

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1657

H.P. 1190

House of Representatives, May 12, 1989

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 RYDELL of Brunswick.

Cosponsored by Representative RAND of Portland, Senator PERKINS of Hancock and Senator BUSTIN of Kennebec.

STATE OF MAINE

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

An Act to Establish a Program of Health, Education and Treatment
for Persons Convicted of Drug and Sex-related Offenses.



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

3 **Sec. 1. 17-A MRSA §1151, sub-§7, as enacted by PL 1975, c. 499, §1, is amended to read:**

5
7 7. To promote the development of correctional programs, including educational programs, which elicit the cooperation of convicted persons; and

9
11 **Sec. 2. 17-A MRSA §1204, sub-§2-A, ¶L, as repealed and replaced by PL 1977, c. 53, §4, is amended to read:**

13 L. To perform specified work for the benefit of the State, a county, a municipality, a ~~School-Administrative-District~~ school administrative district, other public entity or a charitable institution; or

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19 **Sec. 3. 17-A MRSA §1204, sub-§2-A, ¶M, as enacted by PL 1977, c. 53, §4, is amended to read:**

21 M. To satisfy any other conditions reasonably related to the rehabilitation of the convicted person or the public safety or security; or

23
25 **Sec. 4. 17-A MRSA §1204, sub-§2-A, ¶N is enacted to read:**

27 N. To participate in AIDS education and risk reduction programs.

29
31 **Sec. 5. 22 MRSA §5312 is enacted to read:**

33 **§5312. Operation HEAT**

35 The Bureau of Social Services and the Bureau of Health shall jointly establish and administer a program which shall be known and may be cited as "Operation HEAT" pursuant to this section.

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39 1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

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43 A. "Eligible person" means a person whose criminal case on a specified crime is concluded by a guilty plea, a plea of nolo contendere or a conviction.

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47 B. "HIV" has the same meaning as set out in Title 5, section 19201, subsection 3.

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51 C. "HIV counselor" means a Public Health Educator II as classified pursuant to Title 5, chapter 372, subchapter II, article II.

1 D. "Operation HEAT" means the health, education and
3 treatment program administered jointly by the Bureau of
 Social Services and the Bureau of Health pursuant to this
5 section.

7 E. "Specified crime" includes a violation of Title 17-A,
 chapter 11, 35 or 45.

9 2. Operation HEAT. Operation HEAT shall consist of a
11 health, education and treatment program including:

13 A. A mandatory AIDS education and risk reduction program at
15 least 6 hours in length which recommends voluntary HIV
17 testing for eligible persons and in which the family members
 or sexual partners of eligible persons shall be invited to
 attend;

19 B. Mandatory counseling with a HIV counselor on a weekly
21 basis for the purposes of encouraging the eligible person to
23 modify high-risk behavior, discussing risk reduction
 techniques, engaging in family or sexual partner counseling
 as requested and making such other referrals as necessary;
 and

25 C. Mandatory referral to drug rehabilitation for
27 intravenous drug users and to psychiatric evaluation for
29 perpetrators of sexual abuse and violent sexual crimes and
31 optional referrals to case management services and
 vocational rehabilitation. Any eligible person who elects
 to utilize the referrals shall receive priority placement if
 placement is not immediately available.

33 3. Plea or sentencing. An eligible person may participate
35 in Operation HEAT in the discretion of the presiding judge:

37 A. As a whole or partial alternative to fines and jail
 sentences;

39 B. As a condition of probation; or

41 C. On a voluntary basis while serving a jail sentence which
43 shall serve to deduct time from the jail sentence in
 accordance with Title 17-A, section 1253.

45 4. Evaluation and reporting. For purposes of evaluating
47 Operation HEAT, the bureaus shall record:

49 A. The number of people participating in the program and
 whether participation is pursuant to subsection 3;

51 B. The number of participants who volunteer to be tested
 for HIV infection;

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C. The number of family members or sexual partners who participate in the program and the nature of that participation;

D. The number of participants who utilize referral services; and

E. The results of risk reduction surveys which shall be developed by the bureaus for evaluating Operation HEAT effectiveness. The surveys shall be administered to each program participant for each 6-month period or portion thereof in which an eligible person participates in the program.

5. Failure to comply. If an eligible person participating in Operation HEAT fails to comply with requirements of the program as established by rule, including, but not limited to, failing to attend the mandatory AIDS education program or failing to attend 2 consecutive weekly meetings with a HIV counselor without substantial justification, that person shall be subject to the reimposition of a fine or jail sentence, revocation of probation or other appropriate remedy.

6. Noncompliant carriers. If an eligible person participating in Operation HEAT is positive for HIV and, knowing that fact, engages in high-risk behavior, that person shall be evaluated as a noncompliant carrier in accordance with policies developed by the Bureau of Health.

7. Rules. The bureaus shall jointly promulgate rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, to carry out this section.

Sec. 6. Report. The Bureau of Health and the Bureau of Social Services shall jointly submit a report to the Legislature by December 1, 1990. This report shall be an evaluation of the first year of operation of the Operation HEAT program. Included in the report shall be a determination of whether the rate of HIV seropositivity of clients in the Operation HEAT program is below the state average for the HIV anonymous testing program. The report shall include any recommendations or implementing legislation determined necessary by the bureaus.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

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3		1989-90	1990-91
5	HUMAN SERVICES, DEPARTMENT OF		
7	Bureau of Health		
9	Positions	(1)	(1)
11	Personal Services	\$19,300	\$27,481
13	All Other	4,875	6,500
15		<hr/>	<hr/>
17	TOTAL	\$24,175	\$33,981
19	Provides funds for a Public Health Educator II, technical assistance and HIV antibody test, counseling and contact notification services.		
21	Bureau of Social Services		
23	All Other	\$3,750	\$5,000
25	Provides funds for HIV/AIDS coordination.		
27	Purchased Social Services		
29	All Other	\$168,750	\$225,000
31	Provides funds for HIV/AIDS case management services, vocational rehabilitation, drug rehabilitation, inpatient detoxification and psychiatric treatment services.		
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41	DEPARTMENT OF HUMAN SERVICES		
43	TOTAL	<hr/> \$196,675	<hr/> \$263,981

STATEMENT OF FACT

47 This bill provides HIV antibody testing, AIDS education and
48 prevention programs for those convicted of or pleading to drug,
49 prostitution and sex-related offenses.

51 Users of illicit intravenous drugs and individuals with
52 numerous sexual contacts, such as sex offenders, prostitutes and
53 the customers of prostitutes, engage in behaviors that are
54 considered to be at high risk for acquiring and transmitting the
55 Human Immunodeficiency Virus or HIV. Infection with HIV, which
leads to the fatal disease Acquired Immune Deficiency Syndrome

1 or AIDS, cannot be successfully cured or prevented by vaccine.

3 Targeted education and support programs have been shown to
4 be effective in reducing the spread of HIV infection, but
5 populations which engage in illicit behaviors are difficult to
6 reach in order to provide education or necessary rehabilitative
7 and social services. Programs that motivate convicted offenders
8 by offering a reduction in sentences or fines in exchange for
9 participation in counseling, education and antibody testing have
10 shown early signs of success.

11 This bill provides matching state funds to start a program,
12 Operation HEAT, that offers convicted intravenous drug users and
13 sex offenders the option to volunteer for AIDS testing. The bill
14 also provides funds for case management services, AIDS education,
15 counseling and substance abuse treatment and rehabilitation
16 programs.