

MAINE STATE LEGISLATURE

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(New Draft of S.P. 144, L.D. 554)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1764

S.P. 626

In Senate, June 14, 1983

Reported by Senator Bustin of Kennebec from the Committee on Health and Institutional Services and printed under Joint Rule 2.

Original bill presented by Senator Carpenter of Aroostook. Cosponsored by Senator Collins of Knox and Representative Seavey of Kennebunkport.

JOY J. O'BRIEN, Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-THREE

AN ACT to Revise the General Assistance
Laws.

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

Sec. 1. 22 MRSA c. 1161 is enacted to read:

CHAPTER 1161

MUNICIPAL GENERAL ASSISTANCE

§4301. Definitions

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

1. Basic necessities. "Basic necessities" means food, clothing, shelter, fuel, electricity,

1 nonelective medical services as recommended by a
2 physician, telephone where it is necessary for medi-
3 cal reasons and any other commodity or service deter-
4 mined essential by the overseer in accordance with
5 the municipality's ordinance and this chapter.

6 2. Dwelling unit. "Dwelling unit" means a
7 building or part thereof used for separate living
8 quarters for one or more persons living as a single
9 housekeeping unit.

10 3. Eligible person. "Eligible person" means a
11 person who is qualified to receive general assistance
12 from a municipality according to standards of eligi-
13 bility determined by the municipal officers whether
14 or not that person has applied for general assis-
15 tance.

16 4. Emergency. "Emergency" means any life
17 threatening situation or a situation beyond the con-
18 trol of the individual which, if not alleviated
19 immediately, could reasonably be expected to pose a
20 threat to the health or safety of a person.

21 5. General assistance program. "General assis-
22 tance program" means a service administered by a
23 municipality for the immediate aid of persons who are
24 unable to provide the basic necessities essential to
25 maintain themselves or their families. A general
26 assistance program provides a specific amount and
27 type of aid for defined needs during a limited period
28 of time and is not intended to be a continuing
29 "grant-in-aid" or "categorical" welfare program.
30 This definition shall not in any way lessen the
31 responsibility of each municipality to provide gener-
32 al assistance to a person each time that the person
33 has need and is found to be otherwise eligible to
34 receive general assistance.

35 6. Household. "Household" means an economic
36 unit composed of a group of individuals legally obli-
37 gated for the support of each other or a group of
38 unrelated individuals who customarily share a dwell-
39 ing unit, pool income or share expenses in common.
40 When a household shares a basic necessity, such as
41 housing, with an otherwise unrelated person or per-
42 sons, the applicant shall be eligible for assistance

1 for their pro rata share of the costs of the shared
2 item or the cost of obtaining an alternative. Income
3 from the unrelated individuals shall not be consid-
4 ered available to the applicant if there is no pool-
5 ing of income.

6 7. Income. "Income" means any form of income in
7 cash or in kind received by the household, including
8 net remuneration for services performed, any payments
9 received as an annuity, retirement or disability ben-
10 efits, veterans' pensions, workers' compensation,
11 unemployment benefits, benefits under any state or
12 federal categorical assistance program, supplemental
13 security income, social security and any other pay-
14 ments from governmental sources, unless specifically
15 prohibited by any law or regulation, court ordered
16 support payments, income from pension or trust funds
17 and household income from any other source, including
18 relatives or unrelated household members.

19 The following items are not available within the
20 meaning of this subsection and subsection 10:

21 A. Income property, tools of trade, governmental
22 entitlement specifically treated as exempt assets
23 by state or federal law;

24 B. Actual work-related expenses, whether item-
25 ized or by standard deduction, such as taxes,
26 retirement fund contributions, union dues, trans-
27 portation costs to and from work, special equip-
28 ment costs and child care expenses; or

29 C. Income of children below the age of 18 years
30 who are full-time students and who are not work-
31 ing full time.

32 In determining need, income shall be considered
33 available for the week, weeks, month or months it was
34 intended to cover when it was received by the appli-
35 cant or members of the applicant's household. The
36 consideration shall not disqualify an applicant who
37 has exhausted his income to purchase basic necessi-
38 ties.

39 8. Just cause. "Just cause" means a valid,
40 verifiable reason that hinders an individual in com-
41 plying with one or more conditions of eligibility.

1 9. Municipality of responsibility. "Municipal-
2 ity of responsibility" means the municipality which
3 is liable for the support of any eligible person at
4 the time of application.

5 10. Need. "Need" means the condition whereby a
6 person has insufficient income, money, property,
7 credit, assets or other means available to provide
8 basic necessities for the individual and the
9 individual's family.

10 11. Net general assistance costs. "Net general
11 assistance costs" means those direct costs incurred
12 by a municipality in providing assistance to eligible
13 persons according to standards established by the
14 municipal officers and does not include the adminis-
15 trative expenses of the general assistance program.

16 12. Overseer. "Overseer" means an official des-
17 ignated by a municipality to administer a general
18 assistance program. The municipal officers shall
19 serve as a board of overseers if no other persons are
20 appointed or elected.

21 13. Real estate. "Real estate" means any land,
22 buildings, homes, mobile homes and any other things
23 affixed to that land.

24 §4302. Delegation of duties; oath; bond

25 Overseers may authorize some person whom they
26 shall designate to perform such of the duties imposed
27 upon them by this chapter as they may determine. The
28 overseers may designate more than one person to per-
29 form those duties. Before entering upon the perfor-
30 mance of those duties, the person or persons so des-
31 ignated shall be sworn and shall give bond to the
32 town for the faithful performance of those duties, in
33 such sum and with such sureties as the overseers
34 order.

35 §4303. Prosecution and defense of towns

36 For all purposes provided for in this chapter,
37 the overseers or any person appointed by them in
38 writing may prosecute and defend a town.

1 §4304. General assistance offices

2 1. Local office. There shall be in each municipi-
3 ality a general assistance office or designated
4 place where any person may apply for general assis-
5 tance at regular, reasonable times designated by the
6 municipal officers. Notice shall be posted of these
7 times, as well as the name of the overseer available
8 to take applications in an emergency at all other
9 times.

10 2. District office. In situations where in the
11 judgment of a municipality the number of applicants
12 does not justify the establishment of a local office
13 or designated place, or where for other reasons a
14 local office or designated place is not necessary, 2
15 or more municipalities, by a vote of their respective
16 legislative bodies, may establish a district office
17 for the administration of general assistance and make
18 agreements as to the payment of expenses and any
19 other matters relevant to the operation of the
20 office.

21 Any district office established pursuant to this sub-
22 section shall be located so as to be accessible by a
23 toll-free telephone call from any part of every
24 municipality it is designated to serve.

25 Every district general assistance officer shall be
26 available for the taking of applications at least 35
27 hours each week and shall make provision for desig-
28 nated personnel to be available to take applications
29 in an emergency 24 hours a day.

30 3. Emergencies. In any case when an applicant
31 is unable, due to illness, disability, lack of trans-
32 portation, lack of child care or other good cause, to
33 apply in person for assistance or unable to appoint a
34 duly authorized representative, the overseer shall
35 accept an application by telephone subject to veri-
36 fication by mail and a visit to the applicant's home
37 with the consent of the applicant.

38 §4305. Municipal ordinance required

39 1. Program required; ordinance. A general
40 assistance program shall be operated by each municipi-

1 pality and shall be administered in accordance with
2 an ordinance enacted, after notice and hearing, by
3 the municipal officers of each municipality.

4 2. Availability of ordinance. Each ordinance
5 shall be available in the town office and shall
6 otherwise be easily accessible to any member of the
7 public. Notice to that effect shall be posted.

8 3. Standards of eligibility. Municipalities may
9 establish standards of eligibility, in addition to
10 need, as provided in this chapter. Each ordinance
11 shall establish standards which shall:

12 A. Govern the determination of eligibility of
13 persons applying for relief and the amount of
14 assistance to be provided to eligible persons;

15 B. Provide that all individuals wishing to make
16 application for relief shall have the opportunity
17 to do so; and

18 C. Provide that relief shall be furnished or
19 denied to all eligible applicants within 24 hours
20 of the date of submission of an application.

21 4. Ordinance filed. Each municipality shall
22 present a copy of the ordinance establishing eligi-
23 bility standards, administration and appeal proce-
24 dures to the Department of Human Services. The ordi-
25 nance filed shall include all forms and notices,
26 including the application form, notice of decision
27 and appeal rights. Any amendment or modification of
28 the municipal ordinance shall be submitted to the
29 department for comment and filing.

30 §4306. Records; confidentiality of information

31 The overseer shall keep complete and accurate
32 records pertaining to general assistance, including
33 the names of eligible persons assisted and the
34 amounts paid for their assistance. Records, papers,
35 files and communications relating to an applicant or
36 recipient made or received by persons charged with
37 responsibility of administering this chapter are con-
38 fidential and no information relating to a person who
39 is an applicant or recipient may be disclosed to the

1 general public, unless expressly permitted by that
2 person.

3 §4307. Municipality of responsibility

4 1. Residency. Municipalities shall provide
5 relief as follows.

6 A. Overseers of a municipality or some person or
7 persons designated by them to act in their behalf
8 shall have the care of all eligible persons who
9 are residents of the municipality and shall cause
10 them to be relieved at the expense of that munic-
11 ipality, except as provided in section 4311. For
12 the purpose of this section, a "resident" is de-
13 fined as a person who has moved into a municipa-
14 lity with the intention of remaining in that
15 municipality and establishing a household.

16 B. Overseers of a municipality shall also have
17 the care of eligible persons who apply to them
18 for assistance and who are neither residents of
19 that municipality nor of any other municipality
20 and shall cause them to be relieved at the
21 expense of that municipality.

22 C. Nothing contained in this section may estab-
23 lish a durational residency requirement for gen-
24 eral assistance or permit a municipality to deny
25 assistance to an otherwise eligible applicant
26 when there is any dispute regarding residency.

27 2. Institutional resident. In the case of an
28 applicant who is in a group home, shelter, rehabili-
29 tation center, nursing home, hospital or other insti-
30 tution at the time of application and who has either
31 been in that institution for 6 months or less or has
32 a residence which he has maintained and to which he
33 intends to return, the municipality of responsibility
34 shall be the municipality where the applicant was a
35 resident immediately prior to entering the institu-
36 tion.

37 3. Moving; relocation. Overseers of a munici-
38 pality will not move or transport a recipient or
39 applicant into another municipality in order to
40 relieve their municipality of responsibility for that

1 recipient's or applicant's support. When the
2 overseers of a municipality assist a recipient to
3 relocate, at the recipient's request, in another
4 municipality, the sending municipality shall continue
5 to be responsible for the support of the recipient
6 for 30 days after relocation.

7 §4308. Initial and subsequent applications

8 No person may receive assistance from any munici-
9 pality until the applicant or a duly authorized
10 representative has made a written application to the
11 overseer, except that in an emergency the application
12 may be made verbally and the assistance shall be
13 granted temporarily. Further assistance shall be
14 granted upon completion of a written application and
15 determination of eligibility.

16 Notwithstanding any other provisions of this
17 chapter, any person who makes an application for
18 assistance, who has not applied for assistance during
19 the previous 6 months, shall have his eligibility
20 determined solely on the basis of need.

21 All subsequent applications within 6 months shall
22 be considered in accordance with this chapter and the
23 municipal ordinance. Notwithstanding this or any
24 other section of this chapter, persons who do not
25 have sufficient resources to provide one or more
26 basic necessities in an emergency shall be eligible,
27 although they would otherwise be considered ineli-
28 gible.

29 §4309. Eligibility

30 1. Eligibility of applicant. The overseer shall
31 make a determination of eligibility each time a
32 person applies or reapplies for general assistance
33 pursuant to this chapter and the ordinance adopted by
34 the municipality in accordance with section 4305.
35 The period of eligibility shall be for a period not
36 to exceed one month, whereupon at the expiration of
37 that period the person may reapply for assistance and
38 his eligibility may be redetermined.

39 2. Redetermination of eligibility. The overseer
40 may redetermine a person's eligibility at any time

1 during the period that person is receiving assistance
2 if the overseer is notified of any change in the
3 recipient's circumstances which may affect the amount
4 of assistance to which the recipient is entitled or
5 which may make the recipient ineligible; provided
6 that once a determination eligibility has been made
7 for a specific time period, no reduction in assis-
8 tance for that time period may be made without prior
9 written notice to the recipient with the reasons for
10 the action and an opportunity for the recipient to
11 receive a fair hearing upon the proposed change.

12 The overseer shall seek the facts necessary to estab-
13 lish eligibility first from the applicant. Facts
14 sought from other sources, with the exception of
15 public records, shall be gathered only with the
16 knowledge of the applicant.

17 When available information is inconclusive or con-
18 flicting regarding a fact which is material and
19 necessary to determine eligibility, the applicant
20 will be advised as to what questions remain. To be
21 considered inconclusive or conflicting, the informa-
22 tion on the application must be inconsistent with
23 statements made by the applicant, inconsistent with
24 other information on the application or previous
25 applications, or inconsistent with information
26 received by the overseer. Assistance may be denied
27 or terminated if the applicant is unwilling to supply
28 the overseer with necessary verification or permis-
29 sion to make collateral contacts or if the adminis-
30 trator cannot determine that eligibility exists after
31 contact with the applicant or the applicant's collat-
32 eral contacts.

33 3. Eligibility of members of person's house-
34 hold. Failure of an otherwise eligible person to
35 comply with this chapter shall not affect the general
36 assistance eligibility of any member of the person's
37 household who is not capable of working, including at
38 least:

39 A. A dependent minor child;

40 B. An elderly, ill or disabled person; and

1 C. A person whose presence is required in order
2 to provide care for any child under the age of 6
3 years or for any ill or disabled member of the
4 household.

5 §4310. Emergency benefits prior to full verification

6 Whenever an applicant for general assistance
7 states to the administrator that the applicant is in
8 need of immediate assistance to meet basic necessi-
9 ties, the overseer shall, pending verification,
10 issue to the applicant either personally or by mail,
11 within 24 hours of the application, sufficient benef-
12 fits to provide the basic necessities needed immedi-
13 ately by the applicant, provided that the following
14 conditions are met.

15 1. Probability of eligibility for assistance
16 after full verification. As a result of the initial
17 interview with the applicant, the overseer shall have
18 determined that the applicant will probably be eligi-
19 ble for assistance after full verification is com-
20 pleted.

21 2. Documentation. Where possible, the applicant
22 shall submit to the overseer at the time of the ini-
23 tial interview, adequate documentation to verify that
24 there is a need for immediate assistance.

25 3. Information obtained. When adequate documen-
26 tation is not available at the time of the initial
27 application, the overseer may contact at least one
28 other person for the purpose of obtaining information
29 to confirm the applicant's statements about his need
30 for immediate assistance.

31 4. Limitations. In no case:

32 A. May the authorization of benefits under this
33 section exceed 30 days; and

34 B. May there be further authorization of benef-
35 fits to the applicant until there has been full
36 verification confirming the applicant's eligibil-
37 ity.

38 §4311. State reimbursement to municipalities;
39 reports

1 1. Departmental reimbursement. When a municipi-
2 pality incurs net general assistance costs in any
3 fiscal year in excess of .0003 of that municipality's
4 1981 state valuation as determined by the State Tax
5 Assessor in the statement filed by him as provided in
6 Title 36, section 381, the Department of Human Ser-
7 vices shall reimburse the municipality for 90% of the
8 amount in excess of these expenditures when the
9 department finds that the municipality has been in
10 compliance with all requirements of this chapter. If
11 a municipality elects to determine need without con-
12 sideration of funds distributed from any
13 municipally-controlled trust fund which must other-
14 wise be considered for purposes of this chapter, the
15 department shall reimburse the municipality for 66
16 2/3% of the amount in excess of such expenditures
17 when the department finds that the municipality has
18 otherwise been in compliance with all requirements of
19 this chapter.

20 2. Submission of reports. Municipalities shall
21 submit reports as follows.

22 A. For purposes of this section, those municipi-
23 palties that received reimbursement during the
24 previous fiscal year of the State and those
25 municipalities which expect to receive reimburse-
26 ment during the current fiscal year of the State
27 must submit monthly reports on forms provided by
28 the department.

29 B. Those municipalities that did not receive
30 reimbursement during the previous fiscal year and
31 do not expect to receive reimbursement for the
32 current fiscal year must submit quarterly reports
33 on forms provided by the department.

34 3. Claims. The Department of Human Services may
35 refuse to accept and pay any claim for reimbursement
36 which is not submitted by a municipality to the
37 department within 90 days of the payment upon which
38 that claim is based.

39 §4312. Assistance; unincorporated place

40 When an organized municipality grants assistance
41 to eligible persons from an unincorporated or

1 unorganized township, the municipality shall be reim-
2 bursed 100% for net general assistance costs to those
3 individuals. The Department of Human Services may
4 appoint agents within the unorganized townships to
5 administer a general assistance program.

6 §4313. Reimbursement to individuals relieving eligi-
7 ble persons; prior approval; emergencies

8 Municipalities, as provided in section 4307,
9 shall pay expenses necessarily incurred for providing
10 basic necessities to eligible persons anywhere in the
11 State by any person not liable for their support pro-
12 vided that the municipality of responsibility shall
13 be notified and approve those expenses and services
14 prior to their being made or delivered, except as
15 provided in this section.

16 1. Emergency care. In the event of an emergency
17 admission of an eligible person to the hospital, the
18 hospital shall notify the overseer of the liable
19 municipality. The notification shall be by telephone
20 and confirmed by certified mail return receipt
21 requested, or by certified mail, and shall be made
22 within 3 business days of the person's admission.

23 2. Burial. In the event of the death of an eli-
24 gible person, the funeral director shall notify the
25 overseer prior to making any burial preparations.
26 Notwithstanding section 4305, subsection 3, paragraph
27 C, a decision on any application for assistance with
28 burial expenses need not be rendered until the over-
29 seer has verified that no relative or other resource
30 is available to pay for the burial costs, but in no
31 case shall the decision be rendered more than 10 days
32 after receiving an application.

33 §4314. Cooperation in administration of general
34 assistance

35 1. State departments. Upon the request of any
36 municipal official charged with the responsibility of
37 administering general assistance, the Department of
38 Human Services and any other department of the State
39 having information which has a bearing on the eligi-
40 bility of any person applying for general assistance
41 shall release that information. The information

1 shall be restricted to those facts necessary for the
2 official to make a determination of eligibility for
3 general assistance.

4 2. Financial institutions. A treasurer of any
5 bank, trust company, benefit association, insurance
6 company, safe deposit company or any corporation or
7 association receiving deposits of money, except
8 national banks, shall, on request in writing signed
9 by the overseer of any municipality or its agents, or
10 by the Commissioner of Human Services or his agents
11 or by the Director of the Bureau of Veterans' Ser-
12 vices or his agents, inform that overseer or the
13 Department of Human Services or the Bureau of Vet-
14 erans' Services of the amount deposited in the corpo-
15 ration or association to the credit of the person
16 named in the request, who is a charge upon the munic-
17 ipality or the State, or who has applied for support
18 to the municipality or the State.

19 3. Verification of employment. The applicant has
20 responsibility for providing documentary verification
21 of benefits received during the period for which
22 assistance is requested, or in the month immediately
23 prior to the application for assistance when those
24 wages and benefits are expected to be the same during
25 the period for which assistance is requested.

26 The overseer shall give the applicant written notice
27 that if the applicant does not provide the documen-
28 tary verification within one week of the application,
29 the employer will be contacted.

30 Notwithstanding any other provision of law, every
31 employer shall, upon written request of the overseer,
32 release information regarding any wages or other
33 financial benefits paid to the applicant or a member
34 of the applicant's household. No employer may dis-
35 charge or otherwise adversely affect an employee
36 because of any request for information pursuant to
37 this section.

38 4. Confidentiality. Any person who seeks and
39 obtains information under this section is subject to
40 the same rules of confidentiality as the person who
41 is caretaker of the information which is by law con-
42 fidential.

1 5. Refusal. Any person who refuses to provide
2 any information to an overseer who requests it in ac-
3 cordance with this section shall state in writing the
4 reasons for the refusal within 3 days of receiving
5 the request.

6 6. Penalty. Any person who refuses upon request
7 to provide such information without just cause com-
8 mits a civil violation for which a forfeiture of not
9 less than \$25 nor more than \$100 may be adjudged to
10 be recovered in a civil action in any court of compe-
11 tent jurisdiction. Any person who willfully renders
12 false information to an administrator is guilty of a
13 Class E crime.

14 §4315. False representation

15 Whoever knowingly and willfully makes any false
16 representation of a material fact to the overseer of
17 any municipality or to the department or its agents
18 for the purpose of causing himself or any other
19 person to be granted assistance by the municipality
20 or by the State may be ineligible for assistance for
21 a period of up to 60 days and is guilty of a Class E
22 crime.

23 No person may be denied general assistance solely
24 for making a false representation prior to being
25 afforded the opportunity for an appeal. If a
26 person's application has been approved, there shall
27 be no revocation of general assistance during the
28 period of entitlement, until that person has been
29 provided notice and an opportunity for an appeal as
30 provided in sections 4321 and 4322.

31 If the fair hearing officer finds that the recip-
32 ient made a false representation to the overseer in
33 violation of this section, that recipient shall be
34 required to reimburse the municipality for any assis-
35 tance rendered for which he was ineligible and shall
36 be ineligible from receiving further assistance for
37 a period of up to 60 days.

38 Any recipient whose assistance is terminated or
39 denied under this section shall have the right to
40 appeal that decision pursuant to the Maine Rules of
41 Civil Procedure, Rule 80-B.

1 No recipient who has been granted assistance, in
2 accordance with this chapter, may have that assis-
3 tance terminated prior to the decision of the fair
4 hearing officer. In the event of any termination of
5 assistance to any recipient, the dependents of that
6 person may still apply for and, if eligible, receive
7 assistance.

8 §4316. Work requirement

9 1. Ineligibility for assistance. An applicant
10 is ineligible for assistance for 60 days if the
11 municipality establishes that the person, without
12 just cause, refuses to search for employment when
13 such search is reasonable and appropriate, refuses to
14 register for work, refuses to accept a suitable job
15 offer under this section, or refuses to participate
16 in a training or educational program which would
17 assist him in securing employment. An applicant is
18 further ineligible for assistance for 60 days if he
19 quits work without just cause, or willfully fails to
20 perform below average standards the job assigned
21 under subsection 4, without just cause.

22 2. Eligibility regained; limitations. An appli-
23 cant may regain his eligibility during the 60-day
24 period by becoming employed or otherwise complying
25 with this section.

26 In no case may the requirement to search for work or
27 participate in a work or training program interfere
28 with:

29 A. Existing employment or participation in a
30 vocational training or primary or secondary edu-
31 cational program which would assist the indi-
32 vidual in securing employment;

33 B. The individual's ability to follow up on a
34 bona fide job offer; or

35 C. Attendance at an interview for possible
36 employment.

37 3. Just cause. Just cause for failure to meet
38 work requirements or the use of potential resources
39 shall be found when there is reasonable and
40 verifiable evidence of:

- 1 A. Physical or mental illness or disability;
2 B. Below-minimum wages;
3 C. Sexual harassment;
4 D. Physical or mental inability to perform re-
5 quired job tasks;
6 E. Inability to work required hours or to meet
7 piece work standards;
8 F. Lack of transportation to and from work or
9 training;
10 G. Inability to arrange for necessary child care
11 or care of ill or disabled family member;
12 H. Any reason found to be good cause by the
13 Employment Security Commission; and
14 I. Any other evidence which is reasonable and
15 appropriate.

16 The overseer shall not require medical verification
17 of medical conditions which are apparent or which are
18 of such short duration that a reasonable person would
19 not ordinarily seek medical attention. In any case
20 in which the overseer requires medical verification,
21 and the applicant has no means of obtaining such
22 verification, the overseer shall grant assistance for
23 the purpose of obtaining such verification.

24 4. Municipal work program. In addition, a
25 municipality may require that an otherwise eligible
26 person who is capable of working be required to per-
27 form work for the municipality as a condition of
28 receiving general assistance. Any such work require-
29 ment shall be subject to the following provisions.

30 A. No person may, as a condition of general
31 assistance eligibility, be required to do any
32 amount of work that exceeds the value of the net
33 general assistance that the person would other-
34 wise receive under state general assistance stan-
35 dards. Any person performing work under this
36 subsection shall be provided with net general

1 assistance, the value of which is computed at a
2 rate of at least the state's minimum wage.

3 B. In no case may eligible persons performing
4 work under this subsection replace regular munic-
5 ipal employees.

6 C. In no case may an eligible person in need of
7 emergency assistance be required to perform work
8 under this subsection prior to receiving general
9 assistance.

10 D. Expenses related to work performed under this
11 subsection by an eligible person shall be consid-
12 ered in determining the amount of net general
13 assistance to be provided to the person.

14 E. General assistance provided by a municipality
15 for work performed by an eligible person under
16 this subsection shall be:

17 (1) Included in the reimbursable net gen-
18 eral assistance costs; and

19 (2) Itemized separately in reports to the
20 Department of Human Services under section
21 4311.

22 §4317. Use of potential resources

23 Any applicant or recipient must make a good faith
24 effort to secure any potential resource which may be
25 available, including, but not limited to, any state
26 or federal assistance program, employment benefits,
27 governmental or private pension programs, available
28 trust funds, support from legally liable relatives,
29 child-support payments and jointly held resources
30 where the applicant or recipient share may be avail-
31 able to the individual. Assistance shall not be
32 withheld pending receipt of such resource as long as
33 application has been made or good faith effort is
34 being made to secure the resource.

35 Any individual applying for or receiving assis-
36 tance due to a disability must make a good faith
37 effort to make use of any medical and rehabilitative
38 resources that may be recommended by a physician

1 which are available without financial burden and
2 which would not constitute further physical risk to
3 the individual.

4 Any applicant who refuses to utilize potential
5 resources without just cause, after receiving a writ-
6 ten 7-day notice, shall be disqualified from receiv-
7 ing assistance until he has made a good faith effort
8 to secure the resource.

9 Any applicant who forfeits receipt of or causes
10 reduction in benefits from another public assistance
11 program because of fraud, misrepresentation or a
12 knowing or intentional violation of program rules
13 committed by the applicant within the 60 days prior
14 to his application for assistance, is not eligible to
15 receive general assistance to replace the forfeited
16 assistance for a period of 60 days from the date of
17 application for general assistance, except as pro-
18 vided for initial applications.

19 §4318. Recovery of expenses

20 A municipality or the State, which has incurred
21 general assistance program costs for the support of
22 any eligible person, may recover the full amount
23 expended for that support either from the person
24 relieved or from any person liable for the
25 recipient's support, their executors or administra-
26 tors, in a civil action. In no case may a municipal-
27 ity or the State be authorized to recover through a
28 civil action, the full or part of, the amount
29 expended for the support of a previously eligible
30 person, if:

31 1. Repayment. As a result of the repayment of
32 that amount this person would, in all probability,
33 again become eligible for general assistance; or

34 2. Public assistance. This person is presently
35 receiving any form of public assistance.

36 §4319. Liability of relatives for support; procedure

37 The father, mother, grandfather, grandmother,
38 children or grandchildren, by consanguinity, living
39 within or owning real or tangible property within the

1 State, shall support persons chargeable in propor-
2 tion to their respective ability. A municipality,
3 the State or any kindred of an eligible person having
4 incurred expense for the relief of that eligible
5 person may complain to the Superior Court in the
6 county where the kindred reside or to any other court
7 of competent jurisdiction. The court may cause the
8 kindred to be summoned, and upon hearing or default
9 may assess and apportion a reasonable sum upon those
10 who are found to be of sufficient ability, for the
11 support of the eligible person to the time of the
12 assessment, and shall issue a writ of execution. The
13 assessment shall not be made to pay any expense for
14 relief afforded more than 6 months before the com-
15 plaint was filed. The complaint may be filed with
16 the clerk of the court who shall issue a summons
17 thereon, returnable and to be served as writs of sum-
18 mons are. On suggestion of either party that there
19 are other kindred of ability not named, the complaint
20 may be amended by inserting their names, and they may
21 be summoned in like manner and be proceeded against
22 as if originally named. The court may assess and
23 apportion upon the kindred a sum sufficient for the
24 future support of the eligible person to be paid
25 quarterly, until further order; and may direct with
26 whom of the kindred consenting thereto and for what
27 time he may dwell, having regard to his comfort and
28 their convenience. On application of the municipal-
29 ity, the State or person to whom payment was ordered,
30 the clerk may issue or renew a writ of execution
31 returnable to the next term of the court to collect
32 what may be due for any preceding quarter. The court
33 may, from time to time, make any further order on
34 complaint of a party interested and, after notice
35 given, alter the assessment or apportionment. On
36 failure to sustain a complaint, the respondents
37 recover costs.

38 §4320. Liens on real estate

39 The amount of money spent by a municipality or
40 the State to provide mortgage payments to an eligible
41 person under this chapter may, except for good cause,
42 claim a lien on any real estate, either land or
43 buildings or a combination thereof, owned by that
44 person.

1 The liens shall be effective until enforced by an
2 action for equitable relief, or until discharged, or
3 until released by the municipal officers or the
4 State, upon the death of the recipient, or at the
5 time of sale of the property. Interest on the amount
6 of money constituting the lien may be charged at a
7 rate established by the department, but in no event
8 may the rate exceed the maximum rate of interest
9 allowed by the Treasurer of State, pursuant to Title
10 36, section 186.

11 The municipal officers or the State shall file a
12 notice of the lien or its discharge with the register
13 of deeds of the county wherein the property is locat-
14 ed. The person named in the lien shall be notified
15 by certified mail return receipt requested and shall
16 be entitled to all other rights under the law in ac-
17 cordance with Title 36, sections 942 and 943. Notice
18 of lien shall include written notice of these exemp-
19 tions.

20 No lien may be claimed or enforced under this
21 section while the person against whom the lien is
22 claimed or enforced is either presently receiving any
23 form of public assistance, or, as a result of the
24 lien, would in all probability again become eligible
25 for general assistance.

26 In no event may the lien be enforced prior to the
27 death of the recipient of general assistance or the
28 transfer of the property.

29 §4321. Grant, denial, reduction or termination to be
30 communicated in writing; right to a hearing

31 Any action relative to the grant, denial, reduc-
32 tion, suspension or termination of relief provided
33 under this chapter must be communicated to the appli-
34 cant in writing. The decision shall include the
35 specific reason or reasons for that action and shall
36 inform the person affected of his right to a hearing,
37 the procedure for requesting such a hearing, the
38 right to notify the department and the available
39 means for notifying the department, if he believes
40 that the municipality has acted in violation of this
41 chapter. All proceedings relating to the grant,
42 denial, reduction, suspension or termination of

1 relief provided under this chapter are not public
2 proceedings under Title 1, chapter 13, unless other-
3 wise requested by the applicant or recipient.

4 §4322. Right to a fair hearing

5 Any person aggrieved by a decision, act, failure
6 to act or delay in action concerning his application
7 for general assistance under this chapter shall have
8 the right to an appeal. If a person's application
9 has been approved there shall be no revocation of
10 general assistance during the period of entitlement
11 until that person has been provided notice and an
12 opportunity for hearing as provided in this section.
13 After 24 hours from the time a person applies for
14 general assistance, or immediately after a person
15 receives notice that an approved application has been
16 revoked, that person may request an appeal within 5
17 working days. A hearing shall be held by the fair
18 hearing officer within 7 working days following the
19 receipt of a written request by the applicant for an
20 appeal. The hearing may be conducted by one or more
21 fair hearing officers. In no event may an appeal be
22 held before a person or body responsible for the
23 decision, act, failure to act or delay in relating to
24 the applicant.

25 The person requesting the appeal shall be
26 afforded the right to confront and cross-examine any
27 witnesses against him, present witnesses in his own
28 behalf and be represented by counsel or other spokes-
29 man, and be advised of these rights in writing. The
30 decision of such an appeal shall be based solely on
31 evidence adduced at the hearing. The person request-
32 ing the appeal shall, within 5 days after the appeal,
33 be furnished with a written decision detailing the
34 reasons for that decision. When any decision by a
35 fair hearing officer or court authorizing assistance
36 is made, that assistance shall be provided within 24
37 hours. Review of any action or failure to act under
38 this chapter shall be pursuant to the Maine Rules of
39 Civil Procedure, Rule 80-B. The municipality shall
40 keep and provide a sufficient record of fair hearing
41 for the court review.

42 §4323. Department of Human Services; responsibili-
43 ties

1 The Department of Human Services shall be respon-
2 sible for the proper administration of general assis-
3 tance. The department shall assist municipalities in
4 complying with this chapter. The department shall
5 annually review and comment on each municipal ordi-
6 nance and any amendment filed with respect to its ad-
7 equacy and compliance with this chapter and make any
8 recommendations it deems appropriate to the munici-
9 pality.

10 1. Review. The department shall review the
11 administration of general assistance in each munici-
12 pality for compliance with this chapter. This review
13 shall be made on a regular basis and may be made in
14 response to a complaint from any person as necessary.

15 The department shall inspect the municipality's
16 records and discuss the administration of the program
17 with the overseer. The overseer or his designee
18 shall be available during the department's review and
19 shall cooperate in providing all necessary informa-
20 tion.

21 The department shall report the results of its review
22 in writing to the municipality. The written notice
23 shall set forth the department's findings of whether
24 the municipality is in compliance with this chapter.

25 2. Violation; penalty. If the department finds
26 any violation of this chapter after review, it shall
27 notify the municipality that it has 30 days in which
28 to correct that violation and specify what action
29 shall be taken in order to achieve compliance. The
30 municipality shall file a plan with the department
31 setting forth how it will attain compliance. The
32 department shall notify the municipality if the plan
33 is acceptable and that it will review the municipal-
34 ity for compliance within 60 days of accepting the
35 plan. Any municipality which fails to file an ac-
36 ceptable plan with the department or which is in
37 violation of this chapter at the expiration of the
38 60-day period shall be subject to a civil penalty of
39 not less than \$500. The Department of Human Services
40 shall enforce this section in any court of competent
41 jurisdiction. Every 30-day period that a municipal-
42 ity is in violation of this chapter after review and
43 notification shall constitute a separate offense. In

1 addition to the civil penalty, the department shall
2 withhold reimbursement to any municipality which is
3 in violation of this chapter until it reaches compli-
4 ance.

5 3. Departmental assistance. Whenever the
6 department finds that persons in immediate need of
7 general assistance have not received that assistance
8 as a result of a municipality's failure to comply
9 with the requirements of this chapter, the department
10 shall grant this assistance in accordance with regu-
11 lations adopted by it. The expense of that assis-
12 tance granted, including a reasonable proportion of
13 the state's administrative cost as can be attributed
14 to that assistance, shall be billed by the department
15 to the municipality. Should that bill remain unpaid
16 30 days after presentation to the municipality, the
17 department shall refer the bill to the Treasurer of
18 State for payment from any taxes, revenue, fines or
19 fees due from the State to the municipality.

20 4. Appeal. Any municipality which is aggrieved
21 by any decision or action made by the department pur-
22 suant to this section shall have the right to appeal
23 pursuant to the Maine Administrative Procedure Act,
24 Title 5, chapter 375, subchapter IV. A request for
25 that appeal shall be in writing and shall be made
26 within 30 days of receiving notification. The appeal
27 shall be held within 30 days of receipt of that
28 request and shall be conducted by one or more fair
29 hearing officers. In no event may an appeal be held
30 before a person or body responsible for the decision
31 or action. Review of any decision under this section
32 shall be pursuant to the Maine Rules of Civil Proce-
33 dure, Rule 80 C.

34 §4324. Report to the Legislature

35 The Department of Human Services shall review and
36 evaluate the impact and effect of this chapter, and
37 shall report its findings and recommendations to the
38 First Regular Session of the 112th Legislature. The
39 report shall include, but not be limited to, the fol-
40 lowing:

41 1. Findings. Specific findings concerning the
42 consequences of ineligibility and disqualification

1 determinations on individuals applying for aid from
2 municipal general assistance programs; and

3 2. Estimation. An estimation of the number of
4 individuals or families assisted, including the
5 amount of that assistance, who would be categorically
6 and financially eligible for:

7 A. The Aid to Families with Dependent
8 Children-Unemployed Parent Program;

9 B. The Aid to Families with Dependent Children
10 Optional Program providing Medicaid coverage to
11 pregnant women with no other children; and

12 C. An emergency assistance program for which the
13 financial eligibility standard is based on the
14 state's aid to families with dependent children
15 standard of need.

16 Sec. 2. 22 MRSA §4450, as repealed and replaced
17 by PL 1977, c. 417, §2, is repealed.

18 Sec. 3. 22 MRSA §4461, as amended by PL 1965, c.
19 23, is repealed.

20 Sec. 4. 22 MRSA §4467, as amended by PL 1977, c.
21 417, §3, is repealed.

22 Sec. 5. 22 MRSA §4483, as amended by PL 1977, c.
23 417, §4, is repealed.

24 Sec. 6. 22 MRSA §4488 is repealed.

25 Sec. 7. 22 MRSA §4491, as amended by PL 1977, c.
26 417, §6, is repealed.

27 Sec. 8. 22 MRSA §4492, as amended by PL 1977, c.
28 417, §7, is repealed.

29 Sec. 9. 22 MRSA §4496, as repealed and replaced
30 by PL 1975, c. 664, is repealed.

31 Sec. 10. 22 MRSA §4497, as amended by PL 1977,
32 c. 417, §8, is repealed.

33 Sec. 11. 22 MRSA §4498, as repealed and replaced
34 by PL 1977, c. 417, §9, is repealed.

1	4318	4500-A
2	4319	4467
3	4320	----
4	4321	4505
5	4322	4507
6	4323	4504, subsection 6
7	4324	----

8 In some instances, there is also new material
9 included with the old law. The old law may also be
10 rearranged.

11 The new draft authorizes municipalities to estab-
12 lish, by ordinance, standards in addition to need.
13 These standards include requiring applicants to ful-
14 fill work requirements, and to use other available
15 resources to reduce their dependence on the general
16 assistance program. Need will continue to be the
17 only eligibility criterion on the first application
18 within a 6-month period.

19 The standards for ineligibility are statutory,
20 and are to be measured against "just cause," which is
21 defined in the bill. In all cases, any dependents of
22 an applicant who is disqualified will continue to
23 receive general assistance.

24 The new draft also clarifies the responsibility
25 of the Department of Human Services to ensure the
26 proper administration of the general assistance pro-
27 gram by the municipalities and to report back to the
28 112th Legislature regarding the effect of this new
29 draft on the program, its funding requirements and
30 administrative alternatives.

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