

MAINE STATE LEGISLATURE

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1

L.D. 2685

2

(Filing No. S- 558)

3

STATE OF MAINE

4

SENATE

5

113TH LEGISLATURE

6

THIRD SPECIAL SESSION

7

COMMITTEE AMENDMENT " A " to S.P. 1028, L.D. 2685,
8 Bill, "AN ACT to Establish the Board of Overseers of
9 the Augusta and Bangor Mental Health Institutes."

10

Amend the bill by striking out all of the title
11 and inserting in its place the following:

12

'AN ACT to Establish the Maine Commission on Mental
13 Health.'

14

Further amend the bill by striking out everything
15 after the enacting clause and inserting in its place
16 the following:

17

'Sec. 1. 3 MRSA §507, sub-§4, 1B, as repealed
18 and replaced by PL 1981, c. 698, § 3, is amended to
19 read:

20

B. Unless continued or modified by law, the
21 following Group B-2 independent agencies shall
22 terminate, not including the grace period, no
23 later than June 30, 1983. The Maine Health
24 Facilities Authority and the Maine State Housing
25 Authority shall not terminate, but shall be
26 reviewed by the Legislature no later than June 30,
27 1987:

28

(1) Board of Chiropractic Examination and
29 Registration;

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- 1 (2) Board of Dental Examiners;
- 2 (3) State Board of Licensure of
- 3 Administrators of Medical Care Facilities
- 4 other than Hospitals;
- 5 (4) Board of Registration in Medicine;
- 6 (5) State Board of Nursing;
- 7 (6) State Board of Optometry;
- 8 (7) Board of Osteopathic Examination and
- 9 Registration;
- 10 (8) Board of Commissioners of the Profession
- 11 of Pharmacy;
- 12 (9) Examiners of Podiatrists;
- 13 (10) Maine Health Facilities Cost Review
- 14 Board;
- 15 (11) Maine Medical Laboratory Commission;
- 16 (12) State Planning and Advisory Council on
- 17 Developmental Disabilities;
- 18 (13) Maine Committee on Problems of the
- 19 Mentally Retarded;
- 20 (14) Governor's Committee on Employment of
- 21 the Handicapped;
- 22 (15) Division of Community Services;
- 23 (16) Maine State Housing Authority; and
- 24 (17) Maine Health Facilities Authority;
- 25 and
- 26 (18) Maine Commission on Mental Health.

27 Sec. 2. 5 MRSA §12004-I, sub-§§60 and 62, as
28 enacted by PL 1987, c. 786, §5, are repealed.

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1 Sec. 3. 5 MRSA §12004-J, sub-§7 is enacted to
2 read:

3	<u>7. Mental Health</u>	<u>Maine</u>	<u>Expenses</u>	<u>34-B MRSA</u>
4		<u>Commission</u>	<u>Only</u>	<u>\$3901</u>
5		<u>on Mental</u>		
6		<u>Health</u>		

7 Sec. 4. 34-B MRSA §1209, as amended by PL 1985,
8 c. 712, §1, is repealed.

9 Sec. 5. 34-B MRSA §1403, as amended by PL 1987,
10 c. 402, Pt. A, §177, is repealed.

11 Sec. 6. 34-B MRSA §3002, sub-§1, as enacted by
12 PL 1983, c. 459, §7, is amended to read:

13 1. Appointment. The commissioner shall, with the
14 advice of the Mental Health Advisory Council Maine
15 Commission on Mental Health, appoint and set the
16 salary for the Director of the Bureau of Mental
17 Health.

18 A. Notwithstanding any other provision of law,
19 the commissioner may delegate any employee of the
20 department to serve, for a period not to exceed
21 180 days, as the acting director, if the office of
22 the director is vacant.

23 B. Service as the acting director is considered a
24 temporary additional duty for the person so
25 delegated.

26 Sec. 7. 34-B MRSA §3006, as repealed and
27 replaced by PL 1987, c. 769, Pt. A, §126, is amended
28 to read:

29 §3006. State Mental Health Plan

30 1. Preparation and development of plan. The
31 Bureau of Mental Health, with the advice of the
32 Mental Health Advisory Council Maine Commission on
33 Mental Health, shall:

34 A. Prepare a plan which describes the system of
35 mental health services in each of the mental
36 health service regions and statewide.

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1 (1) The plan shall include both existing and
2 needed service resources.

3 (2) The plan shall include an assessment of
4 the roles and responsibilities of mental
5 health agencies, human services agencies,
6 health agencies and involved state
7 departments and shall suggest ways in which
8 these agencies and departments can better
9 cooperate to improve the service system.

10 (3) The plan shall incorporate the Office of
11 Community Support Systems' report, developed
12 in accordance with section 3004, subsection
13 3, paragraph C.

14 (4) The plan shall be prepared biennially
15 and shall be submitted to the joint standing
16 committee of the Legislature having
17 jurisdiction over human resources by December
18 15th of every even-numbered year. The
19 committee shall review the plan and make
20 recommendations with respect to
21 administrative and funding improvements in
22 the system.

23 (5) The plan shall be made public within the
24 State in such a manner as to facilitate
25 public involvement;

26 B. Assure that the development of the plan
27 includes the participation of community mental
28 health service providers, consumer and family
29 groups and others in annual statewide hearings, as
30 well as informal meetings and work sessions; and

31 C. Consider community service needs, relate these
32 identified needs to biennial budget requests and
33 incorporate necessary service initiatives into a
34 comprehensive planning document.

35 Sec. 8. 34-B MRSA c. 3, sub-c. V is enacted to
36 read:

37 SUBCHAPTER V

COMMITTEE AMENDMENT "A" to S.P. 1028, L.D. 2685

1 MAINE COMMISSION ON MENTAL HEALTH

2 §3901. Maine Commission on Mental Health;
3 establishment; membership; compensation

4 1. Establishment. In order to monitor and
5 evaluate the efficacy and timely implementation of
6 community and institutional reform programs designed
7 to improve opportunities for persons with mental
8 illness in the State, to promote and monitor advocacy
9 programs for persons with mental illness and to review
10 and assess the development and implementation of
11 standards of care and treatment for persons with
12 mental illness, there is established an independent
13 commission to be known as the Maine Commission on
14 Mental Health, hereinafter referred to in this chapter
15 as the "commission."

16 2. Membership. The commission shall consist of
17 21 members, including 11 appointed by the Governor and
18 10 jointly appointed by the President of the Senate
19 and the Speaker of the House. In making these
20 appointments to the commission, the Governor, the
21 President of the Senate and the Speaker of the House
22 shall consider and appoint residents of the State who
23 have a knowledge of problems facing persons with
24 mental illness in the State and who provide leadership
25 in programs or activities which are carried out to
26 improve opportunities for persons with mental
27 illness. The Governor shall select a person from
28 among the gubernatorial appointees to serve as
29 chairman. The initial appointments to this commission
30 shall be made within 30 days of the effective date of
31 this subchapter.

32 3. Terms of office; vacancies. The terms of
33 office of the appointed members shall be 2 years,
34 except for the first appointed members. Of the first
35 appointed members, 5 members appointed by the
36 Governor, 3 members appointed by the President of the
37 Senate and 3 members appointed by the Speaker of the
38 House shall serve for terms of 2 years. The remainder
39 of the members shall be appointed for terms of one
40 year. The term of office of each member shall be
41 designated at the time of appointment.

42 A. Upon expiration of a member's term, the member

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1 shall serve until a successor is qualified and
2 appointed. Any member may be removed for cause
3 which shall include excessive absences from
4 meetings of the commission. Excessive absences
5 shall be defined by the commission.

6 B. A vacancy on the commission shall be filled
7 for the unexpired term in the same manner in which
8 an appointment is made.

9 4. Meetings. The commission shall meet at least
10 once a month. Additional meetings may be held as
11 necessary and may be convened at the call of the
12 chairman or any 2 members. Meetings shall be
13 announced in advance and open to the public as
14 required by Title 1, chapter 13, subchapter I.

15 5. Quorum. Nine members of the commission shall
16 constitute a quorum. No action may be taken by the
17 commission except by affirmative vote of a majority of
18 those present and voting.

19 6. Compensation. Members shall serve without
20 compensation but shall be entitled to reimbursement
21 for necessary expenses incurred in the work of the
22 commission as provided in Title 5, chapter 379.

23 §3902. Powers and duties.

24 The commission has the powers and duties to advise
25 and consult with the Governor and the Legislature
26 about improving care, treatment and programming for
27 persons with mental illness in the State. The
28 commission has the following powers and duties:

29 1. Assistance to persons with mental illness. To
30 recommend a program of citizen advocates who are
31 available, upon the request of a person with mental
32 illness or that person's legal guardian, to assist in
33 the treatment and program planning process with the
34 patient, both in the institutes and in the community,
35 and to otherwise act in a supportive role for
36 individual persons with mental illness and to monitor
37 the effectiveness of all advocacy programs for persons
38 with mental illness;

39 2. Standards. To work in a collaborative fashion

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1 - with the department to review and comment on the
2 development and implementation of standards of care
3 and treatment of persons with mental illness;

4 3. Reform programs. To monitor and evaluate the
5 efficiency and timeliness of community and
6 institutional reform programs designed to improve
7 opportunities for persons with mental illness;

8 4. Recommendations concerning state mental health
9 institutes. To make recommendations to the commission
10 on the management of the state mental health
11 institutes;

12 5. Subcommittee on state mental health
13 institutes. To create a subcommittee from the
14 membership of the commission exclusively to monitor
15 and evaluate the state mental health institutes. The
16 subcommittee shall monitor and evaluate the
17 development and implementation of standards of care
18 and treatment at the state mental health institutes
19 and inspect the institutes;

20 6. Appoint an executive director and secretary
21 and request staff assistance from the department. To
22 appoint a full-time executive director who shall serve
23 at the pleasure of the commission and who shall not be
24 subject to the civil service laws. The executive
25 director is entitled to compensation in an amount to
26 be determined by the commission within the same pay
27 range authorized for the Executive Director of the
28 Human Services Council. The executive director shall
29 perform those duties as assigned by the commission.
30 The commission may employ a secretary as it deems
31 necessary. The commission may request department
32 staff, as needed, to assist the commission in carrying
33 out its functions and duties. The executive director
34 may make recommendations to the commission;

35 7. Meetings. To conduct public hearings,
36 conferences, workshps and other such meetings to
37 obtain information about, discuss and publicize the
38 needs of and solutions to problems of persons with
39 mental illness in Maine;

40 8. Advise. To act in an advisory capacity to the
41 commissioner in the development of the state mental

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1 health plan and in the appointment of a Director of
2 the Bureau of Mental Health. The commission shall act
3 in an advisory capacity to the commissioner, the
4 Governor and the Legislature on mental health matters;
5 and

6 9. State mental health plan. To participate in
7 the development of the state mental health plan
8 required by section 3006.

9 §3903. Reports.

10 By February 1, 1990 and each year thereafter, the
11 commission shall present a report to the Legislature
12 and the commissioner assessing the State's
13 implementation of and compliance with the community
14 and institutional standards and evaluating the state
15 mental health institutes. The report shall set out
16 the standards, the degree of compliance with the
17 standards, identify any areas of noncompliance and
18 suggest a plan of correction. The commission shall
19 report to the Legislature on an interim basis, upon
20 request.

21 Reports presented pursuant to this section shall
22 be submitted to the joint standing committee of the
23 Legislature having jurisdiction over human resources
24 and to the commissioner. Copies of the report shall
25 be sent to the Office of Advocacy, Department of
26 Human Services, Division of Adult Services, and the
27 state agency designated to carry out the purposes of
28 the United States Protection and Advocacy for Mentally
29 Ill Individuals Act. Copies of the report shall be
30 made available to interested persons upon request.

31 Sec. 9. Mental Health Rights Advisory Board
32 report. The Mental Health Rights Advisory Board
33 established in the Maine Revised Statutes, Title 34-B,
34 section 1209-A, shall report to the Joint Standing
35 Committee on Human Resources by February 15, 1989 on
36 any factors which impede the board's capacity to
37 protect patients' rights. The staff of the Maine
38 Commission on Mental Health, established in the Maine
39 Revised Statutes, Title 34-B, section 3901, shall
40 assist the board in making this report.

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1 Sec. 10. Appropriation. The following funds
2 are appropriated from the General Fund to carry out
3 the purposes of this Act.

4		<u>1988-89</u>
5	<u>MAINE COMMISSION ON</u>	
6	<u>MENTAL HEALTH</u>	
7	Positions	(2)
8	Personal Services	\$44,556
9	All Other	22,000
10	Capital Expenditures	5,000
11		
12	Total	<u>\$71,556</u>

13 Provides funds for an
14 Executive Director and
15 a secretary, office
16 expenses and related
17 costs of operating the
18 Commission.

19
20 Emergency clause. In view of the emergency
21 cited in the preamble, this Act shall take effect when
22 approved, except that sections 2, 4 and 5 shall take
23 effect July 1, 1989.

23

FISCAL NOTE

24

25 This bill establishes the Maine Commission on
26 Mental Health and will require a General Fund
27 appropriation of \$71,556 for fiscal year 1988-89 for
28 staff and related expenses.'

28

STATEMENT OF FACT

29

30 This amendment replaces the original bill. It
31 establishes the Maine Commission on Mental Health
32 which will operate independently of governmental
33 agencies providing mental health services. It will
34 promote and monitor advocacy for persons with mental
35 illness, review the development and implementation of
36 standards for the care and treatment of patients at

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1 the mental health institutes, make recommendations
2 concerning the management of the state mental health
3 institutes and monitor and evaluate the efficiency and
4 timeliness of community and institutional reform
5 programs designed to improve opportunities for persons
6 with mental illness. The commission will submit
7 annual reports to the Legislature. This amendment
8 also repeals the Mental Health Advisory Council and
9 the Board of Visitors of the State Mental Health
10 Institutes. Their functions will be assumed by the
11 Maine Commission on Mental Health. There will be a
12 period in which all 3 agencies will be operational to
13 allow for a smooth transition between the agencies.

14

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Reported by Senator Gauvreau for the Committee on Human
Resources. Reproduced and Distributed Pursuant to Senate
Rule 12.

(9/16/88)

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