

# MAINE STATE LEGISLATURE

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L.D. 2068

(Filing No. S-592)

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STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A" to S.P. 805, L.D. 2068, Bill, "An Act Relating to Services to Infants and Young Children, Ages 0 through 5, Who Are Handicapped or at Risk for Developmental Delay"

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

Sec. 1. 5 MRSA §12004-G, sub-§8-A is enacted to read:

<u>8-A. Educa-</u>	<u>Interde-</u>	<u>Expenses</u>	<u>20-A</u>
<u>tion</u>	<u>partmental</u>	<u>Only</u>	<u>MRSA</u>
	<u>Coordina-</u>		<u>\$7704</u>
	<u>ting Com-</u>		
	<u>mittee for</u>		
	<u>Preschool</u>		
	<u>Handicapped</u>		
	<u>Children</u>		

Sec. 2. 5 MRSA §12004-I, sub-§10, as enacted by PL 1987, c.786, §5, is repealed.

Sec. 3. 20-A MRSA §7702, sub-§§2 and 10, as enacted by PL 1989, c. 499, § 2, are amended to read:

**2. At-risk for developmental delay.** "At-risk for developmental delay" means infants and children, ages 0 through 5, who are at-risk ~~under--at--least--one--of--3--categories:~~ identified,--biological--or--environmental for developmental delay due to environmental risk factors that are defined by rule of the Interdepartmental Coordinating Committee for Preschool Handicapped Children.

**10. Handicapped.** "Handicapped" means a condition of infants and children, ages 0 through 5, who need early intervention or special education services because ~~they~~ those infants and children:

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2 A. Are experiencing developmental delay, as measured by  
4 appropriate diagnostic instruments and procedures in one or  
more of the following areas:

6 (1) ~~Cognitive-development~~ Vision;

8 (2) ~~Physical-development~~ Hearing;

10 (3) ~~Language--and--speech--development-~~ Speech and  
12 language;

14 (4) ~~Psychosocial--development~~ Cerebral or perceptual  
functions; or

16 (5) Self-help skills; or

18 (6) Physical mobility functions;

20 (7) Behavior; or

22 (8) Mental development or maturation; or

24 B. Have a diagnosed physical or mental condition that has a  
26 high probability of resulting in developmental delay.

28 **Sec. 4. 20-A MRSA §7702, sub-§16** is enacted to read:

30  
32 16. Special education. "Special education" means  
classroom, home, hospital, institutional or other instruction;  
educational diagnosis and evaluation; transportation and other  
34 supportive assistance, services, activities or programs required  
by preschool handicapped children and defined by rule of the  
36 Interdepartmental Coordinating Committee for Preschool  
Handicapped Children.

38 **Sec. 5. 20-A MRSA §7704, sub-§1, ¶A**, as enacted by PL 1989, c.  
40 499, §4, is amended to read:

42 A. At least 16 of the members shall represent the public,  
44 including a minimum of 3 consumer representatives. Consumer  
46 representatives may include parents of infants and children  
48 who are handicapped or at-risk for developmental delay, or  
50 individuals with disabilities. In accordance with  
procedures established by the Interdepartmental Coordinating  
Committee for Preschool Handicapped Children, each local  
coordinating committee may nominate up to 3 persons for one  
of the public member ~~slots~~ positions. One of the --3-  
nominees by each local coordinating committee shall be

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2 selected by the Interdepartmental Coordinating Committee for  
Preschool Handicapped Children as a public member.

4 Selection of public members shall must be consistent to  
6 ensure balanced representation of professional disciplines,  
provider and consumer perspectives and geographic  
distribution.

8 The Interdepartmental Coordinating Committee for Preschool  
10 Handicapped Children shall select a slate of members from  
those nominated to serve as follows: Beginning with the  
12 school year 1990-91, 1/3 of the public members shall be  
appointed for one year, 1/3 for 2 years and 1/3 for 3  
14 years. In subsequent years, public members shall serve  
3-year terms.

16 Sec. 6. 20-A MRSA §7704-A is enacted to read:

18 §7704-A. Conflict of interest

20 Notwithstanding Title 5, section 18, subsection 1, paragraph  
22 B, each member of the Interdepartmental Coordinating Committee  
24 for Preschool Handicapped Children and each employee, contractor,  
agent or other representative of the committee is deemed an  
26 "executive employee" solely for the purposes of Title 5, section  
18. The committee shall provide training to system participants  
28 to ensure compliance with conflict of interest requirements.  
Local coordinating committees, with the assistance of the  
30 Interdepartmental Coordinating Committee for Preschool  
Handicapped Children, may develop conflict of interest policies  
32 for local employees or local coordinating committee members.

34 Sec. 7. 20-A MRSA §7707, sub-§3, as enacted by PL 1989, c.  
499, §6, is amended to read:

36 3. **Collective bargaining.** The system is a public employer  
within the meaning of Title 26, section 962, subsection 7.  
38 Employees of the system are public employees within the meaning  
of Title 26, section 962, subsection 6. If system employees  
40 choose to be represented by a collective bargaining agent under  
Title 26, it is the intent of the Legislature that, in order to  
42 foster meaningful collective bargaining, bargaining units shall  
be structured in such a way as to avoid excessive fragmentation  
44 whenever possible. In accordance with this policy, bargaining  
units shall be structured on a system-wide basis with one unit  
46 for each of the following occupational groups:

- 48 A. Supervisory staff;
- 50 B. Professional and technical staff; and
- 52 C. Clerical and support staff.

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2 Unless extended or modified by the Legislature, this subsection,  
4 applying the municipal public employees labor relations laws to  
6 the collective bargaining negotiations of the system, is repealed  
8 on March 15, 1992.

10 **Sec. 8. 20-A MRSA §7708, sub-§1-A is enacted to read:**

12 1-A. Establishment of central system office. The Executive  
14 Director of the Interdepartmental Coordinating Committee for  
16 Preschool Handicapped Children has the authority to hire, fire  
18 and supervise employees of the central system office. Personnel  
20 recruited to fulfill functions at the central system office are  
22 covered under the system personnel policies, fringe benefits and  
24 retirement plan.

26 **Sec. 9. 20-A MRSA §7710, sub-§§13 and 14, as enacted by PL**  
28 **1989, c. 499, §9, are amended to read:**

30 **13. Acquire property.** Acquire by purchase, gift, lease or  
32 rent any property, lands, buildings, structures, facilities or  
34 equipment necessary to fulfill the purposes of this chapter; and

36 **14. Other duties.** Fulfill other duties assigned by the  
38 Legislature, and to delegate duties and authority, but not  
40 responsibility, as necessary for the efficient operation of this  
42 chapter, and to do any other acts or things necessary or  
44 convenient to carry out the powers expressly granted or  
46 reasonably implied in this chapter.

48 **Sec. 10. 20-A MRSA §7710, sub-§§15 and 16 are enacted to read:**

50 15. Dissemination of information. Apply the federal Family  
Educational Rights and Privacy Act of 1974, Public Law 93-380, as  
amended by Public Law 93-568, and the federal Education for All  
Handicapped Children Act of 1975, Public Law 94-142, to the  
dissemination of information about infants and children, ages 0  
through 5, who are handicapped or at-risk for developmental delay  
who are served through the Child Development Services System; and

16. Rule-making authority. Adopt rules necessary to  
implement this chapter. Any rule adopted by the  
Interdepartmental Coordinating Committee for Preschool  
Handicapped Children must be promulgated in conformity with the  
Maine Administrative Procedure Act.

**Sec. 11. 20-A MRSA §§7711 and 7712 are enacted to read:**

**§7711. Implementation of special education services**

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2        The Interdepartmental Coordinating Committee for Preschool  
Handicapped Children shall ensure:

4            1. All children 0 through 5. By July 1, 1991, that  
screening, evaluation and referral services are accessible to all  
6        children, ages 0 through 5, at no cost to the family. The  
Interdepartmental Coordinating Committee for Preschool  
8        Handicapped Children shall promulgate rules describing these  
services.

10

12           2. Handicapped children. By July 1, 1991, that preschool  
handicapped children have special education available to them at  
no cost to the family.

14

16           A. The Interdepartmental Coordinating Committee for  
Preschool Handicapped Children shall develop, promulgate and  
implement rules that address the following issues:

18

20                (1) Least restrictive environment;

22

24                (2) Nondiscrimination;

26

28                (3) Rights of parents;

30

32                (4) Free and appropriate public services;

34

36                (5) Eligibility criteria;

38

40                (6) The federal "child find" program;

42

44                (7) Program development, service descriptors and  
service delivery;

46

48                (8) Case management;

50

52                (9) The early childhood team;

54

56                (10) The individualized family service plan;

58

60                (11) Statements of assurances;

62

64                (12) Procedural safeguards and appeals processes;

66

68                (13) Due process hearings;

70

72                (14) Confidentiality of information;

74

76                (15) Data collection, reporting and utilization; and

78

80                (16) Surrogate parents; and

82

84                (17) System governance.

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2           3. Children at-risk for developmental delay. By July 1,  
4           1993, children at-risk for developmental delay, ages 0 through 5,  
          shall have special education available to them.

6           Nothing in this chapter relieves an insurer or similar 3rd party  
8           from an otherwise valid obligation to provide or pay for services  
          provided.

10        **§7712. Annual report**

12           The Interdepartmental Coordinating Committee for Preschool  
14           Handicapped Children and representatives of the local  
16           coordinating committees shall report annually by March 1st to the  
          joint standing committee of the Legislature having jurisdiction  
          over education matters on the implementation of this subchapter.

18           **Sec. 12. Implementation.** The following provisions apply to  
20           the implementation of this Act and Public Law 1989, chapter 499.

22           1. Employees of the central system office of the Child  
24           Development Services System on the effective date of this Act  
          shall continue to be treated as state employees.

26           2. The selection of the first public members to the  
28           Interdepartmental Coordinating Committee for Preschool  
30           Handicapped Children for school year 1990-91, as provided in the  
32           Maine Revised Statutes, Title 20-A, section 7704, subsection 1,  
34           paragraph A, shall be made by an ad hoc committee consisting of  
36           the state agency members, appointed in accordance with Title  
          20-A, section 7704, subsection 1, paragraph B, and one  
          representative chosen by each of the local coordinating  
          committees. Subsequent appointments must be in accordance with  
          the provisions of Title 20-A, section 7704, subsection 1,  
          paragraph A.

38           3. The local coordinating committees established in Title  
40           20-A, section 7703, subsection 4, continue in existence as they  
42           were constituted prior to September 30, 1989, for the purpose of  
          implementing Public Law 1989, chapter 499, and this Act. Title  
          20-A, section 7703, subsection 4, is retroactive to September 30,  
          1989.

44           4. In addition to other subjects covered in its annual  
46           report to the joint standing committee of the Legislature having  
          jurisdiction over education matters in 1991, the Child  
          Development Services System shall:

48           A. Present a detailed schedule of the costs involved in  
50           implementing the special education services required by this  
          Act; and

52

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2 B. Present recommendations, including proposed implementing  
3 legislation, if necessary, regarding per diem compensation  
4 for public members of the Interdepartmental Coordinating  
5 Committee for Preschool Handicapped Children and the local  
6 coordinating committees.

7 The joint standing committee of the Legislature having  
8 jurisdiction over education matters may introduce legislation on  
9 either of these 2 matters to the First Regular Session of the  
10 115th Legislature, if necessary.

12 **FISCAL NOTE**

13 This bill will not require additional funding in the current  
14 biennium. Effective July 1, 1991, this bill codifies in state  
15 law certain federal requirements established by the United States  
16 Education of the Handicapped Act, Amendments of 1986, Public Law  
17 99-457. Although the State will receive additional federal  
18 funds, the additional requirements will increase the State's  
19 share of these costs by approximately \$8,900,000 in fiscal year  
20 1991-92 and \$11,500,000 in fiscal year 1992-93. The General Fund  
21 appropriation required to fund the State's share will be reduced  
22 by 3rd-party payments such as Medicaid and private insurance.  
23 These additional state commitments result from the federal  
24 requirements and not this bill.  
25

26 In addition to the cost of the federal requirements, this  
27 bill extends the requirements to children under 3 years of age.  
28 This expansion will require future additional expenditures, above  
29 the costs of the federal requirements previously mentioned,  
30 totaling approximately \$2,900,000 in fiscal year 1991-92 and  
31 \$4,400,000 in fiscal year 1992-93. The General Fund  
32 appropriations required will be less than these total future  
33 expenditures as a result of 3rd-party payments. The extent to  
34 which the 3rd-party payments will reduce the General Fund cost  
35 can not be determined at this time.  
36  
37  
38

39 **STATEMENT OF FACT**

40 This amendment retains the provisions of the original bill  
41 applying the requirements of the federal Family Educational  
42 Rights and Privacy Act of 1974 to information about children  
43 served through the Child Development Services System. This  
44 amendment also makes several additions to the original bill.  
45  
46

47 The amendment redefines necessary terms. This amendment  
48 makes several necessary administrative changes, including  
49 changing the Interdepartmental Coordinating Committee for  
50 Preschool Handicapped Children from an advisory board to a  
51 policy-making board in conformity with the board's actual  
52 responsibilities, providing for administration of the central

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2 system office of the Child Development Services System, requiring  
an annual report to the Joint Standing Committee on Education by  
the system, clarifying the appointment process for  
4 representatives of the local coordinating committees to the  
Interdepartmental Coordinating Committee for Preschool  
6 Handicapped Children and applying state conflict of interest law  
to the Interdepartmental Coordinating Committee for Preschool  
8 Handicapped Children. This amendment also establishes a schedule  
for the provision of screening, evaluation, referral and special  
10 education services to handicapped children and children at-risk  
for developmental delay in the 0 through 5 age range.

12

The amendment adds a fiscal note to the bill.

Reported by Senator Bost for the Committee on Education.  
Reproduced and Distributed Pursuant to Senate Rule 12.  
(3/16/90) (Filing No. S-592)