

MAINE STATE LEGISLATURE

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L.D. 1074

(Filing No. S-166)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 408, L.D. 1074, Bill, "An Act Relating to the Maine Commission on Mental Health"

Amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there is an error and an oversight in the current law relating to the Maine Commission on Mental Health which affects the commission's ability to report on, respond to and make recommendations about needed reforms; and

Whereas, the commission has been charged with making an independent evaluation of the programs and services provided by the Department of Mental Health and Mental Retardation; and

Whereas, the current law does not provide the commission with adequate powers to sufficiently perform this task; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 34-B MRSA §1203, sub-§8 is enacted to read:

8. Establish standards of care. The commissioner shall, with the assistance of the Maine Commission on Mental Health, establish standards of care for patients at the Augusta Mental Health Institute and the Bangor Mental Health Institute.

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3 **Sec. 2. 34-B MRSA §1207, sub-§1, ¶¶E and F**, as enacted by PL 1983, c. 459, §7, are further amended to read:

5 E. Nothing in this subsection precludes the disclosure of
7 biographical or medical information concerning a client to
9 commercial or governmental insurers, or to any other
11 corporation, association or agency from which the department
13 or a licensee of the department may receive reimbursement
15 for the care and treatment, education, training or support
17 of the client, if the recipient of the information uses it
19 for no other purpose than to determine eligibility for
21 reimbursement and, if eligibility exists, to make
23 reimbursement; and

15 F. Nothing in this subsection precludes the disclosure or
17 use of any information, including recorded or transcribed
19 diagnostic and therapeutic interviews, concerning any client
21 in connection with any educational or training program
23 established between a public hospital and any college,
25 university, hospital, psychiatric or counseling clinic or
27 school of nursing, provided that, in the disclosure or use
29 of the information as part of a course of instruction or
31 training program, the client's identity remains
33 undisclosed; and

27 **Sec. 3. 34-B MRSA §1207, sub-§1, ¶G** is enacted to read:

29 G. Information shall be disclosed to the executive director
31 and the members of the subcommittees on institutes and
33 quality assurance of the Maine Commission on Mental Health
35 for the purpose of carrying out the commission's statutory
37 duties.

35 **Sec. 4. 34-B MRSA §3901, sub-§§1 and 2**, as enacted by PL 1987,
37 c. 887, §8, are amended to read:

39 1. **Establishment.** In order to monitor and evaluate the
41 efficacy and timely implementation of community and institutional
43 reform programs designed to improve opportunities for persons
45 with mental illness in the State, to promote and monitor advocacy
47 programs for persons with mental illness and, to participate in
49 the development of standards of care and to review, and assess
51 and monitor the development-and implementation of standards of
 care and treatment for persons with mental illness, there is
 established an independent commission to be known as the
 Maine Commission on Mental Health, hereinafter referred to in
 this chapter as the "commission."

 2. **Membership.** The commission shall consist of 21 23
51 members, including 11 12 appointed by the Governor and 10 11
 jointly appointed by the President of the Senate and the Speaker

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1 of the House of Representatives. One of the members jointly
 3 appointed by the President of the Senate and the Speaker of the
 5 House of Representatives and one of the members appointed by the
 7 Governor shall be primary consumers of mental health services.
 9 One of the members jointly appointed by the President of the
 11 Senate and the Speaker of the House of Representatives and one of
 13 the members appointed by the Governor shall be secondary
 15 consumers of mental health services. In making these
 17 appointments to the commission, the Governor, the President of
 19 the Senate and the Speaker of the House of Representatives shall
 21 consider and appoint residents of the State who have a knowledge
 of problems facing persons with mental illness in the State and
 who provide leadership in programs or activities which are
 carried out to improve opportunities for persons with mental
 illness. The Governor shall select a person from among the
 gubernatorial first appointees to serve as chairman chair.
 Subsequent chairs shall be selected by majority vote of the
 members of the Maine Commission on Mental Health. The initial
 appointments to this commission shall be made within 30 days of
 the effective date of this subchapter.

23 **Sec. 5. 34-B MRSA §3902**, as enacted by PL 1987, c. 887, §8,
 is amended to read:

25 **§3902. Powers and duties**

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

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

41 2. **Standards.** To work in a collaborative fashion with the
 43 department ~~to--review--and--comment--on~~ in the development and
 45 implementation of standards of care and treatment of persons with
 mental illness and to review and comment on those standards and
 47 their implementation;

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

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COMMITTEE AMENDMENT "A" to S.P. 408, L.D. 1074

1 4. Recommendations concerning state mental health
2 institutes. To make recommendations to the ~~commission~~
3 commissioner on the management of the state mental health
4 institutes. These recommendations shall include, but not be
5 limited to, those prepared by the subcommittee on state mental
6 health institute;

7
8 5. Subcommittee on state mental health institutes. To
9 create a subcommittee from the membership of the commission
10 exclusively to monitor and evaluate the state mental health
11 institutes. The subcommittee shall monitor--and--evaluate--the
12 development--and--implementation--of--standards--of--care--and--treatment
13 at--the--state--mental--health--institutes--and--inspect--the--institutes
14 assist in the development of standards of care and treatment for
15 patients at the Augusta Mental Health Institute and the Bangor
16 Mental Health Institute;

17
18 6. Staff; compensation. To appoint a full-time executive
19 director who shall serve at the pleasure of the commission and
20 who shall not be subject to the civil service laws or approval of
21 the department, the Governor or the Legislature. The executive
22 director is entitled to compensation in an amount to be
23 determined by the commission within the same pay range authorized
24 for the Executive Director of the Human Services Council. The
25 executive director shall perform those duties as assigned by the
26 commission. The commission may employ a secretary as it deems
27 necessary. The commission may request department staff, as
28 needed, to assist the commission in carrying out its functions
29 and duties. The executive director may make recommendations to
30 the commission;

31
32 7. Meetings. To conduct public hearings, conferences,
33 workshops and other such meetings to obtain information about,
34 discuss and publicize the needs of and solutions to problems of
35 persons with mental illness in Maine;

36
37 8. Advise. To act in an advisory capacity to the
38 commissioner in the development of the state mental health plan
39 and in the appointment of a Director of the Bureau of Mental
40 Health. The commission shall act in an advisory capacity to the
41 commissioner, the Governor and the Legislature on mental health
42 matters; and

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44 9. State mental health plan. To participate in the
45 development of the state mental health plan required by section
46 3006+; and

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48 10. Prepare legislation. To prepare legislation for
49 submission to the Legislature to implement any of its
50 recommendations.

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1 **Sec. 6. Appropriation.** The following funds are appropriated
2 from the General Fund to carry out the purposes of this Act.

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1989-90

**MENTAL HEALTH AND MENTAL RETARDATION,
DEPARTMENT OF**

**Administration - Mental Health and
Mental Retardation**

All Other \$20,000

Provides funds to contract for services for
development of standards of care.

Emergency clause. In view of the emergency cited in the
preamble, this Act shall take effect when approved.

FISCAL NOTE

The additional duties to be performed by the Maine
Commission on Mental Health, as well as the additional costs
resulting from the increase in the number of its members, can be
absorbed within existing resources of the commission.'

STATEMENT OF FACT

This amendment adds 2 additional members to the Maine
Commission on Mental Health and provides that there will be at
least 2 members of the commission who are primary consumers of
mental health services and 2 members who are secondary consumers
of mental health services. It clarifies that the Commissioner of
Mental Health and Mental Retardation is required, with the
assistance of the Maine Commission on Mental Health, to establish
standards of care for patients at the mental health institutes.
The amendment also clarifies the emergency nature of the bill and
access of commission members to confidential information. It
also makes more general the authority of the Maine Commission on
Mental Health to prepare legislation to implement its
recommendations.

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

(5/26/89)

(Filing No. S-166)