

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 2014

7 H.P. 1425

House of Representatives, February 12, 1986

8 Reported by Representative Carter from the Committee on  
9 Appropriations and Financial Affairs. Sent up for concurrence and ordered  
printed. Approved by the Legislative Council on June 27, 1985.

10 EDWIN H. PERT, Clerk

Reported from the Joint Standing Committee on Appropriations and  
Financial Affairs under Joint Rule 19.

11  
12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-SIX  
16

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

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

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

26 24-A. Residential placement. "Residential place-  
27 ment" includes the placement in any children's home  
28 licensed pursuant to Title 22, chapter 1669, includ-  
29 ing:

30 A. An "emergency shelter," which is a facility  
31 operated by a corporation and licensed for the  
32 purpose of providing board and care to no more  
33 than 10 children over the age of 12 years, who  
34 may be runaways or abused children or whose well-  
35 being is jeopardized by some other crisis or

1 emergency, and providing services to a child for  
2 not more than 21 consecutive days, except with  
3 special permission;

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

8 C. A "specialized children's home," which is a  
9 facility licensed to provide care to no more  
10 than 4 moderately to severely handicapped chil-  
11 dren by a caretaker who is specifically educated  
12 and trained to provide for the particular needs  
13 of each child placed; and

14 D. A "residential child care facility," which  
15 provides board and care for one or more children  
16 on a regular, 24-hours-a-day, residential basis.  
17 A residential child care facility does not mean  
18 family foster home, specialized children's home  
19 or an emergency shelter facility. The term in-  
20 cludes, but is not limited to:

21 (1) A "group home," which is a residential  
22 child care facility operated by a corpora-  
23 tion and licensed for the purpose of provid-  
24 ing board and care for up to 10 children;

25 (2) A "residential agency," which is a res-  
26 idential child care facility operated by a  
27 corporation and licensed for the purpose of  
28 providing board and care to more than 10  
29 children;

30 (3) A "residential treatment center," which  
31 is a residential child care facility oper-  
32 ated by a corporation and licensed for the  
33 purpose of providing therapeutically-  
34 planned, group living situations within  
35 which educational, recreational, medical and  
36 sociopsychotherapeutic components are  
37 intergrated for children whose present hand-  
38 icaps preclude community outpatient treat-  
39 ment;

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

8                   (5) A "therapeutic group home," which is a  
9                   residential child care facility operated by  
10                   a corporation and licensed for the purpose  
11                   of providing board, care and treatment for  
12                   up to 10 moderately to severely handicapped  
13                   children.

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

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

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

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

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

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

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

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

1 upon reaching the age of 18 years or upon becoming an  
2 emancipated minor. A federal installation shall be  
3 considered part of the school administrative unit in  
4 which it is located.

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

8 5. Payment of state agency client costs. Pay-  
9 ment of state agency client costs shall be as fol-  
10 lows.

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

14 B. The commissioner shall approve special educa-  
15 tion costs for all state agency clients placed in  
16 residential placements by an authorized agent of  
17 a state agency.

18 C. Special education costs authorized by this  
19 subsection for state agency clients shall be paid  
20 by the department in the year of allocation at  
21 100% of actual costs. In the fiscal year begin-  
22 ning July 1, 1987, 75% of those payments shall be  
23 considered part of the State's share of the total  
24 allocation in meeting the requirements of section  
25 15602, subsection 1. For each fiscal year there-  
26 after, the percentage of those payments, which  
27 shall be considered part of the State's share of  
28 the total allocation in meeting the requirements  
29 of section 15602, subsection 1, shall be reduced  
30 by 15% each year until the fiscal year beginning  
31 July 1, 1992. Beginning July 1, 1992, these pay-  
32 ments shall no longer be considered part of the  
33 State's share of the total allocation in meeting  
34 the requirements of section 15602, subsection 1.

35 D. In the fiscal year beginning July 1, 1987,  
36 and every fiscal year thereafter, the commis-  
37 sioner shall pay only approved special education  
38 costs authorized by this subsection for state  
39 agency clients and shall not allocate for those  
40 costs incurred by the administrative unit for  
41 state agency clients in the base years starting  
42 July 1, 1985, and every base year thereafter.

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

3           F. "State agency client" means the same as set  
4           out 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 com-  
8           missioner shall authorize payment of approved board,  
9           care and mental health treatment costs for all state  
10           agency clients in the care or custody of the depart-  
11           ment who are in residential placements, as defined in  
12           Title 20-A, section 1, subsection 24-A, to the extent  
13           of funds appropriated by the Legislature for this  
14           purpose. In no event may those payments be autho-  
15           rized in excess of funds appropriated for those  
16           costs.

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

19           G. "State agency client" has the same meaning as  
20           in Title 20-A, section 1, subsection 34-A.

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

23           4. Payment for state agency clients. The com-  
24           missioner shall authorize payment of approved mental  
25           health treatment costs for state agency clients who  
26           are placed for educational purposes with the recom-  
27           mendation of a Bureau of Mental Retardation case man-  
28           ager or an employee of the Office of Children's Ser-  
29           vices in an in-state residential treatment center, as  
30           identified in Title 20-A, section 1, subsection 24-A,  
31           paragraph D, subparagraph (3), to the extent of the  
32           amount of funds appropriated by the Legislature for  
33           this purpose; and may authorize payment of mental  
34           health treatment costs for similar placements in out-  
35           of-state residential placements on a case-by-case  
36           basis, within the limits of available funds. The  
37           commissioner shall further authorize payment of ap-  
38           proved board and care and mental health treatment  
39           costs for state agency clients who are placed for  
40           other than educational purposes with the recommenda-

1 tion of a Bureau of Mental Retardation case manager  
2 or an employee of the Office of Children's Services  
3 in any residential placement, as defined in Title  
4 20-A, section 1, subsection 24-A, to the extent of  
5 the funds appropriated by the Legislature for this  
6 purpose. In no event may payments which the commis-  
7 sioner is required to authorize under this section  
8 exceed the funds appropriated by the Legislature for  
9 the purposes referred to in this subsection. Payment  
10 from these funds shall be made only when other appro-  
11 priate state or federal funds to which the department  
12 has access have been exhausted.

13 **Sec. 9. Effective date.** This Act shall take ef-  
14 fect on July 1, 1987.

15 STATEMENT OF FACT

16 This bill addresses 2 major issues which center  
17 around the placement of children with special needs.  
18 These 2 major issues are as follows.

19 1. The financial burden on school administrative  
20 units caused by the special education expenses of  
21 children placed for other than educational reasons by  
22 representatives of state agencies.

23 2. The inability of certain children in the  
24 care or custody of the Department of Mental Health  
25 and Mental Retardation and the Department of Correc-  
26 tions to access less restrictive placements or more  
27 extensive services.

28 This bill addresses these 2 major issues by:

29 1. Requiring the Department of Educational and  
30 Cultural Services to make direct payments for all ap-  
31 proved special education expenditures on state agency  
32 clients to local school units and other providers of  
33 special education services; and

34 2. Giving the Department of Corrections and the  
35 Department of Mental Health and Mental Retardation  
36 discretionary authority to provide the most appropri-  
37 ate services to children in their care or custody.

1           This bill provides a mechanism which reduces the  
2 initial cost to the State by allowing a percentage of  
3 the special education expenditures of these state  
4 agency clients to continue to be shared through the  
5 school subsidy formula.

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