

# MAINE STATE LEGISLATURE

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SECOND REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

No. 2296

S.P. 884 In Senate, February 18, 1988  
Approved for Introduction by a Majority of the Legislative  
Council pursuant to Joint Rule 26.

Reference to the Committee on Human Resources suggested  
and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator ANDREWS of Cumberland.

Cosponsored by Senator GILL of Cumberland, Representative  
MELENDY of Rockland, Senator BUSTIN of Kennebec.

STATE OF MAINE

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

1 AN ACT to Improve Personal Care Attendant  
2 Services under the Home-Based Care Laws.  
3

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

6 Sec. 1. 5 MRSA §12004, sub-§10, ¶A, sub-¶(36-B)  
7 is enacted to read:

8 (36-B) Human Home-Based Expenses 22 MRSA

1                    Services: Care                    Only                    \$7345  
2                    Home- Advisory  
3                    Based Committee  
4                    Care

5                    Sec. 2. 22 MRSA §7302, sub-§10, as enacted by  
6                    PL 1981, c. 511, §1, is amended to read:

7                    10. Severe physical disability. "Severe physical  
8                    disability" means a permanent or temporary, recurring  
9                    functional loss of the arms and or legs.

10                    Sec. 3. 22 MRSA §7342, sub-§2, as enacted by PL  
11                    1981, c. 511, §1, is amended to read:

12                    2. Need for services. Has a need for not less  
13                    than 14 nor more than 35 up to 56 hours a week of  
14                    personal care assistance services or for an attendant  
15                    at night, or both, which services are necessary to  
16                    prevent or remove the adult from inappropriate  
17                    placement in an institutional setting; and

18                    Sec. 4. 22 MRSA §§7344 and 7345 are enacted to  
19                    read:

20                    §7344. Register

21                    The following registers shall be maintained.

22                    1. Personal care assistance. The commissioner  
23                    shall provide for the establishment and periodic  
24                    update of a register of persons available to provide  
25                    personal care assistance services. The list shall be  
26                    developed through an advertising campaign conducted  
27                    throughout the State and other means. Names submitted  
28                    for the list shall receive a general check of  
29                    references. If the references are acceptable, the  
30                    names shall be included on the register and arranged  
31                    by geographical area.

32                    2. Adults needing personal care assistance. The  
33                    commissioner shall provide for the establishment and  
34                    periodic update of a list of adults with long-term  
35                    care needs who are eligible for personal care  
36                    assistance services.

1           3. Emergency system. The commissioner shall  
2 provide for the establishment of a system of referral  
3 to handle emergency personal care assistance service  
4 needs on a 24-hour-a-day basis.

5           §7345. Home-Based Care Advisory Committee

6           There is created the Home-Based Care Advisory  
7 Committee.

8           1. Membership. The advisory committee shall  
9 consist of 17 members as follows:

10           A. Seven severely disabled adults with long-term  
11 care needs who are employers of personal care  
12 assistants;

13           B. Two adult members of the psychiatrically  
14 labeled community;

15           C. Two elderly persons;

16           D. One advocate who normally provides advocacy  
17 services covering severely disabled adults with  
18 long-term care needs;

19           E. Two providers of personal care assistance  
20 services; and

21           F. One representative each from the Bureau of  
22 Rehabilitation, Bureau of Medical Services and the  
23 Bureau of Maine's Elderly.

24           2. Appointment; terms. All appointments shall be  
25 made by the commissioner. The terms shall be for 3  
26 years, except that initial appointments shall be  
27 staggered as follows: 2 adult employers of personal  
28 care assistants, one elderly person, one provider of  
29 personal care assistance services and the Bureau of  
30 Maine's Elderly representative shall be appointed for  
31 one year; 2 adult employers of personal care  
32 assistants, one member of the psychiatrically labeled  
33 community, the advocate, one provider of personal care  
34 assistance services and the Bureau of Medical Services

1 representative shall be appointed for 2 years; and 3  
2 adult employers of personal care assistants, one  
3 member of the psychiatrically labeled community, one  
4 elderly person and the Bureau of Rehabilitation  
5 representative shall be appointed for 3 years.  
6 Members appointed to fill vacancies in existing terms  
7 shall be appointed for the remainder of the expired  
8 term. Members may be reappointed.

9       3. Staff. Staff work for the advisory committee  
10 shall be provided by individuals or agencies  
11 independent of the department and agencies providing  
12 personal care assistance services. The Bureau of  
13 Rehabilitation shall contract on behalf of the  
14 advisory committee for staff services.

15       4. Expenses. Members of the advisory committee  
16 shall be compensated for their expenses reasonably  
17 incurred in carrying out their responsibilities under  
18 this section.

19       5. Duties. The duties of the advisory committee  
20 shall be to:

21       A. Monitor and evaluate the provision of  
22 home-based care to severely disabled adults under  
23 this chapter;

24       B. Periodically hold public hearings at regional  
25 sites across the State to hear comments from  
26 severely disabled adults eligible for personal  
27 care assistance on the availability and quality of  
28 those services;

29       C. Biennially, beginning in 1988, prepare an  
30 evaluation of the provision of home-based care to  
31 severely disabled adults and submit a report of  
32 its evaluation to the Governor and the Legislature  
33 in January of the following year; and

34       D. Disseminate information on the home-based care  
35 program and services available.

36       Sec. 5.       Psychiatrically labeled persons;  
37 evaluation of needs. The Department of Mental Health

1 and Mental Retardation shall conduct or arrange for a  
2 study evaluating the need for personal care assistance  
3 for psychiatrically labeled persons to avoid  
4 unnecessary institutionalization. If appropriate, the  
5 study recommendations shall include the possibility of  
6 establishing a pilot project or projects to determine  
7 and assess ways to address the personal care  
8 assistance needs of the psychiatrically labeled.

9       **Sec. 6.**       Personal care assistants; wages,  
10 benefits and overnight pay. The Bureau of  
11 Rehabilitation, in establishing a program of personal  
12 care assistance services, shall provide through  
13 contract with providers of in-home personal care  
14 assistance for an average compensation rate of \$8 an  
15 hour for personal care assistants, (payment of \$15 per  
16 night per client to overnight attendants) and the  
17 establishment of a pro rata group benefits package,  
18 including health insurance, vacation and sick leave  
19 for personal care assistants. In overseeing the use  
20 of funds for increased wages of personal care  
21 assistance workers, the Bureau of Rehabilitation shall  
22 take into account regional variations in the cost of  
23 living and competitive wage rates across the State.

24

#### STATEMENT OF FACT

25       The purpose of this bill is to modify the  
26 provision of in-home personal care assistance to  
27 severely disabled adults under the home-based care  
28 law, enacted in 1981. This bill would:

29       1. Increase the eligibility for personal care  
30 assistance services by amending the definition of  
31 "severe physical disability" and making the services  
32 available to those with up to 56 hours of personal  
33 care assistance a week;

34       2. Require the Commissioner of Human Services to  
35 establish registers of providers of personal care  
36 assistance, and adults in need of personal care  
37 assistance, and a referral system for emergency  
38 personal care needs;

1           3.    Establish   the   Home-Based   Care   Advisory  
2   Committee to monitor, evaluate and publicize personal  
3   care assistance services;

4           4.    Provide for an evaluation of the personal care  
5   assistance needs of members of the psychiatrically  
6   labeled community; and

7           5.    Provide for increased wages and benefits for  
8   personal care assistants and increase the compensation  
9   for overnight attendants.

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