

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "C" to H.P. 1199, L.D. 1666, Bill, "An Act to Establish the Department of Child and Family Services"

Amend the amendment by striking out everything after the title and inserting in its place the following:

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

'An Act to Plan to Establish a Department of Children and Families'

Further 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, this Act must be passed as an emergency measure in order for the implementation plan to be developed in a timely fashion and for the plan to be reviewed by the Legislature by the target date of March 31, 1991; 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:

PART A

2
3
4 Sec. A-1. 5 MRSA §12004-I, sub-§34-A is enacted to read:

5 34-A. Human Maine Per 22-A
6 Development Advisory Diem MRSA
7 Committee and §201
8 on Children Expenses
9 and Fam- for Mem-
10 ilies bers Who
11 are not
12 State
13 Employees

14
15 Sec. A-2. 22-A MRSA is enacted to read:

16
17 TITLE 22-A

18 HUMAN DEVELOPMENT

19 PART 1

20 ADMINISTRATION AND ORGANIZATION

21 CHAPTER 1

22 ADMINISTRATIVE AGENCY FOR CHILDREN AND FAMILIES

23 §101. Definitions

24
25 As used in this Part, unless the context otherwise
26 indicates, the following terms have the following meanings.

27
28 1. Department. "Department" means the Department of
29 Children and Families that is intended to be a large operating
30 agency of State Government within the executive branch
31 responsible for administering multiple major programs and
32 multimillion dollar budgets to serve children and families
33 pursuant to provisions of state and federal laws and administered
34 by an official appointed by the Governor subject to review by a
35 joint standing committee of the Legislature having jurisdiction
36 over children and family matters and to confirmation by the
37 Legislature. That official is entitled to compensation within
38 salary range 91.

39
40 2. Interim commissioner. "Interim commissioner" means the
41 Interim Commissioner of Children and Families, an official of
42 State Government appointed by the Governor to carry out the
43 purposes of this Part and, in the event the plan to establish the
44 department is approved by the Governor and the Legislature, also
45 means the person to be appointed chief operating officer of the
46 department, if any.

2 Speaker of the House of Representatives shall jointly appoint
3 members who qualify under paragraph C or D. A member appointed
4 and qualified under paragraph A, C or D may not be an official,
5 employee, consultant or any other individual employed or retained
6 by the executive branch of State Government. Membership is as
7 follows:

8 A. Ten public members who must be chairs or members of
9 existing advisory committees related to children's issues,
10 and who are knowledgeable and have extensive experience
11 relating to human development of children and families,
12 advocacy and state advisory organizations relating to
13 children and families;

14 B. Eight classified state employees engaged in frontline
15 service delivery, supervision, administration, midmanagement
16 or regional management of human development services for
17 children and families in programs operated by the Department
18 of Corrections, the Department of Educational and Cultural
19 Services, the Department of Human Services and the
20 Department of Mental Health and Mental Retardation;

21 C. Two members representing the certified bargaining agents
22 of the employees of the state agencies listed in paragraph
23 B; and

24 D. Ten public members with extensive education and
25 experience in human development of children and families and
26 delivery of service through community-level private,
27 nonprofit or public entities and state-level provider
28 associations.

29 **§203. Administrative matters**

30 Members are entitled to compensation and payment of expenses
31 as authorized under Title 5, chapter 379. The President of the
32 Senate and the Speaker of the House of Representatives shall
33 jointly appoint the chair from among the members. Members must
34 be appointed no later than 30 days after the effective date of
35 this section.

36 **Sec. A-3. Application.** The interim commissioner may not
37 undertake administration of programs or services until the plan
38 developed by the Joint Select Committee on Children and Families,
39 pursuant to Part B of this Act, is authorized by the Legislature
40 and approved by the Governor, except that the interim
41 commissioner shall carry out the provisions of this Act.

42 **PART B**

43 **Sec. B-1. Transitional process for department.** To attain

2 full implementation of a unified Department of Children and
Families or other structure that may be determined to be more
effective, a transition process is established that begins no
4 later than the effective date of this Act and ends June 30, 1993.

6 **Sec. B-2. Timetable for presentation of plans; approval or**
8 **disapproval of plans; implementation and review of department.**

10 1. It is the intent of the Legislature that the Department
of Children and Families be operational by July 1, 1991. To
attain this intent:

12 A. An inventory of existing resources and description of
14 current services and administrative activities to be
functionally integrated to provide unified services pursuant
16 to this Act must be prepared by staff of the executive and
legislative branches beginning within 10 days of the
18 effective date of this Act. This inventory must include any
possible areas where services or resources are insufficient
20 or barriers exist to the provision of services of
resources. The inventory must identify those existing
22 systems or services that best respond to difficult
populations of children and families;

24 B. Deliberations to prepare an implementation plan must be
26 commenced by the Joint Select Committee on Children and
Families working with executive branch leaders, the Maine
28 Advisory Committee on Children and Families and with the
input of interested parties beginning no later than 30 days
30 after the effective date of this Act;

32 C. An initial plan and legislation proposing implementation
of this Act must be presented by the Joint Select Committee
34 on Children and Families to the Governor and the Legislature
by February 1, 1991; and

36 D. Legislation authorizing appropriation and statutory
38 provisions to implement a unified department must be
considered by the Governor and the Legislature for approval
40 or disapproval by March 31, 1991.

42 2. During the period of July 1, 1991, to June 30, 1993,
officials of the executive and the legislative branches and the
44 Joint Select Committee on Children and Families shall monitor the
operation of the department. The officials and the committee are
46 authorized to present proposals for additional implementation
plans, make reports and prepare further legislation as each
48 determines appropriate. Implementation plans and legislation
must include reports to be presented by February 1, 1992, and
50 February 1, 1993, to the Governor and the Legislature for
approval or disapproval by March 31st of the same year in which
52 the reports are presented.

2 **Sec. B-3. Guidelines for content, preparation and implementation of**
3 **plan.** The plan and its implementation must be guided by the
4 purpose of the Department of Children and Families which is to
5 encourage, enhance and support the human development of children
6 and families in the State, to ameliorate family dysfunctions and
7 child disabilities, and to be a unified and functionally
8 integrated operating agency to coordinate and consolidate the
9 effective delivery of services to children and families.

10 1. The implementation plan must provide:

12 A. Further definition of the department's purpose, if
13 needed;

15 B. A description of services and programs to be offered;

17 C. A statement of management responsibilities and lines of
18 authority;

20 D. An organizational chart;

22 E. A listing of personnel positions and description of
23 responsibilities;

25 F. A chart of accounts and finances, including proposed
26 transfers of current appropriations and allocations as may
27 be needed;

29 G. An inventory of current facilities and space utilization
30 and, if needed, proposals for relocation of workplaces using
31 existing facilities and space; and

33 H. Other appropriate operations and implementation matters.

35 2. It is the intent of the Legislature that the plan
36 proposes the transfer to the Department of Children and Families
37 of existing organizational units, programs and activities that
38 serve the needs of children and families. The following
39 organizational units, programs and activities must be considered
40 for transfer:

42 A. The Department of Mental Health and Mental Retardation,
43 Bureau of Children with Special Needs;

45 B. The Department of Human Services, Bureau of Child and
46 Family Services;

48 C. The child and family services functions of the
49 Department of Human Services, Bureau of Health, including,
50 but not limited to, the handicapped children's program, the

2 genetic disease program, the public health nursing program,
the maternal and child health program, the adolescent
4 pregnancy and parenting program, the family planning program
and the women, infant and children's program;

6 D. The Department of Educational and Cultural Services as
it relates to preschool handicapped children programs
8 pursuant to the Maine Revised Statutes, Title 20-A, chapter
307, including the Child Development Services System under
10 Title 20-A, section 7707 and including the Interdepartmental
Coordinating Committee for Preschool Handicapped Children
12 established in Title 5, section 12004-I, subsection 10;

14 E. The Division of Community Services, Head Start Program;

16 F. All juvenile and youth correctional services of the
Department of Corrections;

18 G. The Interdepartmental Council established in the Maine
20 Revised Statutes, Title 34-B, section 1214, as amended by
Public Law 1989, chapter 729; and

22 H. Any other administrative units or functions related to
24 the subject matter of those listed in this subsection or
other activities of State Government serving children and
26 families.

28 3. The plan must authorize the department to prepare,
organize and offer educational, developmental, health, medical,
30 mental, social and correctional services to carry out its
duties. The plan must authorize the department to address
32 subject matters related to family functioning, family
dysfunctions, child development and child disabilities,
34 including, but not limited to, adult abuse and neglect,
alcoholism, preschool education, early childhood development, low
36 aspirations, child abuse and neglect, drug abuse, family
problems, family violence, juvenile delinquency, medical
38 problems, mental illness, mental retardation, children and
families in poverty or with low income, school dropouts, special
40 education, substance abuse, truancy, teen pregnancy and teen
suicide.

42 4. The plan must provide that the method of service
44 delivery by the department be functionally integrated to offer
holistic child-focused and family-focused services. Children and
46 families must be served according to the principle of one case
manager for one family. All services of the department must be
48 offered in a fully cooperative and coordinated manner consistent
with fully implementing the principle of a functionally
50 integrated pattern of unified and consolidated operations.

52 5. The plan must provide for implementing the policy that

2 families are and should continue to be the preferred environment
for raising children and caring for vulnerable family members.
4 The plan must advance the goals of maintaining the family as a
functioning social unit, providing services to ameliorate
6 dysfunctions or family dissolution, thereby empowering children
and families to function independently of the department and
protecting each family member from harm or violence.

8
6. The programs must be analyzed and restructured to attain
10 functional integration of services.

12 7. During preparation of the plan, the following matters
must be considered:

14 A. Administration and organization of services based on one
16 or more of the following functional patterns:

18 (1) Ages of children and family members;

20 (2) Human development levels of children and family
members;

22 (3) Administrative procedures applicable to serving
24 individuals, such as information and referral,
awareness, education, early identification, assessment,
26 diagnosis, crisis intervention, stabilization,
residential, transition to independence and evaluation
28 of service effectiveness; and

30 (4) Other appropriate functionally integrated patterns
of service; and

32 B. Better coordination, integration, efficiency, and
34 improvement of certain administrative and service
activities. In addition, the plan must provide for
36 maintaining or improving equitable geographical
accessibility to services which must be based on the types
38 of services required by children and families. The
administrative and service activities to be reviewed
40 include, but are not limited to:

42 (1) Central offices;

44 (2) Regional offices;

46 (3) A single central office administrative unit
responsible for alternative residential care;

48 (4) A single central office administrative unit
50 responsible for purchase of service contracts; and

52 (5) Other appropriate policy, administrative and

service activities.

2

8. The proposed plan and legislation must provide that:

4

6 A. To the extent proposals affect existing major
policy-influencing positions identified in the Maine Revised
Statutes, Title 5, chapter 71, or other existing positions
8 not appointed pursuant to the Civil Service Law, those
appointments must be made by the successor, if any, to the
10 Interim Commissioner of Children and Families 10 days after
written notice, identifying the nominee and the nominee's
12 qualifications, has been provided to the Governor and the
Legislature; and

14

16 B. Notwithstanding the Maine Revised Statutes, Title 5,
chapter 71, any person who is appointed as an initial bureau
director to serve in the Department of Children and Families
18 must be appointed by the successor, if any, to the Interim
Commissioner of Children and Families for a term coterminous
20 with the term of the successor, if any, to the interim
commissioner and may be removed from office during that
22 initial term only for cause.

24

Sec. B-4. Budget and finances. As one portion of the
implementation plan, a unified budget for the Department of
26 Children and Families must be prepared and presented to the
Governor and the Legislature, including the Joint Select
28 Committee on Children and Families, in accordance with the
timetable specified in section B-3 of this Act. The Interim
30 Commissioner of Children and Families and other executive branch
officials must provide the Legislature, including the Joint
32 Select Committee on Children and Families, with any
budget-related information that is requested.

34

1. An annual review of the budget, including any necessary
36 adjustments, must be presented by February 1, 1992 and February
1, 1993.

38

2. The proposed plan, budget and legislation must include
40 adequate and appropriate use of Medicaid and other funding of
services for children and families, including new options and
42 uses, and must provide for the securement of any necessary
approval of the Federal Government as expeditiously as possible.

44

3. The Interim Commissioner of Children and Families with
46 the approval of the Governor and the Legislature shall explore
and apply for grants, funds and any other resources available
48 from public or private sources, particularly the Federal
Government, that are appropriate to assist with financing
50 services to children and families or to carrying out the purposes
of this Act.

52

2 **Sec. B-5. Joint select committee charged.** The Joint Select
Committee on Children and Families shall:

4 1. Develop and monitor, with officials of the executive
branch, the plan to operate and implement the Department of
6 Children and Families in accordance with the provisions of this
Act. When the Interim Commissioner of Children and Families is
8 sworn in and has taken office, the committee, with the interim
commissioner and other executive branch officials, shall continue
10 developing the plan;

12 2. Make reports, together with necessary implementing
legislation, that include proposals to amend, repeal and
14 reallocate laws, and make appropriations and allocations to
reflect the department's powers, responsibilities and
16 organization; and

18 3. Make any other recommendations, including legislation,
that offer future benefits and services to the general welfare
20 and safety of children and families of the State.

22 **Sec. B-6. Executive branch authorizations.**

24 1. The following officials of the executive branch shall
work with the Joint Select Committee on Children and Families:
26 the Interim Commissioner of Children and Families; the
Commissioner of Corrections; the Commissioner of Educational and
28 Cultural Services; the Commissioner of Human Services; the
Director of Community Services and the Commissioner of Mental
30 Health and Mental Retardation.

32 2. State agencies, to the extent feasible and reasonable,
shall make available staff, facilities, equipment, supplies,
34 information and other assistance to the joint select committee
and the interim commissioner as reasonably required to carry out
36 the purposes of this Act.

38 **Sec. B-7. Legislative authorizations.** The members of the Joint
Select Committee on Children and Families are entitled to
40 compensation in accordance with the Maine Revised Statutes, Title
3, section 2, for meetings held when the Legislature is not in
42 session. The Legislative Council is authorized to make payments
for expenses from the Legislative Account and to provide staff
44 resources to assist the Joint Select Committee on Children and
Families and to carry out the purposes of this Act.

46 **Sec. B-8. Independent committee authorization.** The Maine
48 Advisory Committee on Children and Families, established under
the Maine Revised Statutes, Title 22-A, chapter 3, shall advise,
50 consult and assist with carrying out the purposes of this Act.

52 **Sec. B-9. Bureau of Children with Special Needs; interim**

2 **duties.** The assistance to the Commissioner of Mental Health and
Mental Retardation shall assume the duties and responsibilities
4 of the Director of the Bureau of Children with Special Needs
during the period the director serves as the Interim Commissioner
on Children and Families.

6
8 **Sec. B-10. Maine Children's Trust Fund.** Notwithstanding the
Maine Revised Statutes, Title 22, chapter 1052, \$5,166 in fiscal
10 year 1989-90 and \$54,834 in fiscal year 1990-91 of the Maine
Children's Trust Fund may be allocated to carry out the purposes
of this Act.

12
14 **Sec. B-11. Appropriation.** The following funds are
appropriated from the General Fund to carry out the purposes of
this Act.

	1989-90	1990-91
ADMINISTRATIVE AGENCY, INTERIM COMMISSIONER OF		
Administration-Children and Families		
Positions	(1.0)	(1.0)
Personal Services	\$10,996	\$71,472
All Other	350	2,500
Provides funds for an interim commissioner and travel costs to develop an implementation plan for a department.		
INTERIM COMMISSIONER OF ADMINISTRATIVE AGENCY TOTAL		
	<u>\$11,346</u>	<u>\$73,972</u>

36
38 **MENTAL HEALTH AND MENTAL RETARDATION,
DEPARTMENT OF**

40 **Administration - Mental Health and
Mental Retardation**

Positions	(-1.0)	(-1.0)
Personal Services	(\$10,996)	(\$71,472)
All Other	(350)	(2,500)
Provides for the transfer of the Director of the Bureau of Children with Special Needs to act as the Interim Commissioner of Children and Families.		

2	DEPARTMENT OF MENTAL HEALTH AND		
	MENTAL RETARDATION		
4	TOTAL	<u>(\$11,346)</u>	<u>(\$73,972)</u>
6	TOTAL APPROPRIATION	<u>-0-</u>	<u>-0-</u>
8	Sec. B-12. Allocation. The following funds are allocated from		
10	the Maine Children's Trust Fund to carry out the purposes of		
	this Act.		
12		1989-90	1990-91
14	LEGISLATURE		
16	Legislature		
18	Personal Services	\$715	\$9,020
	All Other	650	10,320
20			
22	Provides funds for per diem		
	and expenses for the Joint		
24	Select Committee on Children		
	and Families. These funds		
26	may not lapse but must be		
	carried forward until		
28	expended for this purpose.		
30	LEGISLATURE		
	TOTAL	<u>\$1,365</u>	<u>\$19,340</u>
32	ADMINISTRATIVE AGENCY,		
	INTERIM COMMISSIONER OF		
34			
36	Administration - Children		
	and Families		
38	Personal Services	\$2,701	\$26,644
	All Other	1,100	8,850
40			
42	Provides funds for a limited		
	period Clerk-Typist II		
44	position, expenses necessary		
	to develop an implementation		
46	plan for a department and for		
	the per diem and expenses of		
48	the Maine Advisory Committee		
	on Children and Families.		
50	INTERIM COMMISSIONER OF		
	ADMINISTRATIVE AGENCY		
52	TOTAL	<u>\$3,801</u>	<u>\$35,494</u>

2 TOTAL ALLOCATION \$5,166 \$54,834

4 **Emergency clause.** In view of the emergency cited in the
preamble, this Act takes effect when approved.

6

8

FISCAL NOTE

10 This amendment transfers the Director of the Bureau of
Children with Special Needs from the Department of Mental health
12 and Mental Retardation to the Interim Commissioner of
Administrative Agency.

14

16 This amendment also provides funding for a limited period
position and per diem and expenses for the Maine Advisory
Committee on Children and Families and the Joint Select Committee
18 on Children and Families from income to the Maine Children's
Trust Fund set aside for development of the fund. A total of
20 \$60,000 is made available for this purpose.

22

Funds are not being provided for support costs due to the
provision that state agencies shall make such resources available.

24

26 Future costs can not be estimated at this time and will be
dependent upon legislation submitted to the First Regular Session
of the 115th Legislature.'

28

STATEMENT OF FACT

30

32 This amendment replaces Committee Amendment "C" and House
Amendment "A" to Committee Amendment "C."

34

This amendment provides a better-defined transition process
and more detailed timetable to offer an improved structure and
36 forum for substantive deliberations regarding the establishment
of the Department of Children and Families. This amendment
38 establishes an Interim Commissioner of Children and Families
within the executive branch to assist with development of a plan
40 to implement a Department of Children and Families. The purpose
of the department must be to enhance the human development of
42 children and families in this State, to ameliorate family
dysfunctions and child disabilities, and to be a unified and
44 functionally integrated operating agency to coordinate and
consolidate the effective delivery of services to children and
46 families.

48

This amendment clarifies that deliberations during the
transition process will address how to design the best
50 organization of state activities to most appropriately meet the
needs of children and families, and how to coordinate with
52 existing activities that may not be authorized for transfer as a

result of the review and design process.

2

4 Through this amendment and this Act, the legislative intent
6 is that establishing an interim commissioner and a transition
8 process will lead to implementation of a Department of Children
and Families on July 1, 1991, as proposed in the original bill,
subject to future approval or disapproval by the Legislature and
the Governor.

10

This amendment provides that:

12

14 1. A proposed plan of implementation and any necessary
legislation be presented to the Legislature and the Governor by
February 1, 1991, and explicitly states that these proposals may
be approved or disapproved;

16

18 2. Officials of the executive branch and the legislative
branch shall work together on preparation of the proposed plan;

20

22 3. Subject to future approval or disapproval, transfer of
existing activities to the department must be considered, and is
intended to occur, unless after deliberations the Joint Select
Committee on Children and Families recommends that such a
transfer:

24

26

A. Is prohibited by federal law; or

28

B. Is not in the best interest of helping children and
families;

30

32 4. Appointment of the Interim Commissioner of Children and
Families by the Governor is streamlined by deleting appraisal of
candidates by the Maine Human Development Commission, and
providing that the interim commissioner be appointed within 10
days of the effective date of this Act;

36

38 5. The public, community-level agencies, state employees
and providers have substantial opportunities for input to
preparation and implementation of the plan. Members of the Maine
Advisory Committee on Children and Families are appointed by the
Governor or by the President of the Senate and the Speaker of the
House of Representatives. The advisory committee is independent
and compensation and expenses are authorized;

44

46 6. In order to focus preparation of the plan and future
administrative and service practices, legislative intent is
stated in several principles to guide design and future operation
of the department;

48

50

52 7. State agencies, offices and officials are authorized to
provide staff, administrative support and other resources to
assist the interim commissioner and the Joint Select Committee on

HOUSE AMENDMENT "C" to COMMITTEE AMENDMENT "C" to H.P. 1199,
L.D. 1666

Children and Families, and to carry out the purposes of this
2 amendment;

4 8. To assist with financing services to children and
families, or to carry out the purposes of this amendment and Act:

6
8 A. A proposed budget for the department must be prepared
and include the securing of any necessary approval of the
Federal Government as expeditiously as possible;

10
12 B. Grants and other resources must be explored and applied
for, particularly those available from the Federal
Government; and

14
16 C. The use of federal funds, including new options and
uses, limitations and any potential loss of federal funds,
18 will be reviewed during the transition process and
considered for approval or disapproval by the Governor and
the Legislature in the future; and

20
22 9. The planning implementation dates and appropriations are
adjusted to reflect the purposes of this amendment and the
emergency provisions.

24

Filed by Rep. Joseph of Waterville
Reproduced and distributed under the direction of the Clerk of the
House

4/10/90

(Filing No. H-1111)