

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1683

H.P. 1211

House of Representatives, May 22, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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 MOHOLLAND of Princeton.

Cosponsored by Speaker MARTIN of Eagle Lake, President PRAY of Penobscot and Representative LOOK of Jonesboro.

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STATE OF MAINE

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

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An Act to Ensure the Continuity of Mental Health Services.

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(AFTER DEADLINE)

(EMERGENCY)



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

4           Whereas, it is in the best interest of the people of the  
5 State to ensure stability in the provision of mental health  
6 services; and

7           Whereas, it is generally in the best interest of the  
8 consumer to ensure the continuation of existing mental health  
9 services by the current provider unless the Department of Mental  
10 Health and Mental Retardation determines, after appropriate  
11 review and hearing, that adequate cause exists to terminate the  
12 service or to change the provider; and

13           Whereas, the Department of Mental Health and Mental  
14 Retardation is proposing to put certain existing mental health  
15 services out to bid within the very near future without any prior  
16 determination of cause; and

17           Whereas, the bidding of existing services, without cause,  
18 has the potential for seriously disrupting the health services  
19 delivery system and unnecessarily putting at risk those persons  
20 who have come to depend on existing mental health services; and

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

26  
27 **Be it enacted by the People of the State of Maine as follows:**

28           **34-B MRSA §1208, sub-§§6 and 7** are enacted to read:

29           6. Change of providers of human services. The Department  
30 of Mental Health and Mental Retardation shall not change the  
31 provider of existing human services unless it determines:

32           A. The existing provider of human services is unable or  
33 unwilling to continue to provide such service;

34           B. The existing provider, after due notice from the  
35 department, has failed to correct deficiencies or improve  
36 services in a manner reasonably requested by the department  
37 in order to protect the consumer of the human services;

38           C. The existing provider has failed, after due notice, to  
39 comply with the terms and conditions of its existing  
40 contract for the provision of human services; or

1 D. There are not sufficient funds available to support the  
3 continuation of the human service.

5 7. Rules. The commissioner shall promulgate rules, subject  
7 to the Maine Administrative Procedure Act, Title 5, chapter 375,  
9 to ensure:

11 A. The stability of the provider system by setting forth  
13 the causes for which existing services may be terminated or  
15 transferred;

17 B. The protection of the consumer of health services so  
19 that any change in provider will be accomplished in such  
21 manner as to fully protect the consumer; and

23 C. The verification of the nonservice revenue portion of  
25 proposed budgets submitted by prospective providers.

27 **Emergency clause.** In view of the emergency cited in the  
29 preamble, this Act shall take effect when approved.  
31

33  
STATEMENT OF FACT

35 The purpose of this bill is to ensure the stability of the  
37 mental health delivery system and to protect those persons who  
39 have come to rely upon existing mental health services. Because  
41 of unusual vulnerability associated with the mentally ill,  
43 existing services should not be changed without a prior showing  
45 of adequate cause by the Department of Mental Health and Mental  
47 Retardation. This bill establishes the required showing of cause  
49 and further requires the promulgation of rules which will protect  
51 both health care service providers and health care service  
53 consumers.