monthly or quarterly payments, as are deemed reasonable and just, to the department to cover the costs of the support of the child while receiving the services.

§ 3898. Rules

1. Rules promulgated. The commissioner of the department shall adopt rules necessary for the effective implementation of this chapter within 90 days of the effective date of this Act.

2. Public hearing. The commissioner shall hold at least one public hearing prior to adopting these rules. Notice of each hearing shall be published at least once within 14 to 30 days before the hearing, in the state paper and in other newspapers or journals of general circulation adequate to provide reasonable notice to the public affected thereby.

3. Rules amended or repealed. Rules may be amended or repealed at any time by the commissioner after like notice and hearing of the portions amended or repealed.

STATEMENT OF FACT

The purposes of this new draft include the following:

1. To list the objectives and priorities which the Department of Human Services must have when it provides services to children;

2. To authorize the department to establish additional lines for family crisis workers whose function will be to work with children and their families;

3. To authorize the department to provide, for a period not to exceed 3 days per incident, short-term emergency services to runaways and other children who need emergency care, upon the consent of the child and child's parent; and

4. To require the department to designate "return to family workers", for the purpose of maintaining as much contact as possible with the family of a child who is under the protective custody of the department.

It should be noted that in section 1 of this new draft sections 3684 and 3686 are merely rewrites of existing laws which authorize the department to provide child welfare services.

It should further be noted that the services included in this new draft have already been funded under Title XX of the Social Security Act and under L. D. 757, the legislation which allocated \$1,200,000 of U. S. Public Works Employment Act money for children's services.