

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

5
D. OF R.

1

L.D. 786

2

(Filing No. S-272)

3

STATE OF MAINE

4

SENATE

5

112TH LEGISLATURE

6

FIRST REGULAR SESSION

7

COMMITTEE AMENDMENT " A " to S.P. 297, L.D. 786,

8

Bill, "AN ACT to Clarify the General Assistance Law."

9

Amend the bill by striking out everything after

10

the enacting clause and inserting in its place the

11

following:

12

'Sec. 1. 22 MRSA §4301, sub-§7, as enacted by PL

13

1983, c. 577, §1, is amended to read:

14

7. Income. "Income" means any form of income in

15

cash or in kind received by the household, including

16

net remuneration for services performed, any payments

17

received as an annuity, retirement or disability ben-

18

efits, veterans' pensions, workers' compensation, un-

19

employment benefits, benefits under any state or fed-

20

eral categorical assistance program, supplemental se-

21

curity income, social security and any other payments

22

from governmental sources, unless specifically pro-

23

hibited by any law or regulation, court ordered sup-

24

port payments, income from pension or trust funds and

25

household income from any other source, including

26

relatives or unrelated household members.

27

The following items are not available within the

28

meaning of this subsection and subsection 10:

29

A. Income property, tools of trade, governmental

30

entitlement specifically treated as exempt assets

31

by state or federal law;

32

B. Actual work-related expenses, whether item-

33

ized or by standard deduction, such as taxes, re-

34

retirement fund contributions, union dues, trans-

35

portation costs to and from work, special equip-

36

ment costs and child care expenses; or

COMMITTEE AMENDMENT "A " to S.P. 297, L.D. 786

1 C. Income of children below the age of 18 years
2 who are full-time students and who are not work-
3 ing full time.

4 In determining need, ~~income shall be considered~~
5 ~~available for the week, weeks, month or months it was~~
6 ~~intended to cover when it was received by the appli-~~
7 ~~cant or members of the applicant's household the pe-~~
8 ~~riod of time used as a basis for the calculation~~
9 ~~shall be a 30-day period commencing on the date of~~
10 ~~the application. The consideration shall not dis-~~
11 ~~qualify an applicant who has exhausted his income to~~
12 ~~purchase basic necessities, provided that his income~~
13 ~~does not exceed the income standards established by~~
14 ~~the municipality.~~

15 Sec. 2. 22 MRSA §4301, sub-§10, as enacted by PL
16 1983, c. 577, §1, is amended to read:

17 10. Need. "Need" means the condition whereby a
18 ~~person has insufficient~~ person's income, money, prop-
19 erty, credit, assets or other ~~means~~ resources availa-
20 ble to provide basic necessities for the individual
21 and the individual's family are less than the maximum
22 levels of assistance established by the municipality.

23 Sec. 3. 22 MRSA §4305, sub-§3-A is enacted to
24 read:

25 3-A. Maximum levels of assistance. Municipalities
26 may establish maximum levels of assistance by ordi-
27 nance. The maximum levels of assistance shall set
28 reasonable and adequate standards sufficient to main-
29 tain health and decency. Each ordinance shall be
30 subject to a review, as provided in section 4323, of
31 the maximum levels of assistance by the department,
32 upon complaint, to ensure compliance with this chap-
33 ter.

34 Sec. 4. 22 MRSA §4305, sub-§4, as enacted by PL
35 1983, c. 577, §1, is amended to read:

D. OF R

COMMITTEE AMENDMENT "A" to S.P. 297, L.D. 786

1 4. Ordinance filed. Each municipality shall
2 present a copy of the ordinance establishing eligi-
3 bility standards, maximum levels of assistance, ad-
4 ministration and appeal procedures to the Department
5 of Human Services. The ordinance filed shall include
6 all forms and notices, including the application
7 form, notice of decision and appeal rights. Any
8 amendment or modification of the municipal ordinance
9 shall be submitted to the department for comment and
10 filing.

11 Sec. 5. 22 MRSA §4308, as enacted by PL 1983, c.
12 577, §1, is repealed and the following enacted in its
13 place:

14 §4308. Applications

15 In order to receive assistance from any munici-
16 pality, the applicant or a duly authorized represen-
17 tative must make written application to the overseer,
18 except that in an emergency the application may be
19 made verbally and assistance shall be granted tempo-
20 rarily. Further assistance shall be granted upon
21 completion of a written application and determination
22 of eligibility.

23 1. Initial and subsequent applications. Any
24 person who makes an application for assistance, who
25 has not applied for assistance during the previous 6
26 months, shall have his eligibility determined solely
27 on the basis of need. All subsequent applications
28 within 6 months shall be considered in accordance
29 with this chapter and the municipal ordinance.

30 2. Emergencies. Any person who does not have
31 sufficient resources to provide one or more basic ne-
32 cessities in an emergency shall be eligible for as-
33 sistance, although he would be otherwise ineligible,
34 except as provided in this subsection.

35 A. A person who is currently disqualified from
36 general assistance for a violation of section

COMMITTEE AMENDMENT "A" to S.P. 297, L.D. 786

1 4315, 4316-A or 4317 is ineligible for emergency
2 assistance under this subsection.

3 B. Emergency assistance under this subsection is
4 not available to pay a bill for a basic necessity
5 when that bill is more than 2 months old and the
6 person requesting the assistance had sufficient
7 income, money, assets or other resources availa-
8 ble to pay for the basic necessity when the bill
9 was received. The person requesting assistance
10 shall be required to provide evidence of income
11 for the applicable time period.

12 Sec. 6. 22 MRSA §4316, as amended by PL 1983, c.
13 697, §§1 and 2, is repealed.

14 Sec. 7. 22 MRSA §4316-A is enacted to read:

15 §4316-A. Work requirement

16 1. Ineligibility for assistance. An applicant
17 is ineligible for assistance for 60 days if the mu-
18 nicipality establishes that the person, without just
19 cause:

20 A. Refuses to search for employment when that
21 search is reasonable and appropriate;

22 B. Refuses to register for work;

23 C. Refuses to accept a suitable job offer under
24 this section;

25 D. Refuses to participate in a training or edu-
26 cational program which would assist him in se-
27 curing employment;

28 E. Quits work after an initial application for
29 assistance;

30 F. Willfully fails to perform a job assigned un-
31 der subsection 2; or

O. O. R.

COMMITTEE AMENDMENT "A" to S.P. 297, L.D. 786

1 G. Willfully performs a job assigned under sub-
2 section 2 below the average standards of that
3 job.

4 2. Municipal work program. A municipality may
5 require that an otherwise eligible person who is ca-
6 pable of working be required to perform work for the
7 municipality or work for a nonprofit organization, if
8 that organization has agreed to participate as an em-
9 ployer in the municipal work program, as a condition
10 of receiving general assistance. The municipality
11 may also require recipients, as a part of the munici-
12 pal work program, to participate in a training or ed-
13 ucational program which would assist him in securing
14 employment. The municipal work program is subject to
15 the following requirements.

16 A. No person may, as a condition of general as-
17 sistance eligibility, be required to do any
18 amount of work that exceeds the value of the net
19 general assistance that the person would other-
20 wise receive under municipal general assistance
21 standards. Any person performing work under this
22 subsection shall be provided with net general as-
23 sistance, the value of which is computed at a
24 rate of at least the State's minimum wage.

25 B. No person may be required to work under this
26 subsection for a nonprofit organization if that
27 work would violate a basic religious belief of
28 that person.

29 C. In no case may an eligible person performing
30 work under this subsection replace regular munici-
31 pal employees or regular employees of a partici-
32 pating nonprofit organization.

33 D. In no case may an eligible person in need of
34 emergency assistance be required to perform work
35 under this subsection prior to receiving general
36 assistance.

COMMITTEE AMENDMENT " A " to S.P. 297, L.D. 786

1 E. Expenses related to work performed under this
2 subsection by an eligible person shall be consid-
3 ered in determining the amount of net general as-
4 istance to be provided to the person.

5 F. General assistance provided by a municipality
6 for work performed by an eligible person under
7 this subsection shall be:

8 (1) Included in the reimbursable net gener-
9 al assistance costs; and

10 (2) Itemized separately in reports to the
11 Department of Human Services under section
12 4311.

13 3. Limitations of work requirement. In no case
14 may any work requirement or training or educational
15 program under this section interfere with a person's:

16 A. Existing employment;

17 B. Ability to pursue a bona fide job offer;

18 C. Ability to attend an interview for possible
19 employment;

20 D. Participation in a primary or secondary edu-
21 cational program intended to lead to a high
22 school diploma; or

23 E. Participation in a training program which is
24 either approved or determined, or both, by the
25 Department of Labor to be reasonably expected to
26 assist the individual in securing employment.
27 This paragraph does not include participation in
28 a degree granting program, except when that pro-
29 gram is under the Job Training Partnership Act or
30 the Welfare Employment Education and Training
31 Program.

COMMITTEE AMENDMENT "A " to S.P. 297, L.D. 786

- 1 4. Eligibility regained. A person who has been
- 2 disqualified for not complying with any work require-
- 3 ment of this section may regain his eligibility dur-
- 4 ing the 60-day period by becoming employed or other-
- 5 wise complying with the work requirements of this
- 6 section.
- 7 5. Just cause defined. Just cause for failure
- 8 to meet work requirements or the use of potential re-
- 9 sources shall be found when there is reasonable and
- 10 verifiable evidence of:
- 11 A. Physical or mental illness or disability;
- 12 B. Below-minimum wages;
- 13 C. Sexual harassment;
- 14 D. Physical or mental inability to perform re-
- 15 quired job tasks;
- 16 E. Inability to work required hours or to meet
- 17 piece work standards;
- 18 F. Lack of transportation to and from work or
- 19 training;
- 20 G. Inability to arrange for necessary child care
- 21 or care of ill or disabled family member;
- 22 H. Any reason found to be good cause by the De-
- 23 partment of Labor; and
- 24 I. Any other evidence which is reasonable and
- 25 appropriate.
- 26 The overseer shall not require medical verification
- 27 of medical conditions which are apparent or which are
- 28 of such short duration that a reasonable person would
- 29 not ordinarily seek medical attention. In any case
- 30 in which the overseer requires medical verification
- 31 and the applicant has no means of obtaining such ver-

COMMITTEE AMENDMENT " A" to S.P. 297, L.D. 786

1 ification, the overseer shall grant assistance for
2 the purpose of obtaining that verification.

3 Sec. 8. 22 MRSA §4318, as enacted by PL 1983, c.
4 577, §1, is repealed and the following enacted in its
5 place:

6 §4318. Recovery of expenses

7 A municipality or the State, which has incurred
8 general assistance program costs for the support of
9 any eligible person, may recover the full amount ex-
10 pended for that support either from the person re-
11 lieved or from any person liable for the recipient's
12 support, their executors or administrators, in a civ-
13 il action. In no case may a municipality or the
14 State be authorized to recover through a civil ac-
15 tion, the full or part of, the amount expended for
16 the support of a previously eligible person, if, as a
17 result of the repayment of that amount, this person
18 would, in all probability, again become eligible for
19 general assistance.

20 Sec. 9. 22 MRSA §4320, 2nd ¶, as repealed and
21 replaced by PL 1983, c. 697, §3, is amended to read:

22 The municipal officers, their designee or the
23 State shall file a notice of the lien with the regis-
24 ter of deeds of the county wherein the property is
25 located within 30 days of making a mortgage payment.
26 That filing shall secure the municipality or state's
27 lien interest for an amount equal to the sum of that
28 mortgage payment and all subsequent mortgage payments
29 made on behalf of the same eligible person. Not less
30 than 10 days prior to the filing, the municipal offi-
31 cers, their designee or the State shall send notifi-
32 cation of the proposed action by certified mail, re-
33 turn receipt requested, to the owner of the real es-
34 tate and any record holder of the mortgage. The lien
35 notification shall clearly inform the recipient of
36 the limitations upon enforcement contained in this
37 section; it shall also contain the title, address and

COMMITTEE AMENDMENT " A" to S.P. 297, L.D. 786

1 telephone number of the municipal official who
2 granted the assistance. A new written notice includ-
3 ing these provisions shall be given to the recipient
4 each time the amount secured by the lien is in-
5 creased. The lien shall be effective until enforced
6 by an action for equitable relief or until dis-
7 charged.

8 Sec. 10. 22 MRSA §4322, 2nd ¶, as amended by PL
9 1983, c. 697, §4, is further amended to read:

10 The person requesting the appeal shall be af-
11 farded the right to confront and cross-examine any
12 witnesses against him, present witnesses in his own
13 behalf and be represented by counsel or other spokes-
14 man, and be advised of these rights in writing. The
15 decision of such an appeal shall be based solely on
16 evidence adduced at the hearing. The person request-
17 ing the appeal shall, within 5 working days after the
18 appeal, be furnished with a written decision detail-
19 ing the reasons for that decision. When any decision
20 by a fair hearing authority or court authorizing as-
21 sistance is made, that assistance shall be provided
22 within 24 hours. Review of any action or failure to
23 act under this chapter shall be pursuant to the Maine
24 Rules of Civil Procedure, Rule 80-B. The municipali-
25 ty shall keep and provide a sufficient record of fair
26 hearing for the court review make a record of the
27 fair hearing. The municipality's obligation shall be
28 limited to keep a taped record of the proceedings.
29 Costs for preparing any transcripts which are re-
30 quired to pursue an appeal of a fair hearing authori-
31 ty's decision shall be paid for by the applicant.

32 Sec. 11. 22 MRSA §4323, sub-§§1 and 4, as en-
33 acted by PL 1983, c. 577, §1, are amended to read:

34 1. Review. The department shall review the ad-
35 ministration of general assistance in each municipal-
36 ity for compliance with this chapter. This review
37 shall be made on a regular basis and may be made in
38 response to a complaint from any person as necessary.

OF R

COMMITTEE AMENDMENT " A " to S.P. 297, L.D. 786

1 The department shall inspect the municipality's
2 records and discuss the administration of the program
3 with the overseer. The overseer or his designee
4 shall be available during the department's review and
5 shall cooperate in providing all necessary informa-
6 tion.

7 The department shall report the results of its review
8 in writing to the municipality and, when applicable,
9 to the complainant. The written notice shall set
10 forth the department's findings of whether the munic-
11 ipality is in compliance with this chapter.

12 4. Appeal. Any municipality ~~which~~ or person who
13 is aggrieved by any decision or action made by the
14 department pursuant to this section shall have the
15 right to appeal pursuant to the Maine Administrative
16 Procedure Act, Title 5, chapter 375, subchapter IV.
17 A request for that appeal shall be in writing and
18 shall be made within 30 days of receiving notifica-
19 tion. The appeal shall be held within 30 days of re-
20 ceipt of that request and shall be conducted by one
21 or more fair hearing officers. In no event may an
22 appeal be held before a person or body responsible
23 for the decision or action. Review of any decision
24 under this section shall be pursuant to the Maine
25 Rules of Civil Procedure, Rule 80 C.

26 Sec. 12. 22 MRSA §4324, as enacted by PL 1983,
27 c. 577, §1, is repealed.

28 STATEMENT OF FACT

29 This amendment replaces the original bill and
30 amends the general assistance law by making the fol-
31 lowing changes:

32 Section 1 provides that the period of time used
33 in calculating income, for a determination of need,
34 is a 30-day period, convening on the date of the ap-

OFF

COMMITTEE AMENDMENT " A" to S.P. 297, L.D. 786

1 plication.

2 Sections 2, 3 and 4 change the focus of the gen-
3 eral assistance eligibility determination. Current-
4 ly, general assistance, in nonemergency situations,
5 is based on whether or not a person's income and oth-
6 er resources is sufficient to provide "basic necessi-
7 ties." This amendment will base the determination on
8 whether the person's income and other resources
9 available to provide basic necessities is less than
10 the maximum levels of assistance established by the
11 municipality. The municipality's maximum levels of
12 assistance must be reasonable and adequate standards
13 sufficient to maintain health and decency.

14 Section 5 amends the provisions for emergency as-
15 sistance and provides that an applicant who is other-
16 wise eligible for emergency assistance may not re-
17 ceive that assistance if he is currently disqualified
18 for general assistance for a violation of the work
19 requirement or he makes a false statement regarding a
20 material fact in applying for general assistance or
21 has violated the Maine Revised Statutes, Title 22,
22 section 4317, requiring an applicant to utilize all
23 his available potential resources. It also provides
24 that back bills for basic necessities do not qualify
25 as an emergency if the bill is more than 2 months old
26 and the person had sufficient income to pay the bill
27 at the time the bill was received. The applicant is
28 responsible to disclose his income for that period.

29 Sections 6 and 7 amend the work requirement to
30 provide that:

31 1. Work for nonprofit organizations, unless such
32 work would violate a basic religious belief of the
33 applicant, may be assigned by a municipality as part
34 of its work program;

35 2. Students in a degree-granting program are in-
36 eligible if they refuse to work under a work program;
37 and

COMMITTEE AMENDMENT "A" to S.P. 297, L.D. 786

1 3. An applicant who has been disqualified for
2 general assistance for violating the work requirement
3 may regain his eligibility. Eligibility may be re-
4 gained by working or by complying with the work re-
5 quirements of this chapter.

6 Section 8 allows a municipality to recover gener-
7 al assistance expenses from a person even if the per-
8 son is currently receiving some form of public as-
9 sistance.

10 Section 9 allows the municipal officers to desig-
11 nate a person, such as the overseer, to file notices
12 of liens when the municipality pays for a mortgage
13 with general assistance funds.

14 Section 10 eliminates the municipality's respon-
15 sibility to keep a written record of a fair hearing
16 for the court review. The municipality would only be
17 required to tape the proceedings. Transcripts for an
18 appeal of the hearing shall be paid for by the gener-
19 al assistance applicant.

20 Section 11 requires the department to provide a
21 copy of its decision to a complainant when it has re-
22 viewed the complaint. Currently, only the municipal-
23 ity is entitled to a copy of the department decision.
24 It also allows the applicant to appeal a decision of
25 the department under the provisions of the Maine Ad-
26 ministrative Procedure Act, Title 5, chapter 375.
27 Currently, only the municipality may appeal a deci-
28 sion.

29 Section 12 repeals the provision of the general
30 assistance law that required the department to report
31 to the First Regular Session of the 112th Legisla-
32 ture. That report has been made.

33

4258061085

Reported by Senator Berube for the Committee on Human Resources.
Reproduced and Distributed Pursuant to Senate Rule 12.
(6/12/85)

(Filing No. S-272)