

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2221

6
7 H.P. 1571

House of Representatives, March 17, 1986

8 Submitted by the Department of Human Services pursuant to Joint Rule
24.

9 Referred to the Committee on Human Resources. Sent up for
concurrence and ordered printed.

10 EDWIN H. PERT, Clerk

Presented by Representative Rolde of York.

Cosponsored by Representative McGowan of Canaan, Representative
Jacques of Waterville and Representative Clark of Millinocket.

11
12 STATE OF MAINE
13

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

17 AN ACT to Amend the Annual Operating-under-
18 the-influence Report and to Establish a
19 State-operated Evaluation Program
20 within the Driver Education Program of
21 the Department of Human Services.
22

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

25 Sec. 1. 22 MRSA §7106, sub-§2, as amended by PL
26 1981, c. 464, §8, is further amended to read:

27 2. Information system. Develop and maintain an
28 up-to-date information system related to drugs, drug
29 abuse and drug abuse prevention. The information
30 shall be available for use by the people of Maine,
31 the political subdivisions, public and private non-
32 profit agencies and the State. Educational materials
33 shall be prepared, published and disseminated. Objec-
34 tive devices and research methodologies shall be con-
35 tinuously developed. Uniform methods of keeping sta-
36 tistical information shall be specified for use by

1 public and private agencies, organizations and indi-
2 viduals. Existing sources of information shall be
3 used to the fullest extent possible, while maintain-
4 ing confidentiality safeguards of state and federal
5 law. Information may be requested and shall be re-
6 ceived from any state government or public or private
7 agency. To the extent feasible, information shall
8 maintain compatibility with federal information shar-
9 ing standards.

10 Functions of the drug information system may include,
11 but not be limited to:

12 A. Conducting research on the causes and nature
13 of drugs, drug abuse or people who are dependent
14 on drugs, especially alcoholics and intoxicated
15 persons;

16 B. Collecting, maintaining and disseminating
17 such knowledge, data and statistics related to
18 drugs, drug abuse and drug abuse prevention as
19 will enable the office to fulfill its responsi-
20 bilities;

21 C. Determining through a detailed survey the ex-
22 tent of the drug abuse problem, and the needs and
23 priorities for the prevention of drug abuse and
24 drug dependence in the State and political subdivi-
25 sions. Included may be a survey of health fa-
26 cilities needed to provide services for drug
27 abuse and drug dependence, especially alcoholics
28 and intoxicated persons;

29 D. Maintaining an inventory of the types and
30 quantity of drug abuse prevention facilities,
31 programs and services available or provided under
32 public or private auspices to drug addicts, drug
33 abusers and drug dependent persons, especially
34 alcoholics and intoxicated persons. This function
35 shall include the unduplicated count, location
36 and characteristics of people receiving treat-
37 ment, as well as their frequency of admission and
38 readmission, and frequency and duration of treat-
39 ment. The inventory shall include the amount,
40 type and source of resources for drug abuse pre-
41 vention; and

1 E. Conducting a continuous evaluation of the im-
2 pact, quality and value of drug abuse prevention
3 facilities, programs and services; including
4 their administrative adequacy and capacity. Ac-
5 tivities operated by or with the assistance of
6 the State and Federal Governments shall be evalu-
7 ated. Included shall be alcohol and drug abuse
8 prevention and treatment services as authorized
9 by this and so much of the several Acts and
10 amendments to them enacted by the People of the
11 State of Maine, and those authorized by the
12 United States Acts and amendments to them as re-
13 late to drug abuse prevention:

14 (1) The United States Drug Abuse Office and
15 Treatment Act of 1972 (P.L. 92-255);

16 (2) The United States Community Mental
17 Health Centers Act (42 USC 2688);

18 (3) The United States Public Health Service
19 Act (42 USC);

20 (4) The United States Vocational Rehabili-
21 tation Act;

22 (5) The United States Social Security Act;
23 and

24 (6) The United States Comprehensive Alcohol
25 Abuse and Alcoholism Prevention, Treatment
26 and Rehabilitation Act of 1970, Public Law
27 91-616, and similar Acts; and

28 E- Making a separate written report to the Chief
29 Justice, the Governor and the Legislature not la-
30 ter than March 1st of each year, commencing with
31 1982, on the enforcement of laws relating to
32 drinking and driving during the preceding calen-
33 dar year. The report shall contain at least the
34 following information:

35 (1) The number, by county, of arrests for
36 operating under the influence or operating
37 with an excessive blood-alcohol level;

- 1 (2) The number, by county, of criminal com-
2 plaints filed for operating under the influ-
3 ence;
- 4 (3) The number, by county, of criminal com-
5 plaints filed for operating with an excee-
6 sive blood-alcohol level;
- 7 (4) The number, by county, of complaints
8 filed for the traffic infraction of operat-
9 ing under the influence;
- 10 (5) The number, by county, of complaints
11 filed for the traffic infraction of operat-
12 ing with an excessive blood-alcohol level;
- 13 (6) The number, by county, of revocations
14 of implied consent;
- 15 (7) The number, by county, of operating af-
16 ter suspension and habitual offender ar-
17 rests;
- 18 (8) Rates of conviction, guilty pleas to
19 lesser charges and dismissals by county for
20 these offenses;
- 21 (9) The rates of successful completion of
22 the Driver Education Evaluation Program and
23 rates of recidivism for individuals complet-
24 ing the Driver Education Evaluation Program;
- 25 (10) The number, by county, of persons
26 whose licenses were suspended; and
- 27 (11) The average fine, jail sentence and
28 period of license suspension, by county, for
29 each category of offense.

30 G. Making a separate written report to the Chief
31 Justice, the Governor and the Legislature not la-
32 ter than May 1st of each year, commencing with
33 1982, on the enforcement of laws relating to
34 drinking and driving during the preceding calen-
35 dar year. The report shall contain at least the
36 following information:

- 1 (1) The number, by county, of arrests for
2 attempting to or operating under the influ-
3 ence;
- 4 (2) The number, by county, of revocations
5 of implied consent for each category of of-
6 fense;
- 7 (3) The number and percentage, by court, of
8 convictions; guilty pleas to lesser charges;
9 dismissals; and not guilty for these of-
10 enses, for each category of offense;
- 11 (4) The number and percentages of success-
12 ful completion of the Driver Education Eval-
13 uation Program;
- 14 (5) The number and percentages, by court,
15 of persons whose licenses were suspended;
16 who were fined; and who spent time in jail,
17 for each category of offense;
- 18 (6) The average, minimum and maximum, fine,
19 jail sentence and period of license suspen-
20 sion, by court, for each category of operat-
21 ing under the influence offense;
- 22 (7) The number and percentages, by court,
23 of convictions for operating after suspen-
24 sion and for being a habitual offender;
25 guilty pleas to a lesser charge; dismissals;
26 and not guilty findings;
- 27 (8) The average, minimum and maximum, fine,
28 jail sentence and period of license suspen-
29 sion for operating after suspension and for
30 being a habitual offender, by court; and
- 31 (9) Other items that are considered impor-
32 tant to the review of the enforcement of the
33 laws relating to drinking and driving.

34 The office may call upon the assistance of the De-
35 partment of Public Safety, the State Court Adminis-
36 trator, the office of the Secretary of State and the
37 district attorneys in preparing these reports.

1 The Office of Alcoholism and Drug Abuse Prevention
2 may revise the contents of the report by including
3 new information or excluding previously reported in-
4 formation in response to changes in the law or other
5 circumstances. The office may request assistance of
6 the Department of Public Safety, the State Court Ad-
7 ministrator, the office of the Secretary of State,
8 and the district attorneys in preparing these re-
9 ports.

10 Sec. 2. 29 MRSA §1312-D, sub-§§2, 3 and 4, as
11 amended by PL 1985, c. 412, §6, are further amended
12 to read:

13 2. Education and treatment programs. Following
14 the expiration of 2/3 of the total period suspension
15 imposed pursuant to ~~subsectien~~ subsections 1 and 1-A,
16 section 1312-B, former section 1312-B, subsection 2
17 or Title 15, section 3314, the Secretary of State may
18 issue a license or permit to the person if he re-
19 ceives written notice that the person has satisfacto-
20 rily completed the ~~alcohol~~ education program of the
21 Department of Human Services and, when required, has
22 satisfactorily completed an ~~alcohol~~ treatment or re-
23 habilitation program approved or licensed by the
24 ~~department~~ substance abuse education program and any
25 evaluation, treatment and rehabilitation programs re-
26 quired for that person by rules of the Department of
27 Human Services concerning Driver Education Evaluation
28 Programs.

29 3. Restricted licenses. After certification un-
30 der subsection 2, the Secretary of State may issue
31 the license or permit with whatever conditions, re-
32 strictions or terms he deems advisable, having in
33 mind the safety of the public and the welfare of the
34 petitioner. Following the expiration of the total
35 period of suspension imposed pursuant to subsections
36 1 and 1-A, section 1312-B or Title 15, section 3314,
37 the Secretary of State may issue a license or permit,
38 subject to the conditions, restrictions or terms he
39 deems advisable, to the person if the Secretary of
40 State has received or when he receives written notice
41 that the person has satisfactorily completed the ~~al-~~
42 cohol ~~educational~~ program of the Department of Human
43 Services and, when required, has satisfactorily com-
44 pleted an ~~alcohol~~ treatment or rehabilitation program

1 approved or licensed by the department substance
2 abuse education program and any evaluation, treatment
3 and rehabilitation programs required for that person
4 by rules of the Department of Human Services concern-
5 ing Driver Education Evaluation Programs. The li-
6 cense or permit may contain the condition that the
7 person abstain from the use of intoxicating liquor or
8 drugs. Any license or permit issued under subsection
9 2 or under this subsection shall be restricted to use
10 for travel to an ~~alcohol~~ education or treatment
11 ~~program~~ a substance abuse education program and any
12 evaluation, treatment and rehabilitation programs re-
13 quired for that person by rules of the Department of
14 Human Services concerning Driver Education Evaluation
15 Programs or to employment if the amount of the total
16 period of suspension which has expired is less than
17 90 days. Any such license or permit issued shall re-
18 main restricted until the amount of time the license
19 or permit was actually suspended plus the amount of
20 time the restricted license or permit has been issued
21 equals a minimum of 90 days.

22 4. Special restricted licenses for participation
23 in programs. Notwithstanding any other provision of
24 law, the Secretary of State may issue a temporary re-
25 stricted license to a person suspended under section
26 1312-B for the purpose of allowing that person to
27 participate in the ~~alcohol~~ education program of the
28 Department of Human Services or in any other program
29 ~~under~~ in any program described in subsection 2 or 3.

30 Sec. 3. 29 MRSA §1312-D, sub-§6, as amended by
31 PL 1983, c. 718, is further amended to read:

32 6. Fee. The Department of Human Services may
33 charge a registration fee, not to exceed \$75, to par-
34 ticipants in the education program, and a fee, not to
35 exceed \$35 per session, to participants in the evalu-
36 ation program of the Department of Human Services,
37 which shall be applied to defraying the expenses of
38 the ~~program~~ programs. The department shall submit to
39 the joint standing committee of the Legislature hav-
40 ing jurisdiction over appropriations a report pre-
41 senting an itemized description of the operating bud-
42 get of the educational and evaluation ~~program~~
43 programs. The report shall be submitted no later
44 than January 1, ~~1985~~ 1987.

1 Sec. 4. 29 MRSA §2241-G, sub-§2, ¶¶I and O, as
2 enacted by PL 1983, c. 850, §4, are amended to read:

3 I. Following the expiration of 1/2 of the total
4 period of suspension imposed pursuant to para-
5 graph B, the Secretary of State may issue a pro-
6 visional license, subject to the conditions, re-
7 strictions or terms he deems advisable, to the
8 person if the Secretary of State receives written
9 notice that the person has satisfactorily com-
10 pleted the ~~alcohol educational program of the De-~~
11 ~~partment of Human Services and, when required,~~
12 ~~has satisfactorily completed an alcohol treatment~~
13 ~~or rehabilitation program approved or licensed by~~
14 the department substance abuse education program
15 and any evaluation, treatment and rehabilitation
16 programs required for that person by rules of the
17 Department of Human Services concerning Driver
18 Education Evaluation Programs.

19 O. Following the expiration of the total period
20 of suspension imposed pursuant to paragraph B,
21 the Secretary of State may issue a provisional
22 license, subject to the conditions, restrictions
23 or terms he deems advisable, to the person if the
24 Secretary of State has received or when he re-
25 ceives written notice that the person has satis-
26 factorily completed the ~~alcohol educational pro-~~
27 ~~gram of the Department of Human Services and,~~
28 ~~when required, has satisfactorily completed an~~
29 ~~alcohol treatment or rehabilitation program ap-~~
30 ~~proved or licensed by the department substance~~
31 abuse education program and any evaluation,
32 treatment and rehabilitation programs required
33 for that person by rules of the Department of Hu-
34 man Services concerning Driver Education Evalua-
35 tion Programs.

1

FISCAL NOTE

2

The amendments to Operating-Under-the-Influence Report, section 1, do not require a fiscal note. The cost of establishing a state-operated evaluation program within DEEP is estimated to be \$325,000 in State Fiscal Year 1987. The costs of this program will be borne by DEEP fee increases.

8

STATEMENT OF FACT

9

This bill amends the information that must be included in the annual operating-under-the-influence (OUI) report and establishes a state-operated evaluation program within the Driver Education Evaluation Program (DEEP) of the Department of Human Services.

14

The OUI report changes made in section 1 are being made to:

16

1. Reflect changes that have been made in the OUI law since 1982;

18

2. Enhance the report by adding information that will make the report more complete; and

20

3. Remove requirements for data that is unavailable, not easily accessible, very expensive to generate or irrelevant to decision-makers. In addition, the submission date is being changed from March 1st to May 1st. The data used to produce the report is not available for review and interpretation until the end of February of each year. Two months are needed for statistical analysis, interpretation of data and development of the report.

29

The list of measures appearing in the Maine Revised Statutes, Title 22, section 7106, subsection 2, paragraph F, subparagraphs (1) to (9) notwithstanding, the Office of Alcoholism and Drug Abuse Prevention shall have the power to revise the report by including new information or excluding previously reported information in response to changes in the law or other circumstances. The purpose of the changes

1 is to make the report more useful to the Chief Jus-
2 tice, the Governor and the Legislature.

3 Sections 2 to 4 of the bill are designed to
4 strengthen the Driver Education Evaluation Program
5 (DEEP) of the Department of Human Services. DEEP
6 conducts classes for people who are arrested for op-
7 erating under the influence (OUI) or who receive ad-
8 ministrative suspensions for drinking and driving.
9 DEEP also conducts preliminary assessments on its
10 clients to determine who needs to be referred for
11 further evaluation and possible treatment of sub-
12 stance abuse-related problems.

13 Currently, providers who evaluate DEEP clients
14 also provide treatment, causing potential for client
15 exploitation when the same provider both evaluates
16 and treats an individual. This problem is compounded
17 by the fact that the individual is required to com-
18 plete treatment before his driver's license is re-
19 stored. Specifically, the bill recognizes that DEEP
20 itself, rather than private practitioners or agen-
21 cies, can conduct evaluations of those clients who
22 are found through DEEP's preliminary assessments to
23 be in possible need of treatment for problems related
24 to substance abuse. The bill allows the Department
25 of Human Services to charge \$35 per session to par-
26 ticipants in the evaluation program. DEEP will need
27 11 new positions to carry out this responsibility.

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