

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 FIRST REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 1284

8 S.P. 477

In Senate, April 10, 1985

9 Referred to the Committee on Education. Sent down for concurrence and
10 ordered printed.

11 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Brown of Washington.

12 Cosponsored by Representative Holloway of Edgecomb, Senator Sewall
of Lincoln and Representative Ruhlin of Brewer.

13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-FIVE
17

18 AN ACT to Define Eligibility for School
19 Purposes and to Determine Financial
20 Responsibility for the Education, Care
21 and Treatment of State Agency Clients.
22

23 **Emergency preamble.** Whereas, Acts of the Legis-
24 lature do not become effective until 90 days after
25 adjournment unless enacted as emergencies; and

26 Whereas, it is intended that the assumption of
27 state responsibility for state agency clients should
28 start with the school year beginning July 1, 1985;
29 and

30 Whereas, the 90-day period after the end of this
31 session of the Legislature will not occur until after
32 July 1; and

33 Whereas, in the judgment of the Legislature,
34 these facts create an emergency within the meaning of
35 the Constitution of Maine and require the following

1 legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

6 Sec. 1. 20-A MRSA §1, sub-§24-A is enacted to read:

8 24-A. Residential placement. "Residential placement" includes the following:

10 A. An "emergency shelter," which is a facility operated by a corporation and licensed for the purpose of providing board and care to no more than 10 children over the age of 12 years, who may be runaways or abused children, or whose well-being is jeopardized by some other crisis or emergency, and providing services to a child for not more than 21 consecutive days, except with special permission;

19 B. A "foster home," which is a private home occupied and operated by the owner and licensed to provide 24-hour care for no more than 6 nonrelated children;

23 C. A "group home," which is a residential child care facility operated by a corporation and licensed for the purpose of providing board and care for up to 10 children;

27 D. A "residential agency," which is a residential child care facility operated by a corporation and licensed for the purpose of providing board and care to more than 10 children;

31 E. A "residential treatment center," which is a residential child care facility operated by a corporation and licensed for the purpose of providing therapeutically-planned, group living situations within which educational, recreational, medical and sociopsychotherapeutic components are intergrated for children whose present handicaps preclude community outpatient treatment;

1 F. A "residential treatment facility," which is
2 a residential child care facility operated by a
3 corporation and licensed for the purpose of pro-
4 viding board, care and treatment for more than 10
5 moderately to severely handicapped children and
6 which does not contain an educational component;
7 and

8 G. A "therapeutic group home," which is a resi-
9 dential child care facility operated by a corpo-
10 ration and licensed for the purpose of providing
11 board, care and treatment for up to 10 moderately
12 to severely handicapped children.

13 Sec. 2. 20-A MRSA §1, sub-§34-A is enacted to
14 read:

15 34-A. State agency client. "State agency client"
16 means a child of eligible school age who is:

17 A. In the care or custody, or both, of the De-
18 partment of Human Services, the Department of
19 Mental Health and Mental Retardation or the De-
20 partment of Corrections;

21 B. Placed, with the recommendation of a Bureau
22 of Mental Retardation case manager or an employee
23 of the Office of Children's Services, Department
24 of Mental and Mental Retardation, with a person
25 who is not the child's parent, legal guardian or
26 relative;

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

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

31 Sec. 3. 20-A MRSA §5202, sub-§2, as amended by
32 PL 1983, c. 806, §57, is further amended to read:

33 2. General rule. Persons shall be considered
34 residents of the school administrative unit where
35 their parents reside. A person is eligible to attend
36 schools in the school administrative unit where the
37 person's parent resides, where the person resides
38 upon reaching the age of 18 years or upon becoming an

1 emancipated minor. A federal installation shall be
2 considered part of the school administrative unit in
3 which it is located.

4 Sec. 4. 20-A MRSA §15613, sub-§5, as enacted by
5 PL 1983, c. 859, Pt. G, §§2 and 4, is repealed and
6 the following enacted in its place:

7 5. Payment of state agency client costs. Payment
8 of state agency client costs shall be as follows.

9 A. For the purposes of this subsection, "state
10 agency client" is defined in section 1, subsec-
11 tion 34-A.

12 B. The commissioner may pay approved special ed-
13 ucation costs for all state agency clients placed
14 in residential placements by an authorized agent
15 of a state agency.

16 C. Special education costs authorized by this
17 subsection for state agency clients shall be paid
18 by the department in the year of allocation at
19 100% of actual costs, limited to the amount of
20 funds appropriated by the Legislature for that
21 purpose.

22 D. In the fiscal years beginning July 1, 1985,
23 and July 1, 1986, the commissioner shall pay ei-
24 ther approved special education costs and regular
25 education costs authorized by this subsection for
26 state agency clients being educated by an admin-
27 istrative unit in the year of allocation or shall
28 allocate approved special education costs and
29 regular education costs authorized by this sub-
30 section of state agency clients incurred by the
31 administrative unit in the base year, whichever
32 is greater. In the fiscal year beginning July 1,
33 1987, and every fiscal year thereafter, the com-
34 missioner shall pay only approved special educa-
35 tion costs and regular education costs authorized
36 by this subsection for state agency clients and
37 shall not allocate for those costs incurred by
38 the administrative unit for state agency clients
39 in the base years starting July 1, 1985, and ev-
40 ery base year thereafter.

1 Sec. 5. 34-A MRSA §1206, sub-§1, ¶F is enacted
2 to read:

3 F. "State agency client" has the meaning set out
4 in Title 20-A, section 1, subsection 34-A.

5 Sec. 6. 34-A MRSA §1206, sub-§4 is enacted to
6 read:

7 4. Payment for state agency clients. The depart-
8 ment is responsible for the payment of approved
9 board, care and mental health treatment costs for all
10 state agency clients in its care or custody who are
11 in residential placements, as defined in Title 20-A,
12 section 5206, limited to the amount of funds appro-
13 priated by the Legislature for this purpose.

14 Sec. 7. 34-B MRSA §1208, sub-§1, ¶G is enacted
15 to read:

16 G. "State agency client" has the meaning set out
17 in Title 20-A, section 1, subsection 34-A.

18 Sec. 8. 34-B MRSA §1208, sub-§4 is enacted to
19 read:

20 4. Payment for state agency clients. The depart-
21 ment is responsible for the payment of approved men-
22 tal health treatment costs for state agency clients
23 who are placed for educational purposes with the rec-
24 ommendation of a Bureau of Mental Retardation case
25 manager or an employee of the Office of Children's
26 Services in an in-state residential treatment center,
27 as identified in Title 20-A, section 1, subsection
28 34-A, paragraph E, within the limits of funds appro-
29 priated to the department for this purpose. Payment
30 of mental health treatment costs for similar place-
31 ments in out-of-state residential placements will be
32 supported on a case-by-case basis, within the limits
33 of available funds.

34 The department is responsible for the payment of ap-
35 proved board and care and mental health treatment
36 costs for state agency clients who are placed for
37 other than educational purposes with the recommenda-
38 tion of a Bureau of Mental Retardation case manager
39 or an employee of the Office of Children's Services

1 in any residential placement, as defined in Title
2 20-A, section 5205, within the limits of funds appropriate
3 by the department for this purpose.

4 Payment from funds appropriated to the department for
5 these purposes only occur after other appropriate
6 state or federal funds to which the department has
7 access have been fully utilized.

8 **Emergency clause.** In view of the emergency cited
9 in the preamble, this Act shall take effect when approved.
10

11 STATEMENT OF FACT

12 At present, special education costs for state
13 agency clients, other than those in the custody of
14 the Department of Human Services who are placed in
15 residential treatment centers, are the responsibility
16 of local school administrative units. In some cases,
17 it is the local unit where the child has been placed
18 in a group home or foster home. In others, it is the
19 financial responsibility of the unit where the parent
20 or legal guardian resides. In the first case, the
21 school unit where the student is placed legitimately
22 may question its obligation to pay for students
23 placed by a state agency in a residential placement
24 in its community. In the 2nd case, the unit where the
25 parents reside may have an adequate educational program
26 and object to paying tuition and other related
27 costs when a student is placed outside of the community
28 for "noneducational" reasons. Since state agencies
29 have been involved in making the placement of
30 the child, it is logical that these same state agencies
31 should assume funding responsibility for special
32 education costs in the year of allocation.

33 The purposes of this bill are to:

34 1. Develop a clear and comprehensive definition
35 of "state agency clients" and "residential placements"
36 for funding purposes. This definition includes
37 a definition of eligibility for school purposes and

1 determination of financial responsibility for the
2 special education of state agency clients placed in
3 "residential placements;"

4 2. Identify the state departments' responsibili-
5 ty for funding residential and mental health treat-
6 ment services for children classified as state agency
7 clients; and

8 3. Provide for approved tuition expenses for
9 state agency clients to be paid in the year of allo-
10 cation.

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