

MAINE STATE LEGISLATURE

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(EMERGENCY)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 2061

H.P. 1559 House of Representatives, February 8, 1984

Reference to the Committee on Education. Ordered printed and sent up for concurrence.

Approved for introduction by the Legislative Council pursuant to Joint Rule 26.

EDWIN H. PERT, Clerk

Presented by Representative McCollister of Canton.

Cosponsors: Senator Sewall of Lincoln, Senator Brown of Washington and Representative Keller of Bangor.

STATE OF MAINE

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

**AN ACT to Define Eligibility for School
Purposes and to Determine Financial
Responsibility for the Education of State
Agency Clients.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, school administrative units have a fiscal year which coincides with the state's fiscal year; and

Whereas, it is essential that the funding of educational costs for state agency clients by the Department of Mental Health and Mental Retardation, the Department of Human Services, the Department of Educational and Cultural Services and the Department of Corrections be clarified before the start of the next fiscal year so that the education of state agency clients will not be interrupted; and

1 Whereas, in the judgment of the Legislature,
2 these facts create an emergency within the meaning of
3 the Constitution of Maine and require the following
4 legislation as immediately necessary for the preser-
5 vation of the public peace, health and safety; now,
6 therefore,

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

9 Sec. 1. 20-A MRSA §5202, sub-§2, as enacted by
10 PL 1981, c. 693, §§5 and 8, is amended to read:

11 2. General rule. A person shall be considered a
12 resident of the school administrative unit where his
13 parent resides is eligible to attend schools in the
14 school administrative unit where the person's parent
15 resides or where the person resides upon reaching the
16 age of 18 years or upon becoming an emancipated
17 minor. A federal installation shall be considered
18 part of the school administrative unit in which it is
19 located.

20 Sec. 2. 20-A MRSA §5206 is enacted to read:

21 §5206. Definition of a state agency client; residen-
22 tial placements

23 1. State agency client. For the purposes of
24 this Title, a state agency client is defined as a
25 child under the age of 18 years who is:

26 A. In the care or custody of the Department of
27 Human Services, the Department of Mental Health
28 and Mental Retardation or the Department of Cor-
29 rections;

30 B. Placed, by an authorized agent of a state
31 agency, with a person who is not the child's par-
32 ent or legal guardian or relative;

33 C. On entrustment or absent-with-leave status
34 from the Maine Youth Center; or

35 D. Attending a public or private school while
36 still a resident of a state-operated institution.

1 2. Residential placements. For the purposes of
2 this Title, the following are the definitions of the
3 various types of residential placement.

4 A. "Emergency shelter" means a facility operated
5 by a corporation which provides board and care to
6 no more than 10 children over the age of 12
7 years, who may be runaways or abused children, or
8 whose well-being is jeopardized by some other
9 family crisis or emergency, and which provides
10 services to a child for not more than 21 consecu-
11 tive days, except with special permission.

12 B. "Foster home" means a private home, occupied
13 by the owner, licensed to provide 24-hour care
14 for not more than 6 nonrelated children.

15 C. "Group home" means a facility operated by a
16 corporation for the purpose of providing board
17 and care for not more than 10 children.

18 D. "Residential agency" means a facility oper-
19 ated by a corporation for the purpose of provid-
20 ing board and care to more than 10 children.

21 E. "Residential treatment center" means a facili-
22 ty operated by a corporation that provides
23 therapeutically-planned group living situations
24 within which educational, recreational, medical
25 and sociopsychotherapeutic components are inte-
26 grated for children whose present handicaps pre-
27 clude community outpatient treatment.

28 F. "Residential treatment facility" means a fa-
29 ility operated by a corporation for the purpose
30 of providing board, care and treatment for more
31 than 10 moderately to severely handicapped chil-
32 dren and which does not contain an educational
33 component.

34 G. "Therapeutic group home" means a facility op-
35 erated by a corporation for the purpose of pro-
36 viding board, care and treatment for not more
37 than 10 moderately to severely handicapped chil-
38 dren.

39 Sec. 3. 20-A MRSA §15508, sub-§4, as enacted by
40 PL 1981, c. 693, §5, is amended to read:

1 4. Special educational allocation; state agency
2 clients. The following provisions apply to special
3 educational allocation and state wards agency
4 clients.

5 A. The special educational allocation shall be
6 the expenditures for special educational programs
7 operated or contracted for by the school adminis-
8 trative unit and the expenditures for special ed-
9 ucational tuition or board, or both. Medical
10 costs shall not be allowable as a part of a tui-
11 tion charge.

12 B. Special educational tuition and board for
13 state wards and other pupils placed directly by
14 the State agency clients shall be paid by the
15 State in the year of allocation at 100% of the
16 actual cost in accordance with section 15510,
17 subsection 7.

18 Sec. 4. 20-A MRSA §15510, sub-§7, as enacted by
19 PL 1981, c. 693, §§5 and 8, is repealed and the fol-
20 lowing enacted in its place.

21 7. Payment of state agency client costs. Payment
22 of state agency client costs shall be as follows.

23 A. For the purposes of this subsection state
24 agency client is defined in section 5206.

25 B. The commissioner may pay approved special ed-
26 ucation costs for all state agency clients placed
27 in residential placements by an authorized agent
28 of a state agency.

29 C. Special education costs and regular education
30 costs authorized by this subsection for state
31 agency clients shall be paid by the department in
32 the year of allocation at 100% of actual costs,
33 limited to the amount of funds appropriated by
34 the Legislature for that purpose.

35 D. Depending on which is greater in the fiscal
36 years beginning July 1, 1984, and July 1, 1985,
37 the commissioner shall either:

1 (1) Pay approved special education costs
2 and regular education costs authorized by
3 this subsection for state agency clients be-
4 ing educated by an administrative unit in
5 the year of allocation; or

6 (2) Allocate approved special education
7 costs and regular education costs authorized
8 by this subsection for state agency clients
9 incurred by the administrative unit in the
10 base year.

11 E. In the fiscal year beginning July 1, 1986,
12 and every fiscal year thereafter, the commission-
13 er shall pay only approved special education
14 costs and regular education costs authorized by
15 this subsection for state agency clients and
16 shall not allocate for costs incurred by the ad-
17 ministrative unit for state agency clients in the
18 base years starting July 1, 1984, and every base
19 year thereafter.

20 Sec. 5. 22 MRSA §4002, sub-§12 is enacted to
21 read:

22 12. State agency client. For the purposes of
23 this section and section 4062, subsection 3, "state
24 agency client" has the meaning set out in Title 20-A,
25 section 5206.

26 Sec. 6. 22 MRSA §4062, sub-§3 is enacted to
27 read:

28 3. Payment for state agency clients. The depart-
29 ment is responsible for the payment of approved
30 board, care and mental health treatment costs for all
31 state agency clients in its care or custody, or both,
32 who are in residential placements, as defined in Ti-
33 tle 20-A, section 5206, limited to the amount of
34 funds appropriated by the Legislature for this pur-
35 pose.

36 Sec. 7. 34-A MRSA §1206, sub-§1, ¶F is enacted
37 to read:

38 F. "State agency client" has the meaning set
39 forth in Title 20-A, section 5206.

1 Sec. 8. 34-A M RSA §1206, sub-§4 is enacted to
2 read:

3 4. Payment for state agency clients. The department is responsible for the payment of approved board, care and mental health treatment costs for all state agency clients in its care or custody who are in residential placements, as defined in Title 20-A, section 5206, for this purpose.

9 Sec. 9. 34-B M RSA §1208, sub-§1, ¶G is enacted to
10 read:

11 G. "State agency client" has the meaning set forth in Title 20-A, section 5206.

13 Sec. 10. 34-B M RSA §1208, sub-§4 is enacted to
14 read:

15 4. Payment for state agency clients. The department is responsible for the payment of approved mental health treatment costs for all emotionally or mentally handicapped state agency clients in residential placements, as defined in Title 20-A, section 5206, except those in the care or custody of the Department of Human Services or the Department of Corrections, limited to the amount of funds appropriated by the Legislature for this purpose. The Department of Mental Health and Mental Retardation is responsible for payment of approved board and care costs for all state agency clients in residential placements, as defined in Title 20-A, section 5206, except those in the care or custody of the Department of Human Services or the Department of Corrections, limited to the amount of funds appropriated by the Legislature for this purpose.

32 **Emergency clause.** In view of the emergency cited
33 in the preamble, this Act shall take effect July 1,
34 1984.

35 STATEMENT OF FACT

36 At present, special education costs for state
37 agency clients, other than those in the care or cus-
38 tody of the Department of Human Services, are the re-

1 sponsibility of local school administrative units.
2 In some cases, it is the local unit where the child
3 has been placed in a group home or foster home. In
4 others, it is the unit where the parent lives. In
5 the first case, the school unit legitimately may
6 question their obligation to pay for students placed
7 in boarding facilities in their community. In the
8 second, the unit may have an adequate educational
9 program and object to paying tuition when a student
10 is placed by a state agency in another unit for
11 "noneducational" home factors. Local units which re-
12 ceive state aid must pay the "up-front" costs for 2
13 years before they are absorbed by the state school
14 finance formula. Since state agencies have placed
15 the child, it is logical for the state school finance
16 formula to follow the child and be paid to school
17 units in the year of allocation.

18 The purposes of this bill are to:

19 1. Develop a clear and comprehensive definition
20 of "state agency client." This definition includes a
21 definition of eligibility for school purposes and a
22 determination of financial responsibility for the ed-
23 ucation of state agency clients;

24 2. Identify the state departments' responsibili-
25 ties for specific special education children classi-
26 fied as state agency clients; and

27 3. Provide for tuition expenses for state agency
28 clients in the year of allocation.

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