

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1554

H.P. 1122

House of Representatives, May 8, 1989

Submitted by the Department of Human Services pursuant to Joint Rule 24.
Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads 'Ed Pert'.

EDWIN H. PERT, Clerk

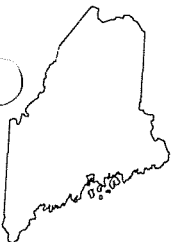
Presented by Representative PENDLETON of Scarborough.

Cosponsored by Senator GILL of Cumberland, Representative RYDELL of Brunswick and Senator HOBBS of York.

STATE OF MAINE

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

An Act to Revise the Communicable Disease Law.



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

3 Sec. 1. 22 MRSA §252, as amended by PL 1979, c. 127, §141,
5 is further amended to read:

7 §252. Penalties

9 Whoever willfully violates any provision of sections section
11 451, 454 ~~to 456 and 460 to~~, 455, 461 or 462, or of said
13 regulations and bylaws, or neglects or refuses to obey any order
15 or direction of any local health officer authorized by said
17 provisions, the penalty for which is not specifically provided,
19 or willfully interferes with any person or thing to prevent the
execution of said sections or of said regulations and bylaws
shall be punished by a fine of not more than \$50 \$500 or by
imprisonment for not more than 6 months, or by both. The District
Court shall have jurisdiction, ~~original and concurrent with the~~
Superior Court, of all offenses under said sections.

21 Sec. 2. 22 MRSA §451, as amended by PL 1981, c. 703, Pt. A,
23 §7, is further amended by inserting at the end a new paragraph to
read:

25 Health officers may be employed to devote a part or all of
27 their time to the duties of the office. The offices of the local
29 health officer and town or school physician shall be combined
31 when, in the opinion of the municipal officers, the health needs
33 of the people would be better served.

35 Sec. 3. 22 MRSA §454, 2nd and 3rd ¶¶, as repealed and replaced
37 by PL 1987, c. 600, are amended to read:

39 The ~~local health officer shall guard against the~~
41 ~~introduction of contagious and infectious diseases by the~~
43 ~~exercise of proper and vigilant medical inspection and control of~~
45 ~~all persons and things, which either come within the limits of~~
47 ~~the health officer's jurisdiction from infected places or which,~~
49 ~~for any cause, are likely to communicate contagion.~~ The local
health officer shall report promptly to the Commissioner of Human
Services, or his the commissioner's designee, facts which relate
to infectious and epidemic communicable diseases occurring within
the limits of the health officer's jurisdiction, and shall report
to the commissioner, or his the commissioner's designee, every
case of such infectious or contagious communicable disease as the
rules of the department require. Those diseases which the rules
of the department may require to be reported shall be known,
under the terms of this Title, as notifiable diseases. These
diseases ~~which, under the rules of the department, may~~
necessitate quarantine or isolation may be known as quarantinable
diseases.

51

1 The local health officer shall receive and evaluate
2 complaints made by any of the inhabitants concerning nuisances
3 ~~dangerous-to-life-and-health~~ posing a potential public health
4 threat within the limits of the health officer's jurisdiction.
5 With the consent of the owner, agent or occupant, the local
6 health officer may enter upon or within any place or premises
7 where nuisances or conditions ~~dangerous-to-life-and-health~~ posing
8 a public health threat are known or believed to exist, and
9 personally, or by appointed agents, inspect and examine the
10 same. If entry is refused, the municipal health officer shall
11 apply for an inspection warrant from the District Court, pursuant
12 to Title 4, section 179, prior to conducting the inspection.
13 When the local health officer has reasonable cause to suspect the
14 presence of a ~~notifiable~~ communicable disease, he ~~the local~~
15 health officer shall consult with the commissioner, or his a
16 designee. The health officer shall then order the suppression
17 and removal of nuisances and conditions ~~detrimental-to-life-and~~
18 health posing a public health threat found to exist within the
19 limits of the health officer's jurisdiction.

21 **Sec. 4. 22 MRSA §§455 and 457** are repealed.

23 **Sec. 5. 22 MRSA §459, first ¶**, as amended by PL 1981, c. 470,
24 Pt. A, §61, is further amended to read:

25 The local health officer of each municipality shall ~~annually~~
26 ~~on-a-day-or-days-specified-by-him-during-the-month-of-March,-or~~
27 ~~more-often-if-he-deems-it-prudent,-provide-for-the-free~~
28 ~~vaccination-with-cowpox-of-all-inhabitants-within-his~~
29 ~~jurisdiction,-and-shall~~ may provide for free ~~inoculation~~
30 vaccinations with suitable material, as defined by the Department
31 of Human Services, ~~against-diphtheria,-whooping-cough,-tetanus-and~~
32 ~~poliomyelitis-of-all-children-under-16-years-of-age-at-a-time~~
33 ~~specified-by-him.~~ Vaccinations and inoculations shall be done
34 under the care of skilled, practicing physicians and under such
35 circumstances and restrictions as the health officer may adopt
36 therefor, not contrary to law or in violation of any regulations
37 of the department.

39 **Sec. 6. 22 MRSA §459, 3rd ¶** is amended to read:

41 The municipal officers of municipalities shall may approve,
42 and ~~the municipalities~~ shall pay any reasonable bills or charges
43 incident to the foregoing when approved by the local health
44 officer.

47 **Sec. 7. 22 MRSA §460** is repealed.

49 **Sec. 8. 22 MRSA §461** is amended to read:

51 **§461. Notice to owner to clean premises; expenses on refusal**

1 As used in this chapter, unless the context otherwise
3 indicates, the following terms have the following meanings.

5 1. Commissioner. "Commissioner" means the Commissioner of
7 Human Services.

9 2. Communicable disease. "Communicable disease" means an
11 illness or condition due to a specific infectious agent or its
13 toxic products which arises through transmission of that agent or
15 its products from a reservoir to a susceptible host.

17 3. Contact notification program. "Contact notification
19 program" means a program coordinated by the department to
21 encourage any person infected with a communicable disease to
23 identify others who may be at risk as a result of contact with
25 the infected person; or to permit the department to notify those
27 persons who may be at risk to inform them of the risk if the
29 infected person refuses to cooperate.

31 4. Department. "Department" means the Department of Human
33 Services.

35 5. Infected person. "Infected person" means a person who
37 is diagnosed as having a communicable disease or who, after
39 appropriate medical evaluation or testing, is determined to
41 harbor an infectious agent.

43 6. Municipal health officer. "Municipal health officer"
45 means a person who is a municipal official appointed pursuant to
47 section 451 and who is authorized by the department to enforce
49 this chapter.

51 7. Notifiable disease. "Notifiable disease" means any
53 communicable disease or occupational disease the occurrence or
55 suspected occurrence of which is required to be reported to the
57 department pursuant to sections 821 to 825 or section 1493.

59 8. Occupational disease. "Occupational disease" shall have
61 the meaning set forth in section 1491.

63 9. Property. "Property" means animals, inanimate objects,
65 vessels, public conveyances, buildings and all other real or
67 personal property.

69 10. Public health threat. "Public health threat" means any
71 condition or behavior which can reasonably be expected to place
73 others at significant risk of exposure to infection with a
75 communicable disease.

77 A. A condition poses a public health threat if an
79 infectious agent is present in the environment under

1 circumstances which would place persons at significant risk
2 of becoming infected with a communicable disease.

3 B. Behavior by an infected person poses a public health
4 threat if:

5
6
7 (1) The infected person engages in behavior that has
8 been demonstrated epidemiologically to create a
9 significant risk of transmission of a communicable
10 disease;

11
12 (2) The infected person's past behavior indicates a
13 serious and present danger that the infected person
14 will engage in behavior that creates a significant risk
15 of transmission of a communicable disease to another;

16
17 (3) The infected person fails or refuses to cooperate
18 with a departmental contact notification program; or

19
20 (4) The infected person fails or refuses to comply
21 with any part of either a cease and desist order or a
22 court order issued to the infected person to prevent
23 transmission of a communicable disease to another.

24 C. Behavior described in paragraph B, subparagraphs (1) and
25 (2), shall not be considered a public health threat if the
26 infected person demonstrates that any other person placed at
27 significant risk of becoming infected with a communicable
28 disease was informed of the risk and consented to it.

29
30
31 §802. Authority of department

32
33 1. Authority. To carry out this chapter, the department
34 may:

35
36 A. Designate and classify communicable and occupational
37 diseases;

38
39 B. Establish requirements for reporting and other
40 surveillance methods for measuring the occurrence of
41 communicable diseases, occupational diseases and the
42 potential for epidemics;

43
44 C. Investigate cases, epidemics and occurrences of
45 communicable and occupational diseases; and

46
47 D. Establish procedures for the control, detection,
48 prevention and treatment of communicable and occupational
49 diseases, including public immunization and contact
50 notification programs.

1 2. Health emergency. In the event of an actual or
3 threatened epidemic or outbreak of a communicable or occupational
4 disease, the department may declare that a health emergency
5 exists and may adopt emergency rules for the protection of the
6 public health relating to:

7 A. Procedures for the isolation and placement of infected
8 persons for purposes of care and treatment or infection
9 control;

11 B. Procedures for the disinfection, seizure or destruction
12 of contaminated property; and

13 C. The establishment of temporary facilities for the care
14 and treatment of infected persons which shall be subject to
15 the supervision and regulations of the department and to the
16 limitations set forth in section 807.

17 3. Rules. The department may promulgate rules to carry out
18 its duties as specified in this section. Rules shall be adopted
19 in conformity with the Maine Administrative Procedure Act, Title
20 5, chapter 375.

21 4. Immunization required. Except as otherwise provided
22 under this subchapter, each hospital in the State and any other
23 health facility in the State designated by the department, shall
24 require for all employees born after 1956, either proof of
25 immunization or serologic evidence of immunity against Rubeola
26 measles and Rubella, or German, measles. Employees currently
27 working in the hospital or designated health facility must meet
28 these standards within 180 days of the effective date of this
29 subsection. The personnel records of each employee born after
30 1956 shall include a copy of the documentation of the vaccine
31 history, showing month, day and year or the serologic history of
32 immunity. For purposes of this subsection, "employee" means a
33 person who performs a service for wages or other remuneration for
34 a hospital or designated health facility under a contract of
35 hire, written or oral, expressed or implied. Immunization
36 required by this subsection does not apply to any employee who:

37 A. Provides a physician's written statement that
38 immunization against one or more of the diseases may be
39 medically inadvisable; or

40 B. States in writing a sincere religious belief which is
41 contrary to the immunization requirement of this subsection.

42 §803. Inspection

43 If the department has reasonable grounds to believe that
44 there exists, on public or private property, any communicable
45 disease which presents a public health threat, a duly authorized
46 person may enter the property to inspect and take samples for
47 analysis.

1 agent of the department may enter any place, building, vessel,
3 aircraft or common carrier with the permission of the owner,
5 agent or occupant where the communicable disease is reasonably
7 believed to exist and may inspect and examine the same. If entry
is refused, such agent shall apply for an inspection warrant from
the District Court pursuant to Title 4, section 179, prior to
conducting the inspection.

9 §804. Penalties

11 1. Rules enforced. All agents of the department, municipal
13 health officers, sheriffs, state and local law enforcement
15 officers and other officials designated by the department shall
enforce the rules of the department made pursuant to section 802
to the extent that enforcement is authorized in such rules.

17 2. Refusal to obey rules. All persons shall obey the rules
19 adopted pursuant to section 802. Any person who neglects,
21 violates or refuses to obey the rules or who willfully obstructs
23 or hinders the execution of the rules, may be ordered by the
25 department, in writing, to cease and desist. This order shall
27 not be considered an adjudicatory proceeding within the meaning
29 of the Maine Administrative Procedure Act, Title 5, chapter 375.
31 In the case of any person who refuses to obey a cease and desist
33 order issued to enforce the rules adopted pursuant to section
802, the department may bring an action in District Court to
obtain an injunction enforcing the cease and desist order or to
request a civil fine not to exceed \$500, or both. Alternatively,
the department may seek relief pursuant to section 810 or 812.
The District Court shall have jurisdiction to determine the
validity of the cease and desist order whenever an action for
injunctive relief or civil penalty is brought before it under
this subsection.

35 §805. Court orders

37 Upon complaint made to any judge of the District Court, the
39 judge may issue any order enforcing a subpoena, warrant or prior
41 order necessary for the proper enforcement of this chapter and of
the rules promulgated pursuant to this chapter.

43 §806. Exclusion from school

45 1. Dismissal. In the event of an actual or threatened
47 outbreak of a communicable disease, the department may order that
49 any or all persons attending or working in any school or day care
facility be excluded until such time as the department determines
that a public health threat no longer exists.

51 2. Exclusion. The department may exclude any infected
person from attending or working in a school or day care facility
if that infected person poses a public health threat. An

1 individual excluded pursuant to this subsection shall be
2 permitted to return to the school or day care facility after the
3 department, in consultation with the physician responsible for
4 the individual's care, determines that return is permissible and
5 will not pose a threat to the public health. The department
6 shall notify the superintendent or day care facility
7 administrator of that determination.

9 SUBCHAPTER II

11 CONTROL MEASURES

13 §807. Control of communicable diseases

15 The department may establish procedures for agents of the
16 department to use in the detection, contacting, education,
17 counseling and treatment of individuals having or reasonably
18 believed to have a communicable disease. The procedures shall be
19 adopted in accordance with the requirements of this section and
20 with the rules adopted under section 802.

21 For purposes of carrying out this chapter, the department
22 may designate facilities for the confinement and treatment of
23 infected persons posing a public health threat. The department
24 may designate any such facility in any hospital or other public
25 or private institution, other than a jail or correctional
26 facility. Designated institutions shall have necessary clinic,
27 hospital or confinement facilities as may be required by the
28 department. The department may enter into arrangements for the
29 conduct of such facilities with public officials or persons,
30 associations or corporations in charge of or maintaining and
31 operating such institutions.

33 §808. Investigations

35 1. Investigative team. The department shall establish an
36 investigative team and procedures for the detection and treatment
37 of individuals known or reasonably believed to pose a public
38 health threat, as defined in section 801. Team members
39 designated by the department shall have access to medical and
40 laboratory records relevant to the investigation of the public
41 health threat, according to the procedure set forth in subsection
42 2. Team members shall also have access to medical and laboratory
43 records in the possession of the department when relevant to the
44 investigation of the public health threat. Team members
45 designated by the department shall follow the procedures
46 developed by the department for detection and treatment pursuant
47 to this subsection.

49 2. Subpoenas. The department, with the approval of the
50 Attorney General or an assistant, may issue subpoenas requiring
51 persons to disclose or provide to the department information or

1 records in their possession which are relevant to an
2 investigation of a report of a public health threat. Approval of
3 the Attorney General or an assistant may be given when the
4 department certifies that there is a substantial need for the
5 information sought. The department may apply to the District
6 Court to enforce a subpoena. A person who complies with a
7 subpoena is immune from civil or criminal liability that might
8 otherwise result from the act of turning over or providing
9 information or records to the department.

11 §809. Examination

13 If, based on epidemiologic evidence or medical evaluation,
14 the department finds probable cause to believe that an individual
15 has a communicable disease and that the individual is unwilling
16 to submit to a physical examination, which may include x-ray
17 studies or other diagnostic studies, as requested by the
18 department, or that the individual refuses to make the results of
19 such an examination available to the department, the department
20 may petition the District Court of the district in which the
21 individual resides or is found for an order directing such an
22 examination, or the release of such results, under conditions to
23 prevent the conveyance of the disease or infectious agent to
24 other individuals. The petition shall be accompanied by an
25 affidavit or affidavits based upon the investigation of the
26 department supporting the allegations in the petition.

27
28 If, following a hearing as provided in section 811, the
29 District Court finds by a preponderance of the evidence that
30 there is probable cause to believe that an individual has a
31 communicable disease, the District Court shall order the
32 examination of the individual.

33 §810. Emergency temporary custody

35
36 Upon the department's submission of an affidavit showing
37 that the person or property which is the subject of the petition
38 requires immediate custody in order to avoid a clear and
39 immediate public health threat, a judge of the District Court or
40 justice of the Superior Court may grant temporary custody of the
41 subject of the petition to the department for purposes of
42 emergency care, treatment or evaluation.

43
44 1. Orders; ex parte proceedings. Orders under this section
45 may be issued in an ex parte proceeding upon an affidavit which
46 sets forth specific facts upon which the order is sought and
47 which must be served on the subject of the petition immediately
48 upon apprehension.

49
50 2. Hearing within time certain. Unless waived in writing
51 by the individual, a hearing shall be held within 72 hours of
52 apprehension, exclusive of Saturdays, Sundays and legal holidays.

1 to determine whether the individual shall remain in the
2 department's custody.

3
4 3. Notice of hearing. Notice of the hearing must be served
5 upon the individual held under this section at least 24 hours
6 before the hearing and the notice must specify: the time, date
7 and place of the hearing; the grounds and underlying fact upon
8 which the emergency hold is sought; the individual's right to
9 appear at the hearing and to present and cross-examine witnesses;
10 and the individual's right to counsel pursuant to section 811.

11
12 4. Duration. In no event may the emergency hold continue
13 longer than 5 days following the hearing, unless a petition for
14 court ordered commitment is filed under section 812, subsection
15 1, paragraph F; if a petition is filed, the limitations imposed
16 by the court under this subsection may continue until a hearing
17 on the petition for commitment is held; that hearing must occur
18 within 10 days of the filing of the petition, excluding
19 Saturdays, Sundays and legal holidays.

20 §811. Court procedures

21
22 1. Subject of petition. As used in this section or in
23 section 810, "subject of the petition" means the person or the
24 property upon which a public health measure is sought to be
25 imposed pursuant to section 812.

26
27 2. Filing of petition. Proceedings for imposing a public
28 health measure shall be initiated by the department filing a
29 petition in the District Court for the district in which the
30 subject of the petition is located. The petition shall name as
31 the respondent the person who is the subject of the petition or
32 the person who possesses the property which is the subject of the
33 petition. The petition shall contain a summary statement of the
34 facts which the petitioner believes constitute the grounds for
35 granting relief pursuant to this chapter.

36
37 3. Receipt of petition. Upon the receipt of a petition
38 filed pursuant to this section or section 809, the District Court
39 shall fix a date of hearing. Pending hearing on the petition,
40 the court may make such orders as it deems necessary to protect
41 other individuals from the dangers of infection.

42
43 4. Notice of hearing; waiver. Notice of petition and the
44 time and place of the hearing shall be served personally, not
45 less than 3 days before the hearing, on the subject of the
46 petition. The subject of the petition may waive notice of
47 hearing and upon filing of the waiver in writing, the District
48 Court may hear the petition immediately.

49
50 5. Notice to facility. Whenever a petition requests that
51 an individual be ordered to be tested in or committed to a

1 hospital, notice of the petition and the time and place of the
2 hearing shall be sent to the hospital which is to be requested to
3 provide the proposed care and treatment. No hospital may be
4 required to provide care and treatment to or to admit the
5 individual named in the petition without the consent of the
6 hospital.

7
8 6. Hearings. Hearings under this chapter shall be governed
9 by the Maine Rules of Civil Procedure and the Maine Rules of
10 Evidence.

11 A. The subject of the petition, the petitioner and all
12 other persons to whom notice is required to be sent shall be
13 afforded an opportunity to appear at the hearing to testify
14 and to present and cross-examine witnesses.

15
16 B. The court may, in its discretion, receive the testimony
17 of any other person and may subpoena any witness.

18
19 C. The subject of the petition shall be afforded an
20 opportunity to be represented by counsel and, if the subject
21 is indigent and requests counsel, the court shall appoint
22 counsel.

23
24 D. An electronic recording shall be made of the proceedings
25 and all hearings under this section. The record and all
26 notes, exhibits and other evidence shall be confidential.

27
28 E. The hearing shall be confidential and no report of the
29 proceedings may be released to the public, except by
30 permission of the subject of the petition or the subject's
31 counsel and with approval of the presiding District Court
32 judge, except that the court may order a public hearing on
33 the request of the subject of the petition or the subject's
34 counsel.

35
36 7. Equitable relief. The District Court shall have
37 original jurisdiction to grant equitable relief in proceedings
38 brought pursuant to this chapter.

39
40 §812. Public health measures

41
42 1. Court order. If, based upon clear and convincing
43 evidence, the court finds that a public health threat exists, the
44 court shall issue the requested order for treatment or such other
45 order as may direct the least restrictive measures necessary to
46 effectively protect the public health. These measures include,
47 but are not limited to:

48
49 A. Participation in an education program designated or
50 developed in accordance with rules promulgated under section
51 802 or 807;

1
3 B. Participation in a counseling program designated or
developed in accordance with rules promulgated under section
802 or 807;

5
7 C. Participation in a treatment program designated or
developed in accordance with rules promulgated under section
802 or 807;

9
11 D. Appearance before designated health officials for
purposes of monitoring measures set out in subsection 1, 2
or 3;

13
15 E. Part or full-time supervision or monitoring for a period
and under conditions set by the court;

17
19 F. Commitment to a facility that will provide appropriate
diagnosis, care or treatment of the individual without undue
risk to the public health, for a period not to exceed 30
days and under conditions set by the court;

21
23 G. Undergoing a mental examination by the State Forensic
Service. The court, in selecting the examination site,
shall consider proximity to the court, availability of an
examiner and the need to protect the public health. No
person may be presented for examination under this
subsection without arrangements for examination having first
been made by the court, clerk of the court or the petitioner
with the State Forensic Service. The opinion of the State
Forensic Service shall be reported to the court forthwith
following the examination.

33 The court shall order the individual to be further examined
by a psychiatrist, neurologist and any additional medical
expert if, based on the report of the State Forensic
Service, it appears that:

37
39 (1) The individual suffers from a mental disease or
defect which causes the individual to act in such a
manner as to endanger others with risk of infection
with a communicable disease; or

43 (2) Further observation or examination is required.

45 If, based on the examinations, the Department of Mental
Health and Mental Retardation determines that admission to
an appropriate institution for the mentally ill or mentally
retarded is necessary, it shall petition for involuntary
hospitalization pursuant to Title 34-B, chapter 3. If the
District Court orders the involuntary hospitalization of the
individual pursuant to Title 34-B, chapter 3, the petition
brought pursuant to section 811 shall be dismissed without

1 prejudice. If it is determined that admission to an
3 appropriate institution for the mentally ill or the mentally
5 retarded is not necessary, the head of the institution where
7 the examinations have taken place shall notify the
9 commissioner or the commissioner's designee, prior to
11 discharging the respondent.

13 In no event may the period of examination pursuant to this
15 subsection exceed 60 days without further order by the
17 court, which may extend commitment for further observation
19 or examination for an additional 60 days, provided that the
21 court finds facts sufficient to show that the individual
23 suffers from a mental disease or defect which causes the
25 individual to act in such a manner as to endanger others
27 with risk of infection with a communicable disease;

29 H. Compliance with any combination of measures outlined in
31 paragraphs A to G, or other measures considered just by the
33 court; and

35 2. Time limits. Orders issued pursuant to subsection 1,
37 paragraphs A to E shall not exceed 180 days without further
39 review as provided by section 813, subsection 1. If commitment
41 pursuant to subsection 1, paragraph F, is sought by the
43 department beyond the original 30 days, the department shall file
45 a motion for review pursuant to section 813, subsection 2.

47 §813. Review

49 1. Treatment orders. If the department determines that it
51 is necessary to continue a treatment order issued pursuant to
53 section 812, subsection 1, paragraphs A to E, it shall petition
55 the District Court which ordered the disposition for review of
57 the original order. The court shall hold a hearing in accordance
59 with section 811 and if the court finds that a public health
61 threat would continue in the absence of a public health measure,
63 it shall make such additional orders as it deems necessary,
65 provided that no treatment order exceeds 180 days in duration
67 without further review by the court.

69 2. Commitment orders. If the department determines that it
71 is necessary to continue a commitment order issued pursuant to
73 section 812, subsection 1, paragraph F, beyond the original 30
75 days, it shall petition the District Court which ordered the
77 disposition for review of the original order. The court shall
79 hold a hearing in accordance with section 811 and if the court
81 finds that a public health threat would continue in the absence
83 of a public health measure and that commitment is the least
85 restrictive measure necessary to effectively protect the public
87 health, it shall make such additional orders as it deems
89 necessary, provided that no order of commitment exceeds 90 days
91 without further review by the court.

1 At such time as the department requests an extension of a
3 commitment order, the committed patient may request the
5 appointment of a medical review board. Upon motion of the
7 patient, the committing court shall appoint a medical review
9 board to determine whether or not the patient's medical status
11 permits termination of the commitment. The medical review board
13 shall consist of 3 physicians appointed by the court who shall
15 have training and experience in the treatment of the communicable
17 disease. Upon the request of the patient, the court shall
19 appoint as one member of the board a physician who has training
21 and experience in the treatment of communicable diseases who is
23 selected by the patient. Upon receipt of the findings of the
25 medical review board and any other evidence, the court, after a
27 hearing pursuant to this subsection, may continue or terminate
29 the commitment.

17 §814. Court orders; additional requirements

19 If commitment or a supervised living arrangement is ordered,
21 the court shall require the head of the institutional facility or
23 the person in charge of supervision to submit:

25 1. Plan of treatment. A plan of treatment within 10 days
27 of the commencement of the commitment or supervision; and

29 2. Written report. A written report, with a copy to both
31 the department and the individual, at least 20 days, but not more
33 than 25 days, from the start of the commitment or supervision,
35 setting forth the following:

37 A. The types of support or therapy groups, if any, which
39 the individual is attending and how often the individual
41 attends;

43 B. The type of care or treatment the individual is
45 receiving and what future care is necessary;

47 C. Whether the individual has been cured or made
49 noninfectious or otherwise has ceased to pose a threat to
51 public health;

D. Whether continued supervision or commitment is
 necessary; and

E. Any other information the court considers necessary.

§815. Privileged or confidential communications

1. Privileges abrogated. Subject to the limitations
 imposed by United States Code, Title 42, Sections 290dd-3 and
 290ee-3, the physician-patient and psychotherapist-patient

1 privileges under the Maine Rules of Evidence and those
3 confidential communications described under Title 5, section
5 19203, Title 24-A, section 4224, Title 32, section 7005 and Title
7 34-B, section 1207, as well as any common law privilege
9 pertaining to communications or records governed by those laws,
11 are abrogated to the extent necessary to permit reporting to the
13 Bureau of Health any incidents of notifiable disease; cooperating
15 with the Bureau of Health or an intervention team appointed by
the Bureau of Health in investigating a case of a notifiable
disease or suspected epidemic, or taking preventive action in
such a case; or giving evidence in a proceeding pursuant to this
chapter. Information released to the bureau pursuant to this
section shall be kept confidential and may not be disclosed by
the bureau except as provided in section 824 and Title 5, section
19203, subsection 8.

17 2. Limitation. Statements made to a licensed mental health
19 or medical professional in the course of counseling, diagnosis,
21 therapy, treatment or evaluation when the privilege is abrogated
23 under this section may not be used against the client in a
25 criminal proceeding except to rebut the client's testimony
27 contradicting those statements.

29 §816. Immunity

31 1. For private institutions. Any private institution, its
33 employees or agents shall be immune from civil liability for any
35 acts taken, without malice, to provide for the confinement or
37 restraint of a person committed pursuant to this chapter, for
39 participating in reporting under this chapter, or for performing
41 any discretionary function pursuant to this chapter.

43 2. For persons not associated with private institutions.
45 Any person participating in reporting under this chapter or
47 participating in a related communicable disease investigation or
49 proceeding, including, but not limited to, any person serving on
51 or assisting a multidisciplinary intervention team or other
investigating or treatment team, is immune from civil liability
for the act of reporting or participating in the investigation or
proceeding in good faith. Good faith does not include instances
when a false report is made and the reporting person knows the
report is false.

3. For public institutions or employees. Immunity for
public institutions and employees shall be governed by Title 14,
chapter 741.

49 §817. Discharge

51 An individual committed to a hospital or institution
pursuant to section 812 may be discharged whenever the physician
responsible for that individual's treatment and the department

1 determine that the individual may be discharged without danger to
2 other individuals. The department shall immediately report the
3 discharge, with a full statement of the reasons for the
4 discharge, to the court which ordered the commitment.

5
6 If an individual committed to a private hospital pursuant to
7 section 812 leaves the hospital prior to discharge in accordance
8 with this section, the private hospital shall immediately report
9 this to the department. An arrest warrant shall issue upon
10 application by the department to the District Court.

11 **§818. Liability for expenses**

12
13 1. Financial liability; individual. An individual is
14 financially liable for any care provided pursuant to this
15 subchapter to the individual to the extent that the individual
16 has public or private insurance or otherwise has the ability to
17 pay for such care. An individual shall not be denied the care
18 because of inability to pay for that care.

19
20 2. Liability. The State shall pay, on certification by the
21 commissioner, the expenses for care of an individual receiving
22 care under this chapter who is not a resident of a municipality
23 in this State.

24
25 3. Subrogation. The State shall be subrogated to the
26 rights of recovery which the individual may have against a liable
27 3rd party for the cost of care provided for the individual under
28 this subchapter to the extent that the State has spent money for
29 that care.

30
31 **SUBCHAPTER III**

32
33 **REPORTING REQUIREMENTS**

34
35 **§821. Authority of department**

36
37 The department shall adopt rules pursuant to section 802 and
38 establish procedures to carry out the rules to provide a uniform
39 system of reporting, recording and collecting information
40 concerning communicable diseases. The department may designate
41 any communicable disease as a notifiable disease. Any such
42 notifiable disease shall be reported to the department in
43 accordance with this article and the rules established by the
44 department.

45
46 **§822. Reporting**

47
48 Whenever any physician knows or has reason to believe that
49 any person whom the physician examines or cares for has or is
50 afflicted with any communicable disease designated as notifiable,
51 that physician shall notify the department and make such a report

1 as may be required by the rules of the department. Reports shall
2 be in the form and content prescribed by the department and the
3 department shall provide forms for making required reports.

5 §823. Time requirements

7 The reporting of a notifiable disease shall be made by
8 telephone to the department immediately upon determination that a
9 person has such a disease and shall be followed by a written
10 report mailed to the department within 48 hours.

11 §824. Confidentiality

13 Any person who receives information pursuant to this chapter
14 shall treat as confidential the names of individuals having or
15 suspected of having a notifiable communicable disease, as well as
16 any other information that may identify those individuals. Any
17 such information may be released to the department for adult or
18 child protection purposes in accordance with chapters 958-A and
19 1071, or to other public health officials, agents or agencies or
20 to officials of a school where a child is enrolled, for public
21 health purposes, but such release of information must be made in
22 accordance with Title 5, chapter 501, where applicable. In a
23 public health emergency, as declared by the state health officer,
24 the information may also be released to private health care
25 providers and agencies for the purpose of preventing further
26 disease transmission. All information submitted pursuant to this
27 chapter that does not name or otherwise identify individuals
28 having or suspected of having a notifiable communicable disease
29 may be made available to the public.

31 Any person receiving a disclosure of identifying information
32 pursuant to this chapter may not further disclose such
33 information without the consent of the infected person.

35 §825. Penalties

37 Any person who knowingly and willfully fails to comply with
38 reporting requirements for notifiable diseases shall be subject
39 to a civil fine not to exceed \$250. A person who knowingly or
40 recklessly makes a false report under section 822 or who
41 knowingly violates section 824, is civilly liable for actual
42 damages suffered by a person reported upon and for punitive
43 damages and a maximum civil penalty of \$500.

45 CHAPTER 251

47 COMMUNICABLE DISEASES

49 Sec. 11. 22 MRSA c. 251, sub-c. I-A, as amended, is repealed.

1 used in detecting, contacting and treating individuals having or
reasonably believed to have a communicable disease.

3
4 This bill will permit the Department of Human Services to
5 use a more flexible approach in addressing public health
6 threats. The department will be authorized to establish
7 investigative teams and use investigative subpoenas. In addition
8 to continuing the department's authority to obtain court-ordered
9 examinations, the bill authorizes the department to obtain
10 temporary custody of a person or property posing a clear and
11 immediate public health threat and provides a wider range of
12 dispositions available to the court, including the granting of
13 equitable relief. In the event that less restrictive measures
14 prove ineffective in protecting the public health, the department
15 is authorized to designate facilities for the confinement and
treatment of persons posing a public health threat.