

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 868

H.P. 645 House of Representatives, March 20, 1987
Reference to the Committee on Human Resources suggested
and ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative DAVIS of Monmouth.
Cosponsored by Representative ROLDE of York, Senators
GAUVREAU of Androscoggin and GILL of Cumberland.

STATE OF MAINE

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

AN ACT to Change the Name of the Department
of Mental Health and Mental
Retardation.

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

7 Sec. 1. 2 MRSA §6, sub-§1, as amended by PL
8 1985, c. 785, Pt. A, §1, is further amended to read:

9 1. Range 91. The salaries of the following
10 state officials and employees shall be within salary
11 range 91:

12 Commissioner of Transportation;

13 Commissioner of Conservation;

1 Director of State Development Office;
2 Commissioner of Finance;
3 Commissioner of Administration;
4 Commissioner of Educational and Cultural Ser-
5 vices;
6 Commissioner of Environmental Protection;
7 Commissioner of Human Services;
8 Commissioner of ~~Mental---Health---and---Mental~~
9 ~~Retardation~~ Developmental Disabilities;
10 Commissioner of Public Safety;
11 Commissioner of Business, Occupational and Pro-
12 fessional Regulation;
13 Commissioner of Labor;
14 Commissioner of Agriculture, Food and Rural Re-
15 sources;
16 Commissioner of Inland Fisheries and Wildlife;
17 Commissioner of Marine Resources; and
18 Commissioner of Corrections.

19 Sec. 2. 3 MRSA §507, sub-§3, ¶B, as amended by
20 PL 1981, c. 493, §2, is further amended to read:

21 B. The evaluations and analyses of the justifi-
22 cation reports for the programs of the following
23 Group B-2 departments shall be reviewed by the
24 Legislature no later than June 30, 1983:

25 (1) Department of ~~Mental-Health-and---Mental~~
26 ~~Retardation~~ Developmental Disabilities; and

27 (2) Department of Indian Affairs.

28 Sec. 3. 5 MRSA §8-C, first ¶, as amended by PL
29 1981, c. 493, §101, is further amended to read:

1 All commissary-type facilities operated by state
2 departments for the sale of food and food supplies to
3 any person shall be eliminated. Purchasing of food
4 and food supplies for any person by requisition or
5 otherwise, is prohibited, except that the Department
6 of Inland Fisheries and Wildlife and Bureau of For-
7 estry may requisition food supplies for emergency use
8 or special duty assignments. Meals purchased and pre-
9 pared for institutional or school use may be sold to
10 employees or to visitors based on the actual total
11 cost of purchasing, preparing and serving such food
12 or food supplies. In the case of institutions and
13 schools operated by the Department of ~~Mental-Health~~
14 ~~and--Mental--Retardation~~ Developmental Disabilities,
15 income derived from the sale of meals shall accrue to
16 the General Fund. With the approval of the Commis-
17 sioner of ~~Mental-Health-and-Mental-Retardation~~ Devel-
18 opmental Disabilities and the head of the institution
19 involved, no charge shall be made for the provision
20 of meals to any state employee who eats such meals
21 within the scope of his employment and in doing so
22 serves a function of his employment. If such approv-
23 al is given, the Commissioner of ~~Mental--Health--and~~
24 ~~Mental--Retardation~~ Developmental Disabilities shall
25 establish standards which shall be applied uniformly
26 at all institutions within the department.

27 Sec. 4. 5 MRSA §946, as enacted by PL 1983, c.
28 729, §4, is amended to read:

29 §946. Department of Developmental Disabilities

30 1. Major policy-influencing positions. The fol-
31 lowing positions are major policy-influencing posi-
32 tions within the Department of ~~Mental-Health-and-Men-~~
33 ~~tal-Retardation~~ Developmental Disabilities. Notwith-
34 standing any other provision of law, these positions
35 and their successor positions shall be subject to
36 this chapter:

- 37 A. Associate Commissioner;
- 38 B. Director, Bureau of Mental Health;
- 39 C. Superintendent, Augusta Mental Health Insti-
40 tute;

- 1 D. Superintendent, Bangor Mental Health Insti-
2 tute;
- 3 E. Director, Bureau of Mental Retardation;
- 4 F. Superintendent, Pineland Center;
- 5 G. Children's Services Executive Director;
- 6 H. Director, Mental Retardation Facility;
- 7 I. Director, Elizabeth Levinson Center; and
- 8 J. Assistant to the Commissioner for Public In-
9 formation.

10 **Sec. 5. 5 MRSA §1507, sub-§1, as amended by PL**
11 **1981, c. 493, §2, is further amended to read:**

12 1. Institutions. The Governor may allocate funds
13 from such account, when need exists and only upon the
14 written request of the Commissioner of ~~Mental--Health~~
15 ~~and--Mental--Retardation~~ Developmental Disabilities and
16 upon consultation with the State Budget Officer, to
17 those institutions administered by the Department of
18 ~~Mental--Health--and--Mental--Retardation~~ Developmental
19 Disabilities where actual average population in a
20 fiscal year exceeds the basic estimates of population
21 upon which the budget was approved and where such re-
22 lief cannot be absorbed within regular legislative
23 appropriations.

24 **Sec. 6. 5 MRSA §1510-A, sub-§1, as amended by PL**
25 **1981, c. 493, §101, is further amended to read:**

26 1. Claims against state agency. A state agency
27 may hear and decide any claim of \$2,000 or less
28 against it, or any of its agents, except a claim that
29 may be submitted under the Maine Tort Claims Act, Ti-
30 tle 14, chapter 741, or under another specific statu-
31 tory provision. Any agency paying all or part of a
32 claim heard under this subsection shall make payment
33 as soon as practicable from currently available agen-
34 cy funds and, if no funds are then available, from
35 agency funds from the following fiscal year. An agen-
36 cy deciding a claim under this subsection shall make
37 its final decision, and reasons for the decision, in

1 writing and shall, as soon as practicable, send a
2 copy of that decision to the claimant by certified
3 mail.

4 These claims shall include, but shall not be limited
5 to, claims for damage or injury caused by patients,
6 inmates, prisoners in the care or custody of the De-
7 partment of ~~Mental-Health-and-Mental-Retardation~~ De-
8 velopmental Disabilities or of any institution admin-
9 istered by a department, by children in the custody
10 of the Department of Human Services and for damage to
11 sheep done by dogs or wild animals.

12 Sec. 7. 5 MRSA §1642, sub-§1, as repealed and
13 replaced by PL 1985, c. 96, is amended to read:

14 1. Department. "Department" means the Depart-
15 ment of Human Services and the Department of ~~Mental~~
16 ~~Health---and---Mental---Retardation~~ Developmental
17 Disabilities.

18 Sec. 8. 5 MRSA §1653, sub-§4, as enacted by PL
19 1983, c. 716, §2, is amended to read:

20 4. Department. "Department" means the Depart-
21 ment of Educational and Cultural Services, the De-
22 partment of Human Services, the Department of ~~Mental~~
23 ~~Health---and---Mental---Retardation~~ Developmental
24 Disabilities and the Department of Corrections; the
25 Division of Community Services of the Executive De-
26 partment; the Criminal Justice Planning and Assist-
27 ance Agency of the Executive Department; or the De-
28 partment of Transportation; and may mean such other
29 administrative units of State Government as are de-
30 fined from time to time by the commissioner, except
31 that the Maine Health Care Finance Commission shall
32 not be defined as "department" for the purposes of
33 this chapter.

34 Sec. 9. 5 MRSA §1667, first ¶, as amended by PL
35 1981, c. 493, §101, is further amended to read:

36 Not later than June 1st of each year, the Gover-
37 nor shall require the head of each department and
38 agency of the State Government to submit to the Bu-
39 reau of the Budget a work program for the ensuing

1 fiscal year. Such work program shall include all ap-
2 propriations, revenues, transfers and other funds,
3 made available to said the department or agency for
4 its operation and maintenance and for the acquisition
5 of property, and it shall show the requested allot-
6 ments of said the sums by quarters for the entire
7 fiscal year, classified to show allotments requested
8 for specific amounts for personal services, capital
9 expenditures and amounts for all other departmental
10 expenses. The Department of ~~Mental-Health-and-Mental~~
11 ~~Retardation~~ Developmental Disabilities shall further
12 break down its budget to include institutional food
13 expenditures. Funds not expended for this budget item
14 shall not be transferred between line categories.
15 The Governor, with the assistance of the State Budget
16 Officer, shall review the requested allotments with
17 respect to the work program of each department or
18 agency and shall, if he deems it necessary, revise,
19 alter or change such allotments before approving the
20 same. The Governor may authorize the State Budget
21 Officer to approve quarterly allotments not to exceed
22 \$500 in any account. The aggregate of such allotments
23 shall not exceed the total sums made available to
24 said the department or agency for the fiscal year in
25 question. The State Budget Officer shall transmit a
26 copy of the allotments as approved by the Governor to
27 the head of the department or agency concerned and
28 also a copy to the State Controller. The State Con-
29 troller shall thereupon authorize all expenditures to
30 be made from the sums available on the basis of such
31 allotments and not otherwise.

32 **Sec. 10. 5 MRSA §1826-C, sub-§1, as enacted by**
33 **PL 1985, c. 359, §3, is amended to read:**

34 1. Committee established. There is established
35 the Work Center Purchases Committee, consisting of
36 the State Purchasing Agent, the Director of the Bu-
37 reau of Rehabilitation, a representative of the De-
38 partment of ~~Mental-Health-and-Mental-Retardation~~ De-
39 velopmental Disability, a representative of work cen-
40 ters, a disabled person and a representative of the
41 business community.

42 **Sec. 11. 5 MRSA §1826-D, as enacted by PL 1985,**
43 **c. 359, §3, is amended to read:**

1 §1826-D. Sunset

2 This subchapter is repealed effective July 1,
3 1988, unless reenacted. The Bureau of Rehabilitation,
4 in cooperation with the Bureau of Purchases and the
5 Department of ~~Mental--Health-and-Mental-Retardation~~
6 Developmental Disabilities, shall report to the Leg-
7 islature, no later than February 1, 1988, on the ef-
8 fectiveness of this subchapter in fulfilling its pur-
9 poses.

10 **Sec. 12. 5 MRSA §1855**, as amended by PL 1985, c.
11 779, §19 and as repealed by PL 1985, c. 785, Pt. A,
12 §77, is repealed.

13 **Sec. 13. 5 MRSA §1903**, last ¶, as amended by PL
14 1985, c. 779, §20, is further amended to read:

15 The restrictions regarding full-time employment
16 and payment at minimum wage shall not apply to the
17 cooperative education support program between the De-
18 partment of ~~Mental-Health-and-Mental-Retardation~~ De-
19 velopmental Disabilities and the University of Maine
20 System for the training of psychologists.

21 **Sec. 14. 5 MRSA §3351**, first ¶, as amended by PL
22 1981, c. 493, §101, is further amended to read:

23 The agency shall have no less than 12 nor more
24 than 24 members appointed by the Governor, including,
25 ex officio, the Attorney General, the Commissioner of
26 Public Safety, the Commissioner of ~~Mental-Health-and~~
27 Mental-Retardation Developmental Disabilities and the
28 Chief Medical Examiner for the State. The remaining
29 appointed members shall include representatives of
30 units of local government, including elected offi-
31 cials, appointed executives and law enforcement offi-
32 cers; sheriffs; representatives of groups dealing
33 with juvenile delinquency and representatives of the
34 community generally. In addition to the foregoing,
35 the agency shall have judicial members as provided in
36 the Federal Act.

37 **Sec. 15. 5 MRSA §7041**, sub-§2, ¶C, as enacted by
38 PL 1985, c. 785, Pt. B, §38, is amended to read:

1 C. ~~The Commissioner of Mental-Health-and--Mental~~
2 ~~Retardation~~ Developmental Disabilities or his
3 designee;

4 **Sec. 16. 5 MRSA §7051, sub-§7, as enacted by PL**
5 **1985, c. 785, Pt. B, §38, is amended to read:**

6 **7. Dismissal and disciplinary action.** An ap-
7 pointing authority may dismiss, suspend or otherwise
8 discipline an employee for cause. This right is sub-
9 ject to the right of appeal and arbitration of griev-
10 ances set forth in the applicable labor contract, in
11 sections 7081 to 7084 or by civil service rule; and
12 sections 7081 to 7084 shall apply to any employee who
13 has satisfactorily completed an initial probationary
14 period. This subsection does not apply to an employ-
15 ee appointed to a major policy-influencing position
16 listed in sections 932 to 953.

17 Notwithstanding any other provision of law, the head
18 of any institution under the control of the Depart-
19 ment of ~~Mental-Health-and-Mental-Retardation~~ Develop-
20 mental Disabilities as the appointing authority may
21 suspend with pay any employee who is charged by in-
22 dictment with the commission of a criminal offense
23 involving acts alleged to have been perpetrated upon
24 any resident or residents of any such institution.
25 Any suspension with pay may be authorized by the ap-
26 pointing authority only when to permit the employee
27 to remain on duty at the institution would be against
28 the best interest of any one or more of the residents
29 of the institution, and authorization for suspension
30 with pay shall apply only during the pendency of the
31 criminal proceedings in the trial court, but not
32 longer than 30 working days. Sections 7081 to 7084
33 shall not apply to suspension with pay ordered by the
34 appointing authority under this paragraph.

35 **Sec. 17. 5 MRSA §12004, sub-§10, ¶A,**
36 **sub-¶(58-A), as enacted by PL 1985, c. 645, §1, is**
37 **amended to read:**

38 (58-A) ~~Mental-Health~~ Mental Health Not 34-B MRSA
39 ~~and-Mental~~ Rights Ad- Author- §1209-A
40 ~~Retardation~~ visory Board ized
41 Developmental

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Disabilities

Sec. 18 5 MRSA §12004, sub-§10, ¶A, sub-¶(58-A), as enacted by PL 1985, c. 796, §1, is amended to read:

(58-A) ~~Mental-Health~~ Release Re- Expenses 34-B MRSA
~~and-Mental~~ view Advi- Only §1213
~~Retardation~~ sory
~~Developmental~~ Committee
Disabilities

Sec. 19. 5 MRSA §17003, sub-§7, as enacted by PL 1985, c. 711, §2, is amended to read:

7. Other agencies. To other agencies responsible for the custodial care of individuals, such as the Department of Corrections and the Department of ~~Mental-Health-and--Mental--Retardation~~ Developmental Disabilities.

Sec. 20. 10 MRSA §918, sub-§3, as amended by PL 1985, c. 779, §38 and c. 785, Pt. A, §87, is repealed and the following enacted in its place:

3. Ex officio corporators. Ex officio corporators shall consist of the heads of the major state departments and agencies and the Chancellor of the University of Maine System. State department and agency heads shall include the following:

Treasurer of State;

Director of the State Planning Office;

Director of the State Development Office;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Professional and Financial Regulation;

Commissioner of Conservation;

Commissioner of Educational and Cultural Services;

1 Commissioner of Environmental Protection;

2 Commissioner of Finance;

3 Commissioner of Administration;

4 Commissioner of Human Services;

5 Commissioner of Inland Fisheries and Wildlife;

6 Commissioner of Labor;

7 Commissioner of Marine Resources;

8 Commissioner of Developmental Disabilities;

9 Commissioner of Transportation;

10 Chief Executive Officer of the Finance Authority
11 of Maine;

12 Executive Director of the Maine Municipal Bond
13 Bank; and

14 Executive Director of the Maine State Housing Au-
15 thority.

16 4. Voting rights. Each corporator shall have a
17 vote in such affairs of the foundation as may involve
18 the corporators, provided that, in the case where the
19 corporator is an organization and not an individual,
20 the governing body of that organization shall design-
21 nate the individual who is to exercise the voting
22 right.

23 **Sec. 21.** 12 MRSA §7076, sub-§8, ¶A, as repealed
24 and replaced by PL 1983, c. 440, §5, is amended to
25 read:

26 A. Residents or groups of residents at any state
27 institution under the control of the Department
28 of ~~Mental-Health-and-Mental-Retardation~~ Develop-
29 mental Disabilities;

30 **Sec. 22.** 14 MRSA §5545, 2nd ¶, as amended by PL
31 1981, c. 493, §101, is further amended to read:

1 Whenever, under this section or under any other
2 section in this chapter, a court issues a writ of ha-
3 beas corpus ordering before it a prisoner confined in
4 any penal or correctional institution under the con-
5 trol of the Department of ~~Mental-Health-and-Mental~~
6 Retardation Developmental Disabilities or confined in
7 any county jail, its order as to the transportation
8 of the prisoner to and from the court shall be di-
9 rected to the sheriff of the county in which the
10 court is located. It shall be the responsibility of
11 the sheriff or any one or more of his authorized dep-
12 uties pursuant to any such order to safely transport
13 a prisoner to and from the court. At the time of re-
14 moval of a prisoner from an institution, the trans-
15 porting officer shall leave with the head thereof an
16 attested copy of the order of the court, and upon re-
17 turn of the prisoner shall note such return on such
18 copy. This paragraph as it relates to the responsi-
19 bility for transportation shall be applicable to the
20 transportation of prisoners transferred from the
21 county jail to the State Prison under Title 15, sec-
22 tion 453, and to transfers from the county jail to
23 any other county jail under Title 34, section 1046.

24 **Sec. 23.** 15 MRSA §101, as amended by PL 1985, c.
25 630, §§1 and 2 and PL 1985, c. 796, §§2 and 3, is re-
26 pealed.

27 **Sec. 24.** 15 MRSA §101-B is enacted to read:

28 §101-B. Mental examination and observation of per-
29 sons accused of crime

30 1. Court order; permission. The District Court
31 or the Superior Court having jurisdiction in any
32 criminal case for cause shown may order the defendant
33 examined to determine his mental condition with ref-
34 erence to the issues of criminal responsibility and
35 competence to stand trial. The examination may be
36 conducted at the Augusta Mental Health Institute,
37 Bangor Mental Health Institute, Pineland Center or at
38 a mental health clinic of, or recommended by the Com-
39 missioner of Developmental Disabilities, and when
40 conducted at any such facility shall be the responsi-
41 bility of the State Forensic Service. The examination
42 may be conducted by a psychiatrist or licensed clinical
43 psychologist independent from any such facility,

1 employed for such purpose by the court. The court in
2 selecting the examination site shall consider proxim-
3 ity to the court, availability of an examiner or ex-
4 aminers, and the necessity for security precautions.
5 No person may be presented for examination under this
6 paragraph without arrangements therefor with the head
7 of the institution or clinic or with the individual
8 examiner being first made by the court, clerk of
9 courts or sheriff. If the defendant is incarcerated,
10 the examination is to be completed within 90 days.
11 The opinion of the examiner or examiners relative to
12 the mental condition of the respondent shall be re-
13 ported forthwith to the court following examination.

14 2. Court order mandatory. The court shall order
15 the defendant to be further examined by a psychia-
16 trist and a clinical psychologist from the State
17 Forensic Service if:

18 A. It appears to the court, based on the report
19 of any such examiner that:

20 (1) The defendant suffers or suffered from
21 a mental disease or defect affecting his
22 criminal responsibility or his competence to
23 stand trial; or

24 (2) Further observation is required; or

25 B. The defendant enters or persists in a plea of
26 not guilty by reason of insanity for a period in
27 excess of 21 days after the report in this sec-
28 tion is filed.

29 3. Availability of reports. The court may order
30 that observations, interviews and investigative re-
31 ports regarding the behavior of the defendant made by
32 law enforcement officials be made available to the
33 designated psychiatrist and licensed clinical psy-
34 chologist of the State Forensic Service for the lim-
35 ited purpose of this examination. If the defendant is
36 incarcerated, an initial examination to determine
37 whether commitment to the custody of the Commissioner
38 of Developmental Disabilities is necessary shall be
39 made within 90 days. If the defendant is incarcerated
40 and it is determined that no long-term observation
41 for the purpose of diagnosis is needed, his examina-

1 tions shall be completed within 30 days. If the exam-
2 ination by the designees can be completed without ad-
3 mission, a report of the results of the completed ex-
4 amination shall be forwarded to the court forthwith.
5 If the designated examiners of the Commissioner of
6 Developmental Disabilities determine that admission
7 to an appropriate institution for the mentally ill or
8 mentally retarded is necessary for complete examina-
9 tion, the examiners shall so notify the court which
10 may order the defendant committed to the custody of
11 the Commissioner of Developmental Disabilities to be
12 placed in an appropriate institution for the mentally
13 ill or the mentally retarded, to be there detained
14 and observed by the superintendent, or his delegate,
15 and professional staff for a period of time not to
16 exceed 60 days, for the purpose of ascertaining the
17 mental condition of the defendant. When further de-
18 tention for observation is deemed no longer neces-
19 sary, the commissioner shall report this fact to the
20 court. The court shall then order the person returned
21 to the appropriate court for disposition; if the
22 court ordering commitment for observation has pro-
23 vided for remand to the county jail following comple-
24 tion of the observation in the commitment order, the
25 sheriff or any one or more of his deputies shall exe-
26 cute the remand order upon advice from the commis-
27 sioner of completion of the observation. A report of
28 the results of the observation shall be forwarded
29 promptly to the court by the commissioner.

30 4. Finding of incompetence; custody; bail. If
31 after hearing upon motion of the attorney for the de-
32 fendant, or upon the court's own motion, the court
33 finds that any defendant is incompetent to stand tri-
34 al, it shall continue the case until such time as the
35 defendant is deemed by the court to be competent to
36 stand trial and may either:

37 A. Commit the defendant to the custody of the
38 Commissioner of Developmental Disabilities to be
39 placed in an appropriate institution for the men-
40 tally ill or the mentally retarded for observa-
41 tion, care and treatment. The commitment shall
42 not exceed one year in duration. At the end of 30
43 days or sooner, and again in the event of
44 recommitment, at the end of 60 days and one year,
45 the superintendent of the institution in which

1 the defendant is placed shall forward a report to
2 the Commissioner of Developmental Disabilities
3 relative to the defendant's competence to stand
4 trial and his reasons therefor. The commissioner
5 shall forthwith file the report with the court
6 having jurisdiction of the case. The court shall
7 forthwith set a date for, and shall hold, a hear-
8 ing on the question of the defendant's competence
9 to stand trial, and shall receive all relevant
10 testimony bearing on the question. If the court
11 determines that the defendant is not competent to
12 stand trial but there does exist a substantial
13 probability that the defendant will be competent
14 to stand trial in the foreseeable future, it
15 shall recommit the defendant to the custody of
16 the Commissioner of Developmental Disabilities to
17 be placed in an appropriate institution for the
18 mentally ill or the mentally retarded for obser-
19 vation, care and treatment. If the court deter-
20 mines that the defendant is not competent to
21 stand trial, and there does not exist a substan-
22 tial probability that he will be competent in the
23 foreseeable future, the court shall dismiss all
24 charges against the defendant and notify the ap-
25 propriate authorities who may institute civil
26 commitment procedures for the individual; or

27 B. Except in the case of a defendant who is
28 charged with the commission of an offense, the
29 only punishment for which is life imprisonment,
30 order the defendant's release on bail, with or
31 without the further order that the defendant un-
32 dergo observation at a state mental hospital or
33 mental health facility approved by the Department
34 of Developmental Disabilities, or by arrangement
35 with a private psychiatrist and treatment when it
36 is deemed appropriate by the head of the hospital
37 or clinic or by the private psychiatrist. When
38 such outpatient observation and treatment is or-
39 dered, the head of the hospital or clinic or the
40 psychiatrist shall, within the time specified in
41 subsection 1, forward a report to the court con-
42 taining the opinion of the head of the hospital
43 or clinic or of the psychiatrist, relative to the
44 defendant's competence to stand trial and his
45 reasons therefor. The court shall forthwith set a
46 date for and shall hold a hearing on the question

1 of the defendant's competence to stand trial,
2 which shall be held pursuant to and consistent
3 with the standards set out in paragraph A.

4 5. Competence; proceedings. Upon a determination
5 that the defendant is competent to stand trial, pro-
6 ceedings with respect to the defendant shall be in
7 accordance with the rules of criminal procedure.

8 6. No release during examination period; viola-
9 tion. Any person ordered or committed for examina-
10 tion, observation, care or treatment pursuant to this
11 section shall not be released from the examining in-
12 stitution during the period of examination. Any indi-
13 vidual responsible for or permitting the release of a
14 respondent from the examining institution who has
15 been committed pursuant to this section commits a
16 civil violation for which a forfeiture not to exceed
17 \$1,000 may be adjudged.

18 Sec. 25. 15 MRSA §103, as amended by PL 1981, c.
19 493, §101, is further amended to read:

20 §103. Commitment of persons acquitted on basis of
21 mental disease or defect

22 When a respondent is acquitted, by reason of men-
23 tal disease or mental defect excluding responsibili-
24 ty, the verdict and judgment shall so state. In such
25 case the court shall order such person committed to
26 the custody of the Commissioner of ~~Mental-Health-and~~
27 ~~Mental-Retardation~~ Developmental Disabilities to be
28 placed in an appropriate institution for the mentally
29 ill or the mentally retarded for care and treatment.
30 Upon placement in such appropriate institution and in
31 the event of transfer from one such institution to
32 another of persons committed under this section, no-
33 tice thereof shall be given by the commissioner to
34 the committing court.

35 Sec. 26. 15 MRSA §104-A, sub-§§1 and 2, as
36 amended by PL 1985, c. 796, §4, are further amended
37 to read:

38 1. Release and discharge. The term "release,"
39 as used in this section, means termination of insti-
40 tutional in-patient residency and return to permanent

1 residency in the community. The head of the institu-
2 tion in which a person is placed, under section 103,
3 shall, annually, forward to the Commissioner of Men-
4 tal---Health---and---Mental---Retardation Developmental
5 Disabilities a report containing the opinion of a
6 staff psychiatrist as to the mental conditions of
7 that person, stating specifically whether he may be
8 released or discharged without likelihood that he
9 will cause injury to himself or to others due to men-
10 tal disease or mental defect. The report shall also
11 contain a brief statement of the reasons for the
12 opinion. The commissioner shall forthwith file the
13 report in the Superior Court for the county in which
14 the person is hospitalized. The court shall review
15 each report and, if it is made to appear by the re-
16 port that any person may be ready for release or dis-
17 charge, the court shall set a date for and hold a
18 hearing on the issue of the person's readiness for
19 release or discharge. The court shall give notice of
20 the hearing and mail a copy of the report to the At-
21 torney General, offices of the district attorney
22 which prosecuted the criminal charges for which the
23 person was acquitted by reason of insanity and the
24 offices of the district attorneys in whose district
25 the release petition was filed or in whose district
26 release may occur. At the hearing, the court shall
27 receive the testimony of at least one psychiatrist
28 who has treated the person and a member of the State
29 Forensic Service who has examined the person, the
30 testimony of any independent psychiatrist or licensed
31 clinical psychologist who is employed by the prosecu-
32 tor and has examined the person and any other rele-
33 vant testimony. If, after hearing, the court finds
34 that the person may be released or discharged without
35 likelihood that he will cause injury to himself or to
36 others due to mental disease or mental defect, the
37 court shall order, as applicable:

38 A. Release from the institution, provided that:

39 (1) The order for release may include con-
40 ditions deemed appropriate by the court, in-
41 cluding, but not limited to, out-patient
42 treatment and supervision by the Department
43 of Mental-Health-and-Mental-Retardation De-
44 velopmental Disabilities, Bureau of Mental
45 Health; and

1 (2) The order for release shall include the
2 condition that the person shall be returned
3 to the institution forthwith upon the order
4 of the commissioner whenever the person
5 fails to comply with other conditions of re-
6 lease ordered by the court; or

7 B. Discharge from the custody of the Commission-
8 er of Mental-Health-and-Mental-Retardation Devel-
9 opmental Disabilities.

10 Release from the institution shall be subject to an-
11 nual review by the court and, except for return as
12 ordered by the commissioner under paragraph A, sub-
13 paragraph (1), shall continue until terminated by the
14 court. Each person released under this section shall
15 remain in the custody of the commissioner. The Com-
16 missioner of Mental-Health-and-Mental-Retardation De-
17 velopmental Disabilities shall inform the public
18 safety officer of the municipality or the sheriff's
19 office of the county into which the person is re-
20 leased of the release.

21 2. Modified release treatment. Any individual
22 hospitalized pursuant to section 103, may petition
23 the Superior Court for the county in which that per-
24 son is hospitalized for a release treatment program
25 allowing the individual to be off institutional
26 grounds for a period of time, not to exceed 14 days
27 at any one time. The petition shall contain a report
28 from the institutional staff, including at least one
29 psychiatrist, and the report shall define the
30 patient's present condition; the planned treatment
31 program involving absence from the institution; the
32 duration of the absence from the institution; the
33 amount of supervision during the absence; the expect-
34 ation of results from the program change; and the
35 estimated duration of the treatment program before
36 further change. This petition shall be forwarded to
37 the court no later than 60 days prior to the begin-
38 ning of the modified treatment program. If the court
39 considers that the individual being off the grounds,
40 as described in the treatment plan, is inappropriate,
41 it shall notify the hospital that the plan is not ap-
42 proved and shall schedule a hearing on the matter.
43 The clerk of courts upon receipt of the proposed
44 treatment program shall give notice of the receipt of

1 this program by mailing a copy to the office of the
2 district attorney which prosecuted the criminal
3 charges of which the person was acquitted by reason
4 of insanity, the offices of the district attorneys in
5 whose district the release petition was filed or in
6 whose district release may occur and Attorney General,
7 who may file objections and request a hearing on
8 the matter. Representatives of the Attorney General
9 and the office that prosecuted the person may appear
10 at any hearing on the matter. At the hearing, the
11 court shall receive the testimony of a member of the
12 State Forensic Service who has examined the person,
13 any independent psychiatrist or licensed clinical
14 psychologist who is employed by the prosecutor and
15 has examined the person and any other relevant testimony.
16 If the court does not respond within 60 days to
17 the proposed treatment plan and no objections and request
18 for hearing are filed by the district attorney
19 or Attorney General, it may then be put into effect
20 by the administrator of the hospital on the assumption
21 that the court approved the treatment plan. The
22 ~~Commissioner of Mental-Health-and-Mental-Retardation~~
23 ~~Developmental Disabilities~~ shall inform the public
24 safety officer of the municipality or the sheriff's
25 office of the county in which the person will spend
26 any unsupervised time under the release treatment
27 program of that program.

28 Sec. 27. 15 MRSA §104-A, sub-§3, as enacted by
29 PL 1985, c. 131, §1, is amended to read:

30 3. Other provisions concerning initial release
31 or discharge. A report shall be forwarded and filed
32 and hearings shall be held in accordance with subsection
33 1, without unnecessary delay when, at any time,
34 it is the opinion of a staff psychiatrist that a patient
35 hospitalized under section 103, may be released
36 or discharged without likelihood that he will cause
37 injury to himself or to others due to mental disease
38 or mental defect.

39 A person hospitalized under section 103, or his
40 spouse or next of kin, may petition the Superior
41 Court for the county in which that person is hospitalized
42 for a hearing under subsection 1. Upon receiving the
43 petition, the court shall request and be
44 furnished by the Commissioner of ~~Mental--Health--and~~

1 ~~Mental--Retardation~~ Developmental Disabilities a re-
2 port on the mental condition of that person, as de-
3 scribed in subsection 1. A hearing shall be held on
4 each petition, and release or discharge, if ordered,
5 shall be in accordance with subsection 1. If release
6 or discharge is not ordered, a petition shall not be
7 filed again for the release or discharge of that per-
8 son for 6 months. Any person released under subsec-
9 tion 1 or his spouse or next of kin may at any time
10 after 6 months from the release petition the Superior
11 Court for the county in which he was hospitalized for
12 his discharge under subsection 1. If discharge is not
13 ordered, a petition for discharge may not be filed
14 again for 6 months.

15 **Sec. 28.** 15 MRSA §104-B, as repealed and re-
16 placed by PL 1985, c. 131, §2, is amended to read:

17 §104-B. Failure of patient to return

18 If any patient committed to the Department of
19 ~~Mental-Health-and--Mental--Retardation~~ Developmental
20 Disabilities for care and treatment, under section
21 103 or 105, is ordered to return to the hospital by
22 the Commissioner of ~~Mental--Health--and--Mental~~
23 Retardation Developmental Disabilities, law enforce-
24 ment personnel of the State or of any of its subdivi-
25 sions shall, upon request of the commissioner, assist
26 in the return of the patient to the hospital.

27 **Sec. 29.** 15 MRSA §105, as amended by PL 1981, c.
28 493, §101, is further amended to read:

29 §105. Authority to receive persons for observation
30 committed by the United States District Court

31 The Commissioner of ~~Mental--Health--and--Mental~~
32 Retardation Developmental Disabilities may, in cases
33 deemed appropriate by him, upon request of the Judge
34 of the United States District Court for the District
35 of Maine, authorize the superintendent Superintendent
36 of the Augusta Mental Health Institute, Pineland Cen-
37 ter or Bangor Mental Health Institution, whichever
38 institution is suited to the particular case, to re-
39 ceive for observation persons committed by the Judge
40 of the United States District Court for the District
41 of Maine under Title 18, U.S.C., § 4244; provided

1 that in each case a court-ordered preliminary exami-
2 nation shall have indicated the apparent need for
3 further observation.

4 In each case of admission for observation under
5 this section, the Commissioner of ~~Mental-Health-and~~
6 ~~Mental-Retardation~~ Developmental Disabilities is au-
7 thorized to contract with the proper authorities of
8 the United States for the support of the person so
9 admitted, during the period of observation.

10 **Sec. 30.** 15 MRSA §1710, first ¶, as amended by
11 PL 1981, c. 493, §101, is further amended to read:

12 A sheriff having in his custody a person sen-
13 tenced to a county jail for a term of 60 days or
14 more, upon receipt from such person of a request, in
15 writing, for transfer to a correctional center, may
16 apply, in writing, to the director of the Bureau of
17 Corrections of the Department of ~~Mental-Health-and~~
18 ~~Mental-Retardation~~ Developmental Disabilities for the
19 transfer of such person from the county jail to the
20 Maine Correctional Center, solely for the purpose of
21 permitting such person the opportunity to participate
22 in rehabilitative programs conducted at or from such
23 ~~institution~~ institution.

24 **Sec. 31.** 15 MRSA §2313, as amended by PL 1981,
25 c. 493, §101, is further amended to read:

26 §2313. Contracts authorized

27 The Department of ~~Mental--Health--and--Mental~~
28 ~~Retardation~~ Developmental Disabilities may negotiate
29 and enter into contracts on behalf of this State pur-
30 suant to Article III of the compact and may perform
31 such contracts; provided that no funds, personnel,
32 facilities, equipment, supplies or materials shall
33 may be pledged for, committed or used on account of
34 any such contract, unless legally available therefor.

35 **Sec. 32.** 15 MRSA §3005, as amended by PL 1981,
36 c. 493, §101, is further amended to read:

37 §3005. Forms, other than court forms, reporting
38 formats and other standardized written
39 materials

1 All forms, reporting formats, and other standard-
2 ized written materials necessary to fulfill the re-
3 quirements of this Part shall be uniform for all
4 state and local agencies providing services according
5 to the provisions of this Part; and such forms, re-
6 porting formats, and other standardized written mate-
7 rials shall be developed and approved jointly by the
8 Department of ~~Mental--Health-and-Mental-Retardation~~
9 Developmental Disabilities and the Department of Hu-
10 man Services.

11 **Sec. 33.** 15 MRSA §3601, sub-§2, as amended by PL
12 1981, c. 493, §101, is further amended to read:

13 2. Representation on the committee. To the ex-
14 tent possible, membership on the committee shall in-
15 clude representation from the Department of Human
16 Services, the Department of ~~Mental-Health-and--Mental~~
17 Retardation Developmental Disabilities, the Maine
18 Criminal Justice Planning and Assistance Agency, the
19 Office of Court Administrator, Maine Police Chief's
20 Association, one representative of county sheriffs,
21 Department of Attorney General, one representative of
22 defense attorneys, one representative of district at-
23 torneys, a representative of the public schools, rep-
24 resentatives of 3 local nonprofit agencies serving
25 youth and 2 representatives from the Juvenile Justice
26 Advisory Group to the Maine Criminal Justice Planning
27 and Assistance Agency.

28 **Sec. 34.** 15 MRSA §3601, sub-§5, as amended by PL
29 1981, c. 493, §101, is further amended to read:

30 5. Contacts with state agencies. The committee
31 shall, during the course of its existence, make di-
32 rect contact for the purposes of obtaining informa-
33 tion or for review of such recommendations as it pro-
34 poses, with the Departments of Human Services, ~~Mental~~
35 ~~Health----and----Mental---Retardation~~ Developmental
36 Disabilities, Education Educational and Cultural Ser-
37 VICES, the Criminal Law Advisory Commission and with
38 any other organization or committee whose affairs
39 pertain to the juvenile justice system. These state
40 agencies shall cooperate in the provision of all rea-
41 sonable information and data necessary to carry out
42 the functions given the committee.

1 **Sec. 35. 17-A MRSA §1152, sub-§4, as amended by**
2 **PL 1981, c. 493, §101, is further amended to read:**

3 4. The provisions of this chapter shall not de-
4 prive the court of any authority conferred by law to
5 decree a forfeiture of property, suspend or cancel a
6 license, remove a person from office or impose any
7 other civil penalty. An appropriate order exercising
8 such authority may be included as part of the judg-
9 ment of conviction. Nor shall this chapter deprive
10 the Department of ~~Mental---Health---and---Mental~~
11 Retardation Developmental Disabilities of any author-
12 ity to grant furloughs and work releases or to trans-
13 fer persons from one facility to another.

14 **Sec. 36. 18-A MRSA §5-606, sub-§(c), as amended**
15 **by PL 1985, c. 437, §1, is further amended to read:**

16 (c) Persons duly delegated by the officials au-
17 thorized to act under subsections (a) and (b) may in-
18 clude a staff of competent social workers, or compe-
19 tent social workers assigned to the public guardian
20 or conservator by the Department of ~~Mental-Health-and~~
21 Mental-Retardation Developmental Disabilities or the
22 Department of Human Services. In the event that the
23 delegation is to an individual, such individual shall
24 be qualified therefor by reason of education or expe-
25 rience, or both, in administering to the needs of the
26 individual or individuals over whom he is to exercise
27 administrative or supervisory authority under the
28 public guardian.

29 **Sec. 37. 20-A MRSA §1, sub-§34-A, ¶¶A and B, as**
30 **enacted by PL 1985, c. 789, §§2 and 9, are amended to**
31 **read:**

32 A. In the care or custody, or both, of the De-
33 partment of Human Services, the Department of
34 ~~Mental-Health-and-Mental-Retardation~~ Developmen-
35 tal Disabilities or the Department of Correc-
36 tions;

37 B. Placed, with the recommendation of a Bureau
38 of Mental Retardation case manager or an employee
39 of the Office of Children's Services, Department
40 of ~~Mental-Health-and-Mental-Retardation~~ Develop-
41 mental Disabilities, with a person who is not the
42 child's parent, legal guardian or relative;

1 **Sec. 38. 20-A MRSA §5152, sub-§3, ¶I, as enacted**
2 by PL 1985, c. 774, §5, is amended to read:

3 I. Department of ~~Mental--Health--and--Mental~~
4 Retardation Developmental Disabilities;

5 **Sec. 39. 20-A MRSA §7703, sub-§4, as enacted by**
6 PL 1983, c. 137, is amended to read:

7 4. Local coordinating committee. A local coordi-
8 nating committee, organized prior to application for
9 receipt of a grant, shall be responsible for govern-
10 ance of each local program. Membership shall include
11 representatives of preschool programs in the region
12 to be served by the grant, representatives of the ap-
13 propriate regional offices of the Department of Human
14 Services and the Department of ~~Mental-Health-and-Men-~~
15 tal-Retardation Developmental Disabilities, represen-
16 tatives of participating school administrative units,
17 parents of handicapped children and other community
18 members as appropriate. Terms of membership and meth-
19 ods of appointment or election shall be determined by
20 local coordinating committee bylaws, subject to ap-
21 proval of the department. Responsibilities of local
22 coordinating committees shall be detailed in the reg-
23 ulations promulgated by the department.

24 **Sec. 40. 20-A MRSA §7704, first ¶, as amended by**
25 PL 1985, c. 295, §31, is further amended to read:

26 An Interdepartmental Coordinating Committee for
27 Preschool Handicapped Children pursuant to Title 5,
28 chapter 379, representing the department, the Depart-
29 ment of Human Services, the Department of ~~Mental~~
30 ~~Health---and---Mental---Retardation~~ Developmental
31 Disabilities and the public, shall be appointed by
32 the 3 commissioners to work with the department to
33 establish guidelines, including continuation appli-
34 cations, to monitor grants and to evaluate the per-
35 formance of programs developed through the grants.

36 **Sec. 41. 20-A MRSA §7801, sub-§1, as enacted by**
37 PL 1985, c. 768, §1, is amended to read:

1 1. Coordination. Coordinating existing programs
2 presently provided for these youths by the Department
3 of Human Services, the Department of ~~Mental-Health~~
4 ~~and-Mental--Retardation~~ Developmental Disabilities,
5 the Department of Educational and Cultural Services
6 and other public and private agencies;

7 Sec. 42. 20-A MRSA §7803, first ¶, as enacted by
8 PL 1985, c. 786, §1, is amended to read:

9 An Interdepartmental Coordinating Committee for
10 Handicapped Youth in Transition pursuant to Title 5,
11 chapter 379, representing the Department of Educa-
12 tional and Cultural Services, the Department of Human
13 Services, the Department of ~~Mental-Health-and-Mental~~
14 ~~Retardation~~ Developmental Disabilities and the pub-
15 lic, shall be appointed by the 3 commissioners to
16 work with the department to establish guidelines, in-
17 cluding continuation applications, to monitor grants
18 and to evaluate the performance of programs developed
19 through the grants.

20 Sec. 43. 20-A MRSA §7804, sub-§4, as enacted by
21 PL 1985, c. 768, §1, is amended to read:

22 4. Local coordinating committee. A local coor-
23 dinating committee, organized prior to application
24 for receipt of a grant, shall be responsible for gov-
25 ernance of each local program. Membership shall in-
26 clude representatives of transitional services pro-
27 grams in the region to be served by the grant; repre-
28 sentatives of the appropriate regional offices of the
29 Department of Human Services and the Department of
30 ~~Mental--Health--and--Mental-Retardation~~ Developmental
31 Disabilities; representatives of participating school
32 administrative units; representatives of adult ser-
33 vice agencies, including rehabilitation facilities;
34 parents of handicapped children; and other community
35 members as appropriate. Terms of membership and
36 methods of appointment or election shall be deter-
37 mined by local coordinating committee bylaws, subject
38 to approval of the committee. Responsibilities of
39 local coordinating committees shall be detailed in
40 the rules promulgated by the committee.

1 **Sec. 44. 20-A MRSA §15603, sub-§23**, as enacted
2 by PL 1983, c. 859, Pt. G, §§2 and 4, is amended to
3 read:

4 **23. State-operated institution.** "State-operated
5 institution" means any residential facility or insti-
6 tution which is operated by the Department of Mental
7 Health---and---Mental----Retardation Developmental
8 Disabilities.

9 **Sec. 45. 22 MRSA §2883, first ¶**, as amended by
10 PL 1981, c. 493, §2, is further amended to read:

11 All public officers, agents and servants of any
12 and every county and municipality, and of any and ev-
13 ery almshouse, prison, morgue, hospital or any other
14 public institution having charge or control over dead
15 human bodies required to be buried at the public ex-
16 pense are required to notify immediately the said
17 board of distribution, or such person or persons as
18 may from time to time be designated by said the
19 board, or its duly authorized officer or agent, when-
20 ever any such body or bodies come into his or their
21 possession, charge or control, and shall, without fee
22 or reward, deliver such body or bodies to said the
23 board or its duly authorized officer or agent, and
24 permit and suffer the said board or its agents, or
25 the physicians and surgeons from time to time desig-
26 nated by it or them, who comply with this chapter, to
27 take and remove any and all such bodies to be used
28 within the State for the advancement of medical edu-
29 cation. No such notice need be given and no such body
30 shalt may be delivered if any person, satisfying the
31 authorities in charge of said the body that he or she
32 is a member of the family or next of kin to the de-
33 ceased, shalt may claim the body for burial, but it
34 shall be surrendered to him or her for interment, and
35 no notice shalt may be given and no body delivered to
36 said the board or its agents if such deceased person
37 was a traveler and not a vagabond, who died suddenly,
38 in which case the said body shall be buried. The su-
39 perintendents and medical staffs of the Augusta Men-
40 tal Health Institute, the Bangor Mental Health Insti-
41 tute and Pineland Center, having charge or control
42 over dead human bodies required to be buried at pub-
43 lic expense, when no person satisfies the superin-

1 tendent of either hospital for the mentally ill or
2 the Pineland Center, and the Department of Mental
3 Health---and---Mental---Retardation Developmental
4 Disabilities that he or she is a member of the family
5 of, or some family connection or next of kin to the
6 deceased, and wishes to claim the body for burial,
7 may for the advancement of science hold an autopsy
8 and examine the body of such person, notwithstanding
9 any provisions of this chapter.

10 **Sec. 46.** 22 MRSA §3025, sub-§1, ¶E, as repealed
11 and replaced by PL 1985, c. 611, §6, is amended to
12 read:

13 E. Death while the person is a patient or resi-
14 dent of a facility of the Department of Mental
15 Health---and---Mental--Retardation Developmental
16 Disabilities or residential care facility main-
17 tained or licensed by the Department of Human
18 Services, unless clearly certifiable by an at-
19 tending physician as due to specific natural
20 causes;

21 **Sec. 47.** 22 MRSA §3172-B, sub-§1, as amended by
22 PL 1981, c. 493, §2, is further amended to read:

23 1. Fund. All moneys money received by the De-
24 partment of Mental-Health-and-Mental-Retardation De-
25 velopmental Disabilities under section 3172 which are
26 generated by services rendered at any of the mental
27 health and mental retardation institutions operated
28 by that department shall be credited to the General
29 Fund.

30 **Sec. 48.** 22 MRSA §3472, sub-§4, as enacted by PL
31 1981, c. 527, §2, is amended to read:

32 4. Commissioner. "Commissioner" means the Com-
33 missioner of Human Services or his representative in
34 the geographical area in which the person resides or
35 is present or, in the case of mentally retarded
36 adults, the Commissioner of Mental-Health-and--Mental
37 Retardation Developmental Disabilities or his repre-
38 sentative in the geographical area in which the per-
39 son resides or is present.

1 **Sec. 49. 22 MRSA §3472, sub-§5, as enacted by PL**
2 **1981, c. 527, §2, is amended to read:**

3 **5. Department.** "Department" means the Department
4 of Human Services and, in the case of mentally re-
5 tarded adults, the Commissioner of ~~Mental-Health--and~~
6 ~~Mental-Retardation~~ Developmental Disabilities.

7 **Sec. 50. 22 MRSA §3553, sub-§7-A, as enacted by**
8 **PL 1983, c. 539, §3, is amended to read:**

9 **7-A. Report to departments.** Prepare periodic
10 reports to the Department of Corrections, Department
11 of Educational and Cultural Services, Department of
12 ~~Mental-Health--and--Mental-Retardation~~ Developmental
13 Disabilities and the Department of Human Services re-
14 garding actions taken under section 3558.

15 **Sec. 51. 22 MRSA §3571, sub-§2, as enacted by PL**
16 **1985, c. 484, is amended to read:**

17 **2. Counseling and support services; Department**
18 **of Developmental Disabilities.** The Department of ~~Men-~~
19 ~~tal---Health--and--Mental--Retardation~~ Developmental
20 Disabilities shall institute programs of family coun-
21 seling and support services for families with devel-
22 opmentally disabled children aged 0 to 5 years. The
23 purpose of these counseling and support services
24 shall be to increase the family's understanding of
25 the child's special needs and to enhance family mem-
26 bers' abilities to cope with the physical and emo-
27 tional strains experienced by families with handi-
28 capped children.

29 **Sec. 52. 22 MRSA §3573, as enacted by PL 1985,**
30 **c. 484, is amended to read:**

31 §3573. Reporting

32 The Department of Human Services, Department of
33 ~~Mental--Health--and--Mental-Retardation~~ Developmental
34 Disabilities and Department of Educational and Cul-
35 tural Services shall by January of each year submit a
36 joint report to the joint standing committee of the
37 Legislature having jurisdiction over human resources
38 regarding the prevention activities conducted over

1 the past fiscal year, plans for the succeeding year
2 and a report on the incidence rate of births of de-
3 velopmentally disabled children in the State.

4 **Sec. 53. 22 MRSA §4083, sub-§6, as enacted by PL**
5 **1985, c. 441, §3, is amended to read:**

6 **6. Advice and consultation.** The Commissioner of
7 Corrections, the Commissioner of Educational and Cul-
8 tural Services, the Commissioner of Human Services,
9 the Commissioner of ~~Mental--Health--and--Mental~~
10 ~~Retardation~~ Developmental Disabilities and the Com-
11 missioner of Public Safety shall, upon request, pro-
12 vide the board with technical information and advice.

13 **Sec. 54. 22 MRSA §5306, as amended by PL 1981,**
14 **c. 493, §2, is further amended to read:**

15 **§5306. Agreements with community agencies**

16 All funds disbursed by the department to a commu-
17 nity agency for the purpose of financially supporting
18 a human service shall be covered by a written agree-
19 ment, pursuant to the same provisions specified for
20 the Department of ~~Mental---Health---and---Mental~~
21 ~~Retardation~~ Developmental Disabilities in Title 34,
22 section 12.

23 **Sec. 55. 22 MRSA §7112, 4th ¶, as amended by PL**
24 **1981, c. 493, §2, is further amended to read:**

25 The office shall cooperate with the Department of
26 ~~Mental-Health-and--Mental--Retardation~~ Developmental
27 Disabilities and all institutions under its control
28 in establishing and conducting programs to provide
29 treatment for alcoholics and intoxicated persons and
30 for people who abuse or are dependent on drugs in or
31 on parole from penal or special treatment institu-
32 tions.

33 **Sec. 56. 22 MRSA §7131, sub-§2, ¶D, as enacted**
34 **by PL 1983, c. 464, §19, is amended to read:**

35 **D. The Commissioner of ~~Mental-Health-and-Mental~~**
36 **Retardation Developmental Disabilities.**

1 **Sec. 57.** 22 MRSA §7132, sub-§2, as enacted by PL
2 1983, c. 464, §19, is amended to read:

3 2. Planning. The planning committee shall su-
4 pervise the planning of drug abuse activities by the
5 Department of Corrections, the Department of Educa-
6 tional and Cultural Services, the Department of Human
7 Services and the Department of ~~Mental-Health-and-Men-~~
8 ~~tal--Retardation~~ Developmental Disabilities and shall
9 prepare and submit to the Legislature the following
10 documents:

11 A. By January 15, 1984, and each year thereaf-
12 ter, a report containing an evaluation of the
13 past year's progress toward obtaining established
14 goals and objectives and the planning committee's
15 recommendations regarding allocations from the
16 Alcoholism Prevention, Education, Treatment and
17 Research Fund for the coming fiscal year;

18 B. By January 15, 1985, and biennially thereaf-
19 ter, a comprehensive plan containing statements
20 of measurable goals to be accomplished during the
21 coming biennium and establishing performance in-
22 dicators by which progress toward accomplishing
23 those goals will be measured; and

24 C. By January 15, 1987, and every 4th year
25 thereafter, an assessment of the costs related to
26 drug abuse in the State and the needs for various
27 types of services within the State, including ge-
28 ographical disparities in needs and the needs of
29 special populations of drug abusers.

30 **Sec. 58.** 22 MRSA §7905, sub-§1, as amended by PL
31 1985, c. 770, §11, is further amended to read:

32 1. Permission to manage personal funds. No oper-
33 ator or agent of any boarding care facility ~~shall~~ may
34 manage, hold or deposit in a financial institution
35 the personal funds of any resident of the facility,
36 unless the operator or agent has received written
37 permission therefor from:

38 A. The resident, if the resident is not mentally
39 retarded and has no guardian, trustee or conser-
40 vator;

1 B. The resident's guardian, trustee or conserva-
2 tor, if such person exists and can be reached; or

3 C. The department, if a guardian, trustee or
4 conservator exists, but cannot be reached, or, in
5 the case of a mentally retarded resident, if such
6 resident has no guardian, trustee or conservator.

7 Whenever the department gives written permission to
8 an operator or agent to manage, hold or deposit the
9 personal funds of any mentally retarded residents,
10 the department may request the Bureau of Mental Re-
11 tardation, Department of ~~Mental--Health--and--Mental~~
12 Retardation Developmental Disabilities, to develop,
13 insofar as resources are available, an appropriate
14 plan for the management of these funds.

15 Sec. 59. 22 M RSA §7909, last ¶, as amended by PL
16 1981, c. 493, §2, is further amended to read:

17 Nothing in this section may be construed to mean
18 that a resident who is not a client of the Department
19 of Human Services or the Department of ~~Mental--Health~~
20 ~~and--Mental--Retardation~~ Developmental Disabilities
21 shall be required, as a condition of admission, to
22 provide records to the administrator of the facility.

23 Sec. 60. 22 M RSA §7910, 3rd ¶, as enacted by PL
24 1983, c. 844, §1, is amended to read:

25 The Department of Human Services and the Depart-
26 ment of ~~Mental--Health--and--Mental--Retardation~~ Develop-
27 mental Disabilities shall report biennially to the
28 joint standing committee of the Legislature having
29 jurisdiction over health and institutional services,
30 commencing in January 1986, on the intake and refer-
31 ral system, the appropriateness of placements and the
32 service needs which have been identified.

33 Sec. 61. 22 M RSA §7912, sub-§1, ¶G, as enacted
34 by PL 1985, c. 770, §15, is amended to read:

35 G. If a facility of 7 or 8 beds has mobile
36 nonambulatory residents who are mentally ill or
37 mentally retarded or who have related conditions,
38 the facility shall be certified by the Department

1 of ~~Mental-Health-and-Mental-Retardation~~ Develop-
2 mental Disabilities as being able to ensure the
3 safety of and provide services to such residents.
4 If the facility has mobile nonambulatory resi-
5 dents who are elderly, physically disabled or
6 adult protective services' clients, or have con-
7 ditions not related to mental illness or mental
8 retardation, the facility shall be certified by
9 the Department of Human Services as being able to
10 ensure the safety of and provide services to such
11 residents.

12 **Sec. 62.** 22 MRSA §7924, sub-§1, as amended by PL
13 1981, c. 493, §2, is further amended to read:

14 1. Alleged violations reported and investigated.
15 Any person who believes that any of those regulations
16 governing the licensure of long-term care facilities
17 duly promulgated by the Department of Human Services
18 pertaining to residents' rights and conduct of resi-
19 dent care has been violated may report the alleged
20 violation to the protection and advocacy agency des-
21 ignated pursuant to section 3551; the Maine Committee
22 on Aging pursuant to section 5112, subsection 2; the
23 Office of Advocacy pursuant to Title 34, section 1-A;
24 and any other agency or person whom the Commissioner
25 of Human Services and the Commissioner of ~~Mental~~
26 ~~Health---and---Mental---Retardation~~ Developmental
27 Disabilities may designate.

28 **Sec. 63.** 22 MRSA §7924, sub-§3, as amended by PL
29 1981, c, 493, §2, is further amended to read:

30 3. Written report of findings. Any agency or
31 person investigating a situation pursuant to subsec-
32 tion 1 or 2 shall submit a written report of the
33 findings and results of the investigation to the ad-
34 ministrator of the long-term care facility in which
35 the residents' rights allegedly have been violated;
36 to the Commissioner of Human Services; and, if the
37 resident is mentally ill or mentally retarded or has
38 a related condition, to the Commissioner of ~~Mental~~
39 ~~Health---and---Mental---Retardation~~ Developmental
40 Disabilities.

1 **Sec. 64.** 22 MRSA §8104, sub-§1, as amended by PL
2 1981, c. 493, §2, is further amended to read:

3 1. Interagency licensing method. The Commission-
4 ers of the Departments of Educational and Cultural
5 Services, Human Services and ~~Mental-Health-and-Mental~~
6 ~~Retardation~~ Developmental Disabilities, or their des-
7 ignees, shall jointly establish a method for inter-
8 agency licensing of residential child care facilities
9 subject wholly or partly to licensing by at least 2
10 of the departments. The method shall provide for the
11 following:

- 12 A. Development of common licensing rules;
- 13 B. Periodic review of licensing rules;
- 14 C. Delegation of departmental responsibilities;
15 and
- 16 D. Determination of licensing fees.

17 **Sec. 65.** 22 MRSA §8151, as enacted by PL 1985,
18 c. 274, §2, is amended to read:

19 §8151. Interdepartmental committee created

20 There is established an interdepartmental commit-
21 tee known as the Children's Residential Treatment
22 Committee, to jointly develop and coordinate the
23 State's role in contracting for the placement and
24 treatment of children in residential treatment cen-
25 ters. The committee shall be composed of the Commis-
26 sioner of Educational and Cultural Services; the Com-
27 missioner of Human Services; the Commissioner of Men-
28 ~~tal---Health--and--Mental--Retardation~~ Developmental
29 Disabilities; and the Commissioner of Corrections, or
30 their designees.

31 **Sec. 66.** 23 MRSA §4209, sub-§1, as amended by PL
32 1981, c. 493, §2, is further amended to read:

33 1. Geographic regions. The Department of Trans-
34 portation shall divide the State into a number of ge-
35 ographic regions for regional distribution of state
36 administered transportation funds. Upon designation

1 of the geographic regions and every year thereafter,
2 a regional public transportation agency shall be se-
3 lected from each region to formulate an annual re-
4 gional operations plan. Selection shall be by the
5 Department of Transportation with the consent of the
6 Departments of Human Services and ~~Mental--Health--and~~
7 ~~Mental-Retardation~~ Developmental Disabilities.

8 **Sec. 67. 23 MRSA §4209, sub-§2, as amended by PL**
9 **1981, c. 493, §2, is further amended to read:**

10 **2. Annual regional operations plan.** The annual
11 regional operations plan submitted by each regional
12 public transportation agency shall provide for the
13 following:

14 A. Maximum feasible coordination of funds among
15 all state agencies that sponsor transportation in
16 the district;

17 B. Development and maintenance of a permanent
18 and effective public transportation system, with
19 particular regard to low income, elderly and
20 handicapped residents;

21 C. Participation of private transit operators in
22 the service, to the greatest extent possible; and

23 D. Conformity with general operations require-
24 ments as may be prescribed by the commissioner.

25 Approval of each regional operations plan shall be by
26 the Department of Transportation with the consent of
27 the Departments of Human Services and ~~Mental--Health~~
28 ~~and--Mental--Retardation~~ Developmental Disabilities.
29 Upon approval, all agencies, groups or organizations
30 named to participate in the provision of service in
31 accordance with a regional operations plan shall be-
32 come eligible to receive funds administered by the
33 Department of Transportation.

34 **Sec. 68. 23 MRSA §4209, sub-§4, as amended by PL**
35 **1981, c. 493, §2, is further amended to read:**

1 4. Human services assistance; priorities. Liaison
2 appointed by the Departments of Human Services
3 and ~~Mental-Health-and-Mental-Retardation~~ Developmental
4 Disabilities shall act to coordinate purchase of
5 service contracts and serve in an advisory capacity
6 to the department in matters concerning public trans-
7 portation. In the event that transportation funds for
8 human services' programs are insufficient for full
9 implementation of the human services' portion of an
10 approved annual regional operations plan, priorities
11 established by the Departments of Human Services and
12 ~~Mental-Health-and--Mental--Retardation~~ Developmental
13 Disabilities shall determine the priority clients
14 that shall be initially served by human services'
15 funds.

16 **Sec. 69.** 24 MRSA §2325-A, sub-§3, ¶E, as enacted
17 by PL 1983, c. 515, §4, is amended to read:

18 E. "Provider" means those individuals included
19 in Title 24, section 2303, subsection 2, and a
20 licensed physician, an accredited public hospital
21 or psychiatric hospital or a community agency li-
22 censed at the comprehensive service level by the
23 Department of ~~Mental---Health---and---Mental~~
24 Retardation Developmental Disabilities. All
25 agency or institutional providers named in this
26 paragraph shall assure that services are super-
27 vised by a psychiatrist or licensed psychologist.

28 **Sec. 70.** 24-A MRSA §2843, sub-§3, ¶E, as amended
29 by PL 1983, c. 816, Pt. B, §7, is further amended to
30 read:

31 E. "Provider" means individuals included in sec-
32 tion 2835, and a licensed physician with 3 years
33 approved residency in psychiatry, an accredited
34 public hospital or psychiatric hospital or a com-
35 munity agency licensed at the comprehensive ser-
36 vice level by the Department of ~~Mental-Health-and~~
37 Mental--Retardation Developmental Disabilities.
38 All agency or institutional providers named in
39 this paragraph shall assure that services are su-
40 pervised by a psychiatrist or licensed psycholo-
41 gist.

1 **Sec. 71. 25 MRSA §1542, sub-§1, as amended by PL**
2 **1981, c. 493, §101, is further amended to read:**

3 1. Fingerprints. Law enforcement officers or
4 persons in charge of state correctional institutions
5 under the general supervision, management and control
6 of the Department of ~~Mental--Health--and--Mental~~
7 ~~Retardation~~ Developmental Disabilities shall have the
8 authority to take or cause to be taken, and shall
9 take or cause to be taken, the fingerprints of any
10 person:

11 A. In custody charged with the commission of a
12 crime;

13 B. In custody charged with the commission of a
14 juvenile offense;

15 C. In custody and believed to be a fugitive from
16 justice;

17 D. Named in a search warrant which directs that
18 such person's fingerprints, palm prints or photo-
19 graph be taken;

20 E. Who dies while confined at a jail, police
21 station or any facility operated by the Bureau of
22 Corrections;

23 F. Who may have died by violence or by the ac-
24 tion of chemical, thermal or electrical agents,
25 or following abortion, or suddenly when not dis-
26 abled by recognizable disease, or whose death is
27 unexplained or unattended, if directed to do so
28 by the Attorney General or District Attorney; or

29 G. The taking of whose fingerprints, palm prints
30 or photograph has been ordered by a court.

31 **Sec. 72. 25 MRSA §2003, sub-§1, ¶E, as enacted**
32 **by PL 1985, c. 478, §2, is amended to read:**

33 E. Does the following:

34 (1) At the request of the issuing authori-
35 ty, takes whatever action is required of him

1 by law to allow the issuing authority to ob-
2 tain from the Department of Mental--Health
3 and----Mental----Retardation Developmental
4 Disabilities, limited to records of patient
5 committals to Augusta Mental Health Insti-
6 tute and Bangor Mental Health Institute, the
7 courts, law enforcement agencies and the
8 military information relevant to the follow-
9 ing:

10 (a) The ascertainment of whether the
11 information supplied on the application
12 or any documents made a part of the ap-
13 plication is true and correct;

14 (b) The ascertainment of whether each
15 of the additional requirements of this
16 section has been met; and

17 (c) Section 2005;

18 (2) If a photograph is an integral part of
19 the permit to carry concealed firearms
20 adopted by an issuing authority, submits to
21 being photographed for that purpose;

22 (3) If it becomes necessary to resolve any
23 questions as to his identity, submits to
24 having his fingerprints taken by the issuing
25 authority; and

26 (4) Submits an application fee not to ex-
27 ceed \$20 for an original application and \$10
28 for a renewal for a resident of the State.
29 The fee shall cover both the cost of pro-
30 cessing the application by the issuing au-
31 thority and the cost of the permit to carry
32 concealed firearms issued by the issuing au-
33 thority.

34 **Sec. 73. 28 MRSA §475, sub-§2, as repealed and**
35 **replaced by PL 1983, c. 464, §20, is amended to read:**

36 2. Commissioners' reports. The Commissioner of
37 Corrections, the Commissioner of Educational and Cul-
38 tural Services, the Commissioner of Human Services

1 and the Commissioner of ~~Mental--Health--and--Mental~~
2 ~~Retardation~~ Developmental Disabilities, through the
3 Alcohol and Drug Abuse Planning Committee established
4 in Title 22, chapter 1601, subchapter V, shall pre-
5 pare and submit the reports specified in that sub-
6 chapter. Other governmental departments and nongov-
7 ernmental organizations may be consulted in the pre-
8 paration of these reports. The planning committee may
9 hold hearings, solicit and receive proposals or take
10 any other action they consider necessary and appro-
11 priate in order to prepare their reports.

12 **Sec. 74.** 32 MRSA §302, sub-§2, ¶C, as amended by
13 PL 1981, c. 493, §101, is further amended to read:

14 C. Upon inmates or residents of institutions of
15 the Department of ~~Mental--Health--and--Mental~~
16 ~~Retardation~~ Developmental Disabilities;

17 **Sec. 75.** 32 MRSA §1552, sub-§2, ¶C, as amended
18 by PL 1985, c. 506, Pt. A, §67, is further amended to
19 read:

20 C. Upon inmates or residents of institutions of
21 the Department of ~~Mental--Health--and--Mental~~
22 ~~Retardation~~ Developmental Disabilities and the
23 Department of Corrections;

24 **Sec. 76.** 32 MRSA §2258-A, as amended by PL 1981,
25 c. 493, §101, is further amended to read:

26 §2258-A. Administration of medication

27 Any employee of any institution under the control
28 of the Department of ~~Mental--Health--and--Mental~~
29 ~~Retardation~~ Developmental Disabilities or of an in-
30 stitution licensed by the State as a hospital, nurs-
31 ing home, extended care facility or boarding home
32 who, in the exercise of due care, is authorized by
33 the head of such institution or his designee to per-
34 form selected activities in the administration of
35 medications and any person who, in the exercise of
36 due care, is delegated such functions by a licensed
37 allopathic or osteopathic physician shall be immune
38 from criminal prosecution and civil liability for any

1 such administration of medication prior to January 1,
2 1978, but not thereafter.

3 **Sec. 77. 33 MRSA §1314, sub-§1, as amended by PL**
4 **1981, c. 493, §101, is further amended to read:**

5 1. Presumption of abandonment. All property held
6 by an institution under the control of the Department
7 of ~~Mental-Health-and-Mental-Retardation~~ Developmental
8 Disabilities that has been left by a patient or in-
9 mate shall be presumed abandoned if it has not been
10 claimed within 2 years after the patient's or
11 inmate's discharge from, or death while residing in,
12 the institution.

13 **Sec. 78. 34-A MRSA §1209, sub-§3, ¶D, as enacted**
14 **by PL 1983, c. 581, §§10 and 59, is amended to read:**

15 D. The Commissioner of Corrections, Commissioner
16 of Educational and Cultural Services, Commission-
17 er of Human Services, Commissioner of ~~Mental~~
18 ~~Health--and--Mental---Retardation~~ Developmental
19 Disabilities and Commissioner of Public Safety
20 are ex officio, voting members of the group.

21 **Sec. 79. 34-A MRSA §3805, sub-§2, as repealed**
22 **and replaced by PL 1983, c. 581, §§47 and 59, is**
23 **amended to read:**

24 2. Limitations. No person may be committed to
25 the center who is blind or who is a proper subject
26 for any state institution administered by the Depart-
27 ment of ~~Mental-Health-and-Mental-Retardation~~ Develop-
28 mental Disabilities.

29 **Sec. 80. 34-B §1001, sub-§§3 and 4, as enacted**
30 **by PL 1983, c. 459, §7, are amended to read:**

31 3. Commissioner. "Commissioner" means the Com-
32 missioner of ~~Mental-Health-and-Mental-Retardation~~ De-
33 velopmental Disabilities or his designee, except that
34 when the term "commissioner and only the commission-
35 er" is used, the term applies only to the person ap-

1 pointed Commissioner of ~~Mental--Health--and-Mental~~
2 Retardation Developmental Disabilities and not to any
3 designee.

4 4. Department. "Department" means the Depart-
5 ment of ~~Mental-Health-and-Mental-Retardation~~ Develop-
6 mental Disabilities.

7 Sec. 81. 34-B MRSA §1201, first ¶, as enacted by
8 PL 1983, c. 459, §7, is amended to read:

9 There is established a Department of ~~Mental~~
10 ~~Health---and---Mental---Retardation~~ Developmental
11 Disabilities.

12 Sec. 82. 34-B MRSA §1201, sub-§2, as enacted by
13 PL 1983, c. 459, §7, is amended to read:

14 2. Commissioner. The department is under the
15 control and supervision of the Commissioner of ~~Mental~~
16 ~~Health---and---Mental---Retardation~~ Developmental
17 Disabilities.

18 Sec. 83. 34-B MRSA §1202, sub-§1, as enacted by
19 PL 1983, c. 459, §7, is amended to read:

20 1. Appointment. The Governor shall appoint the
21 Commissioner of ~~Mental-Health-and-Mental--Retardation~~
22 Developmental Disabilities subject to review by the
23 joint standing committee of the Legislature having
24 jurisdiction over health and institutional services
25 and to confirmation by the Senate, to serve at the
26 pleasure of the Governor.

27 Sec. 84. 34-B MRSA §1207, sub-§1, ¶B, as amended
28 by PL 1983, c. 626, is further amended to read:

29 B. Information may be disclosed if necessary to
30 carry out any of the statutory functions of the
31 department, the hospitalization provisions of
32 chapter 3, subchapter IV or the purposes of Title
33 22, section 3554, dealing with the investigatory
34 function of the Protection and Advocacy Agency of
35 the Developmentally Disabled in Maine, or the
36 purposes of Title 18-A, section 5-601, subsection
37 (b), where the Department of Human Services is

1 requested by the Department of ~~Mental-Health-and~~
2 ~~Mental-Retardation~~ Developmental Disabilities to
3 act as public guardian or public conservator;

4 Sec. 85. 34-B MRSA §1212, sub-§1, as enacted by
5 PL 1985, c. 796, §7, is amended to read:

6 1. Establishment and membership. The Commission-
7 er of ~~Mental-Health-and-Mental--Retardation~~ Develop-
8 mental Disabilities shall establish a State Forensic
9 Service and appoint its members. Members shall be
10 psychiatrists and licensed clinical psychologists ex-
11 perience in forensic service and not directly in-
12 volved in the treatment of persons committed to the
13 department under Title 15, chapter 5. These psychia-
14 trists and psychologist may be employed by the de-
15 partment directly or as independent contractors.

16 Sec. 86. 34-B MRSA §1431, sub-§1, ¶B, as enacted
17 by PL 1983, c. 459, §7, is amended to read:

18 B. "Residential facility" means a boarding home,
19 nursing home, foster home, group home or halfway
20 house licensed by the Department of Human Ser-
21 vices or used by the Department of ~~Mental-Health~~
22 ~~and-----Mental-----Retardation~~ Developmental
23 Disabilities.

24 Sec. 87. 34-B MRSA §3001, as enacted by PL 1983,
25 c. 459, §7, is amended to read:

26 §3001. Establishment

27 There is established, within the Department of
28 ~~Mental-Health-and--Mental--Retardation~~ Developmental
29 Disabilities, the Bureau of Mental Health, which is
30 responsible for the direction of the mental health
31 programs in the state institutions and for the promo-
32 tion and guidance of mental health programs within
33 the several communities of the State.

34 Sec. 88. 34-B MRSA §3863, sub-§4, ¶B, as amended
35 by PL 1985, c. 815, is further amended to read:

1 B. The county of which the person is a legal
2 resident is responsible for any expenses of
3 transportation under this section, including re-
4 turn from the hospital if admission is declined.
5 If the person is not a resident of the State or
6 if the county of residence cannot be determined,
7 the expenses of transportation shall be the re-
8 sponsibility of the Department of ~~Mental-Health~~
9 ~~and-----Mental-----Retardation~~ Developmental
10 Disabilities.

11 **Sec. 89. 34-B MRSA §5003, sub-§2, ¶G, as amended**
12 by PL 1985, c. 712, §2, is further amended to read:

13 G. Encourage other departments to provide to
14 mentally retarded persons those services which
15 are required by law, and in particular:

16 (1) The commissioner shall work actively to
17 ensure that mentally retarded clients, as
18 provided for in Title 20-A, chapter 303,
19 shall receive educational and training ser-
20 vices beginning at age 5 years regardless of
21 the degree of retardation, or accompanying
22 disabilities or handicaps;

23 (2) The commissioner shall advise the De-
24 partment of ~~Mental---Health--and--Mental~~
25 ~~Retardation~~ Developmental Disabilities about
26 standards and policies pertaining to admin-
27 istration, staff, quality of care, quality
28 of treatment, health and safety of clients,
29 rights of clients, community relations and
30 licensing procedures and other areas which
31 affect mentally retarded persons residing in
32 facilities licensed by the Department of Hu-
33 man Services; and

34 (3) The commissioner shall inform the joint
35 standing committee of the Legislature having
36 jurisdiction over human resources about ar-
37 eas where increased cooperation by other de-
38 partments is necessary in order to improve
39 the delivery of services to mentally re-
40 tardated persons; and

1 **Sec. 90.** 34-B MRSA §5201, first ¶, as enacted by
2 PL 1983, c. 459, §7, is amended to read:

3 There is established, within the Department of
4 ~~Mental--Health--and--Mental-Retardation~~ Developmental
5 Disabilities, the Bureau of Mental Retardation, which
6 is responsible for:

7 **Sec. 91.** 34-B MRSA §5475, sub-§6, as repealed
8 and replaced by PL 1985, c. 397, §2, is amended to
9 read:

10 **6. Period of certification.** If the court finds
11 that the petitioner has proved eligibility in accord-
12 ance with subsection 4, paragraph C, subparagraph
13 (1), the court shall order the certification to re-
14 main in effect for a period of not more than 2 years
15 from the day the certification order was issued.

16 If the court finds that the petitioner has proved el-
17 igibility in accordance with subsection 4, paragraph
18 C, subparagraph (2), the court shall order the certi-
19 fication to remain in effect only until an opening
20 exists in a facility providing a less restrictive al-
21 ternative, consistent with the best interest of the
22 client, at which time the client shall be placed in
23 that alternative setting or for not more than 6
24 months from the day the certification order was is-
25 sued, whichever first occurs. If the client is not
26 placed in such an alternative setting by the time
27 this certification expires, no subsequent petition
28 may be filed unless it contains a written report of
29 the Commissioner of ~~Mental--Health--and--Mental~~
30 Retardation Developmental Disabilities detailing the
31 actions taken by the department to find or develop an
32 alternative setting for that client.

33 **Sec. 92.** 34-B MRSA §6001, as enacted by PL 1983,
34 c. 824, Pt. U, is amended to read:

35 §6001. Legislative intent

36 It is the intent of the Legislature that social
37 and habilitative services directed at persons who
38 have been diagnosed as being autistic or having other
39 pervasive developmental disorders, be developed and

1 planned for, to the extent that resources permit, by
2 the Department of ~~Mental---Health---and---Mental~~
3 Retardation Developmental Disabilities, through the
4 Bureau of Mental Retardation.

5 **Sec. 93.** 34-B MRSA §6203, sub-§2, ¶D, as enacted
6 by PL 1985, c. 503, §12, is amended to read:

7 D. The plan shall specifically indicate the de-
8 partment's efforts in assuring that services to
9 children in need of treatment and their families
10 are effectively coordinated with existing re-
11 sources and procedures of all Department of ~~Men-~~
12 ~~tal---Health---and---Mental-Retardation~~ Developmental
13 Disabilities institutions and programs.

14 **Sec. 94.** 34-B MRSA §6204, sub-§1, as enacted by
15 PL 1985, c. 503, §12, is amended to read:

16 1. Duties. There is established, within the De-
17 partment of ~~Mental-Health-and-Mental-Retardation~~ De-
18 velopmental Disabilities, the Bureau of Children with
19 Special Needs. The bureau shall:

20 A. Strengthen the capacity of families, natural
21 helping networks, self-help groups and other com-
22 munity resources to support and serve children in
23 need of treatment;

24 B. Facilitate the planning, promoting, coordina-
25 tion, delivery and evaluation of a complete and
26 integrated statewide system of services to chil-
27 dren in need of treatment and their families; and

28 C. Support those services appropriate to chil-
29 dren in need of treatment and their families, in-
30 cluding, but not necessarily limited to, the fol-
31 lowing:

32 (1) Advocacy;

33 (2) Assessment and diagnosis;

34 (3) Child development;

35 (4) Consultation and education;

- 1 (5) Crisis intervention;
- 2 (6) Family guidance and counseling;
- 3 (7) Preventive intervention;
- 4 (8) Professional consultation and training;
- 5 (9) Respite care; and
- 6 (10) Treatment.

7 **Sec. 95.** 34-B MRSA §6204, sub-§2-A, as enacted
8 by PL 1985, c. 777, §2, is amended to read:

9 2-A. Improvement and expansion of day treatment
10 services for emotionally handicapped children. The
11 bureau shall work cooperatively with the Department
12 of Corrections, Department of Educational and Cultural
13 Services and the Department of Human Services to
14 improve and expand day treatment programs for emo-
15 tionally handicapped school-age children so that they
16 and their families may receive necessary, appropriate
17 and coordinated therapeutic and educational services
18 in home and community settings, reducing the likeli-
19 hood that out-of-home or residential treatment place-
20 ments will be required. The Department of Mental
21 ~~Health---and---Mental---Retardation~~ Developmental
22 Disabilities shall license these programs pursuant to
23 sections 3603 and 3606. The Department of Educational
24 and Cultural Services shall approve these programs
25 pursuant to Title 20-A, chapter 206. The 2 depart-
26 ments shall jointly develop standards to ensure a
27 consistent high quality throughout the State.

28 **Sec. 96.** 34-B MRSA §7017, as amended by PL 1985,
29 c. 295, §50, is further amended to read:

30 §7017. Sterilization procedures review committee

31 As authorized by Title 5, chapter 379, a commit-
32 tee shall be established whose purpose shall be to
33 review annually the authorization of sterilizations
34 under this chapter for the purpose of assessing the
35 need for any changes in the procedures or standards
36 set forth in this chapter. The committee shall con-

1 sist of not less than 6 members, including represen-
2 tatives of the Maine court system, the medical commu-
3 nity, a designee from the Department of ~~Mental-Health~~
4 ~~and-Mental-Retardation~~ Developmental Disabilities, a
5 designee from the Department of Human Services, a
6 member of the joint standing committee of the Legis-
7 lature having jurisdiction over health and institu-
8 tional services, and a member of the joint standing
9 committee of the Legislature having jurisdiction over
10 the judiciary. The representatives of the 2 joint
11 standing legislative committees shall be appointed by
12 the chairmen of those legislative committees. Other
13 members of the review committee shall be appointed
14 annually by the Governor who shall also designate the
15 chairman of the committee.

16 **Sec. 97.** 36 MRSA §1760, sub-§28, ¶B, as amended
17 by PL 1985, c. 691, §15, is further amended to read:

18 B. Receiving support from the Department of ~~Men-~~
19 ~~tal-Health-and-Mental--Retardation~~ Developmental
20 Disabilities pursuant to Title 34-B, section
21 3604, 5433 or 6204.

22 **Sec. 98. Transition clause.** The Department of
23 Mental Health and Mental Retardation, as previously
24 established, shall be known as the Department of De-
25 velopmental Disabilities. Any reference to the De-
26 partment of Mental Health and Mental Retardation
27 shall be deemed to be a reference to the Department
28 of Developmental Disabilities and all obligations and
29 responsibilities having accrued to the Department of
30 Mental Health and Mental Retardation shall be deemed
31 to have accrued to the Department of Developmental
32 Disabilities. The commissioner may transfer posi-
33 tions, lines, programs, property or accounts between
34 bureaus and appropriations to carry out the intent of
35 this Act.

36 **Sec. 99. Revision clause.** Wherever in the Maine
37 Revised Statutes the words "Department of Mental
38 Health and Mental Retardation" appear or reference is
39 made to that name, they are amended to read and mean
40 the "Department of Developmental Disabilities."

1

STATEMENT OF FACT

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4

This bill changes the name of the Department of
Mental Health and Mental Retardation to the Department
of Developmental Disabilities.

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