

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

SECOND REGULAR SESSION - 1990

Legislative Document

No. 2312

S.P. 909

In Senate, February 12, 1990

Reported by Senator BERUBE of Androscoggin for the Committee on State and Local Government pursuant to Joint Rule 19.

Reference to the Committee on State and Local Government suggested and ordered printed pursuant to Joint Rule 19.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY

An Act to Establish the Office of Substance Abuse.



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

PART A

Sec. A-1. 5 MRSA §12004-I, sub-§39, as enacted by PL 1987, c. 786, §5, is amended to read:

39.	Human	Maine	Expenses	22 5
Services		Council	Only	MRSA
		on		§7107
		Alcohol		§20061
		and Drug		
		Abuse Pre-		
		vention		
		and Treat-		
		ment		

Sec. A-2. 5 MRSA §12004-L, sub-§1, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. A-3. 5 MRSA Pt. 24 is enacted to read:

PART 24

SUBSTANCE ABUSE PREVENTION AND TREATMENT

CHAPTER 521

OFFICE OF SUBSTANCE ABUSE

SUBCHAPTER I

GENERAL PROVISIONS

§20001. Title

This chapter may be known and cited as the "Maine Substance Abuse Prevention and Treatment Act."

§20002. Purpose

The purposes of this Act are:

1. Integrated and comprehensive approach. To adopt an integrated approach to the problem of substance abuse and to focus all the varied resources of the State on developing a comprehensive and effective range of substance abuse prevention and treatment activities and services; and

2. Single administrative unit. To establish a single administrative unit within State Government, accountable directly to the Governor, with responsibility for planning, developing,

2 implementing and coordinating all of the State's substance abuse
3 prevention and treatment activities and services.

4 **§20003. Definitions**

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

8
9 **1. Alcoholic.** "Alcoholic" means a person who habitually
10 lacks self-control as to the use of alcoholic beverages, or uses
11 alcoholic beverages to the extent that the person's health is
12 substantially impaired or endangered or the person's social or
13 economic function is substantially disrupted.

14
15 **2. Approved public treatment facility.** "Approved public
16 treatment facility" means an alcohol treatment facility operating
17 under the direction and control of the office or providing
18 treatment under this subchapter through a contract with the
19 office under section 20008, or any facility funded in whole or in
20 part by municipal, state or federal funds.

21
22 **3. Approved treatment facility.** "Approved treatment
23 facility" means a public or private alcohol treatment facility
24 meeting standards approved by the office in accordance with
25 section 20005 and licensed pursuant to Title 22, chapter 1602 and
26 other applicable provisions of state law.

27
28 **4. Community service provider.** "Community service
29 provider" means a provider of alcohol or drug abuse treatment
30 including, but not limited to, need evaluation.

31
32 **5. Council.** "Council" means the Maine Council on Alcohol
33 and Drug Abuse Prevention and Treatment, as established by
34 section 12004-I, subsection 39.

35
36 **6. Department.** "Department" means the Department of Human
37 Services.

38
39 **7. Dependency-related drug.** "Dependency-related drug"
40 means alcohol or any substance controlled under Title 22, chapter
41 558 or Title 32, chapter 117.

42
43 **8. Director.** "Director" means the Director of the Office
44 of Substance Abuse.

45
46 **9. Drug abuse prevention.** "Drug abuse prevention" means
47 all facilities, programs or services relating to drug abuse
48 control, education, rehabilitation, research, training and
49 treatment, and includes these functions as related to alcoholics
50 and intoxicated persons. The term includes such functions even
51 when performed by an organization whose primary mission is the
52 prevention of drug traffic or is unrelated to drugs. This term

2 does not include any function defined under subsection 19 as
3 "prevention of drug traffic."

4 10. Drug abuser. "Drug abuser" means a person who uses any
5 drugs, dependency-related drugs or hallucinogens in violation of
6 any law of the State.

8 11. Drug addict. "Drug addict" means a drug-dependent
9 person who, due to the use of a dependency-related drug, has
10 developed such a tolerance to the dependency-related drug that
11 abrupt termination of its use would produce withdrawal symptoms.

12 12. Drug-dependent person. "Drug-dependent person" means
13 any person who is unable to function effectively and whose
14 inability to do so causes, or results from, the use of a
15 dependency-related drug.

18 13. Emergency service patrol. "Emergency service patrol"
19 means a patrol established under section 20050.

20 14. Incapacitated by alcohol. "Incapacitated by alcohol"
21 means that a person, as a result of the use of alcohol, is
22 unconscious or has impaired judgment and is incapable of
23 realizing and making a rational decision with respect to the need
24 for treatment.

26 15. Incompetent person. "Incompetent person" means a
27 person who has been adjudged incompetent by a court.

30 16. Intoxicated person. "Intoxicated person" means a
31 person whose mental or physical functioning is substantially
32 impaired as a result of the use of alcohol.

34 17. Office. "Office" means the Office of Substance Abuse
35 established under section 20004.

36 18. Prevention. "Prevention" means any activity designed
37 to educate or provide information to individuals and groups about
38 the use or abuse of alcohol and other drugs.

40 19. Prevention of drug traffic. "Prevention of drug
41 traffic" means any functions conducted for the purpose of
42 preventing drug traffic, such as law enforcement and judicial
43 activities or proceedings, including:

46 A. The investigation, arrest and prosecution of drug
47 offenders and offenses; or

48 B. The detection and suppression of illicit drug supplies.
50

2 20. Standards. "Standards" means criteria and rules of the
office or the department that are to be met before and during
4 operation of any treatment facility or treatment program.

6 21. Substance Abuse Advisory Group. "Substance Abuse
Advisory Group" means the group consisting of the 5 commissioners
8 designated in section 20007.

10 22. Treatment. "Treatment" means the broad range of
emergency, outpatient, intermediate and inpatient services and
12 care, including career counseling, diagnostic evaluation,
employment, health, medical, psychiatric, psychological,
14 recreational, rehabilitative, social service care, treatment and
vocational services, that may be extended to an alcoholic,
16 intoxicated person, drug abuser, drug addict, drug-dependent
person or a person in need of assistance due to the use of a
18 dependency-related drug.

20 23. Treatment program. "Treatment program" means any
program or service, or portion of a program or service, sponsored
22 under the auspices of a public or private nonprofit agency
providing services especially designed for the treatment of those
24 persons listed in subsection 22.

26 §20004. Office established

28 The Office of Substance Abuse is established within the
Executive Department to fulfill the purposes of this Act. The
30 office is directly responsible to the Governor. The office shall
be the sole agency of the State responsible for administering
32 this Act.

34 §20005. Powers and duties

36 The office shall:

38 1. State Government. Establish the overall plans,
policies, objectives and priorities for all state substance abuse
40 prevention and treatment functions, except the prevention of drug
traffic and the State Employee Assistance Program established
42 pursuant to Title 22, chapter 254-A;

44 2. Comprehensive plan. Develop and provide for the
implementation of a comprehensive state plan for alcohol and drug
46 abuse;

48 3. Information. Ensure the collection, analysis and
dissemination of information for planning and evaluation of
50 alcohol and drug abuse services;

52 4. Coordination; organizational unit. Ensure that alcohol
and drug abuse assistance and service are delivered in an

2 efficient and coordinated program and, with the advice of the
3 council, coordinate all programs and activities authorized by the
4 federal Comprehensive Alcohol Abuse and Alcoholism Prevention,
5 Treatment and Rehabilitation Act of 1970, Public Law 91-616
6 (1982), as amended, and by the Drug Abuse Office and Treatment
7 Act of 1972, 21 United States Code, Section 1101 et seq. (1982),
8 as amended; and other state or federal programs or laws related
9 to drug abuse prevention that are not the specific responsibility
10 of another state agency under federal or state law;

11 5. Budget. Develop and submit to the Legislature by
12 January 15th of the first year of each legislative biennium
13 recommendations for continuing and supplemental allocations and
14 appropriations from all funding sources for all state alcohol and
15 drug abuse programs;

16 6. Administer contracts. Administer all contracts with
17 community service providers for the delivery of alcohol and drug
18 abuse treatment services;

19 7. Uniform requirements. Develop, use and require the use
20 of uniform contracting, information gathering and reporting
21 formats by any state-funded substance abuse program. To the
22 extent feasible, information must maintain compatibility with
23 federal information sharing standards;

24 8. Reports. By January 15th of each year, report to the
25 Legislature on the accomplishments of the past year's programs,
26 the progress toward obtaining goals and objectives of the
27 comprehensive state plan and other necessary or desirable
28 information;

29 9. Funds. Have the authority to seek and receive funds
30 from the Federal Government and private sources to further the
31 purposes of this Act;

32 10. Agreements. Enter into agreements necessary or
33 incidental to the purposes of this Act;

34 11. Cooperation. Provide support and guidance to
35 individuals, local governments, public organizations and private
36 organizations in their alcohol and drug abuse prevention
37 activities;

38 12. Rules. Adopt rules, in accordance with the Maine
39 Administrative Procedure Act, Title 5, chapter 375, necessary to
40 carry out the purposes of this chapter and approve any rules
41 adopted by state agencies for the purpose of implementing alcohol
42 or drug abuse prevention or treatment programs; and

2 13. General authority. Perform other acts or exercise any
3 other powers necessary or convenient to carry out the purposes of
4 this chapter.

6 **§20006. Director**

8 The Governor shall appoint a full-time director of the
9 Office of Substance Abuse who shall serve at the pleasure of the
10 Governor and have a salary fixed by the Governor.

12 The director must be qualified by training and experience in
13 the field of substance abuse prevention and treatment. The
14 director shall exercise the powers of the office and is
15 responsible for the execution of its duties. The director may:

16 1. Employ and remove staff. Employ and remove staff and
17 assign their duties in accordance with the Civil Service Law;

18 2. Alternatives. Propose alternatives to current alcohol
19 and drug abuse prevention and treatment programs and services;

22 3. Investigate. Conduct investigations and studies of any
23 alcohol or drug abuse program or community service provider as
24 necessary; and

26 4. Gifts. Accept money or gifts from any source to
27 implement this chapter. Any money or gifts the office receives
28 must be accounted for in accordance with the requirements of the
29 Department of Finance.

30 **§20007. Substance Abuse Advisory Group; agency cooperation**

32 The Commissioner of Corrections, the Commissioner of
33 Educational and Cultural Services, the Commissioner of Human
34 Services, the Commissioner of Mental Health and Mental
35 Retardation and the Commissioner of Public Safety shall
36 constitute the Substance Abuse Advisory Group. The commissioners
37 shall elect a chair from among the members of the advisory group
38 and shall meet with the director to provide advice on the
39 development and operation of alcohol and drug abuse prevention
40 and treatment programs. The advisory group shall meet, at a
41 minimum, in alternate months.

44 State agencies shall cooperate fully with the office and
45 council in carrying out this chapter. A state agency may not
46 develop, establish, conduct or administer any alcohol or drug
47 abuse prevention or treatment program without the approval of the
48 office. The office may request personnel, facilities and data
49 from other agencies as the director finds necessary to fulfill
50 the purposes of this Act.

2 **§20008. Comprehensive program on alcoholism and drug abuse**

4 The office shall establish and provide for the
6 implementation of a comprehensive and coordinated program of
8 alcohol and drug abuse prevention and treatment in accordance
10 with subchapters II and III and the purposes of this Act. The
12 program must include the following elements.

14 **1. Public and private resources.** All appropriate public
16 and private resources must be coordinated with and utilized in
18 the program.

20 **2. Program.** The program must include emergency treatment
22 provided by a facility affiliated with a general hospital or with
24 part of the medical service of a general hospital.

26 **3. Alcoholics and intoxicated persons.** The office shall
28 provide for adequate and appropriate treatment for alcoholics and
30 intoxicated persons admitted under sections 20043 to 20047.
32 Treatment may not be provided at a correctional institution,
34 except for inmates.

36 The office shall contract with approved treatment facilities
38 whenever possible, but may contract for the use of any facility
40 as an approved public treatment facility at the discretion of the
42 director.

28 **§20009. Planning**

30 The office shall plan alcohol and drug abuse prevention and
32 treatment activities in the State and prepare and submit to the
34 Legislature the following documents:

36 **1. Biennial plan.** By January 15, 1991, and biennially
38 thereafter, a comprehensive plan containing statements of
40 measurable goals to be accomplished during the coming biennium
42 and establishing performance indicators by which progress toward
44 accomplishing those goals will be measured; and

46 **2. Four-year assessment.** By January 15, 1991, and every
4th year thereafter, an assessment of the costs related to drug
abuse in the State and the needs for various types of services
within the State, including geographical disparities in the needs
for various types of services and the needs of special
populations of drug abusers.

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SUBCHAPTER II

PREVENTION

§20021. Public awareness

The office shall create and maintain a program to increase public awareness of the impacts and prevalence of alcohol and drug abuse. The public awareness program must include promotional and technical assistance to local governments and public and private nonprofit organizations interested in alcohol and drug abuse prevention.

§20022. Information dissemination

As part of its comprehensive prevention and treatment program, the office shall support and coordinate the activities of an information clearinghouse within the Department of Human Services and a resource center within the Department of Educational and Cultural Services. Together, the information clearinghouse and resource center constitute a comprehensive reference center of information related to the nature, abuse, prevention and treatment of alcohol and drugs. The office shall ensure that the information clearinghouse and resource center do not perform duplicative services or functions. Information must be available for use by the general public, political subdivisions, public and private nonprofit agencies and the State.

Functions of the information clearinghouse may include, but are not limited to:

1. Research. Conducting research on the causes and nature of drugs, drug abuse or people who are dependent on drugs, especially alcoholics and intoxicated persons;

2. Information collection. Collecting, maintaining and disseminating knowledge, data and statistics related to drugs, drug abuse and drug abuse prevention;

3. Educational materials. Preparing, publishing and disseminating educational materials; and

4. Treatment facilities. Maintaining an inventory of the types and quantity of drug abuse prevention facilities, programs and services available or provided under public or private auspices to drug addicts, drug abusers and drug-dependent persons, especially alcoholics and intoxicated persons. This function includes the unduplicated count, locations and characteristics of persons receiving treatment, as well as the frequency of admission and readmission and the frequency and duration of treatment of those persons. The inventory must

2 include the amount, type and source of resources for drug abuse
3 prevention.

4 **§20023. Education**

6 The office shall establish and maintain within the
7 Department of Educational and Cultural Services a program of
8 elementary and secondary school education about alcohol and drug
9 abuse that includes community participation and is coordinated
10 with available treatment services.

12 **SUBCHAPTER III**

14 **TREATMENT**

16 **§20041. Evaluation**

18 **1. Data collection; sources.** The office shall collect data
19 and use information from other sources to evaluate or provide for
20 the evaluation of the impact, quality and value of alcohol and
21 drug abuse prevention activities, treatment facilities and other
22 substance abuse programs.

24 **2. Content of evaluation.** Any evaluation of treatment
25 facilities must include, but is not limited to, administrative
26 adequacy and capacity. Alcohol and drug abuse prevention and
27 treatment services authorized by this Act and by the following
28 federal laws and amendments that relate to drug abuse prevention
29 must be evaluated:

30 A. The Drug Abuse Office and Treatment Act of 1972, 21
31 United States Code, Section 1101 et seq. (1982);

32 B. The Community Mental Health Centers Act, 42 United
33 States Code, Section 2688 et seq. (1982);

34 C. The Public Health Service Act, 42 United States Code,
35 Section 1 et seq. (1982);

36 D. The Vocational Rehabilitation Act, 29 United States
37 Code, Section 701 et seq. (1982);

38 E. The Social Security Act, 42 United States Code, Section
39 301 et seq. (1982); and

40 F. The federal Comprehensive Alcohol Abuse and Alcoholism
41 Prevention, Treatment and Rehabilitation Act of 1970, Public
42 Law 91-616 (1982) and similar Acts.

2
3 §20042. Standards

4 Except as provided in section 20008, the office shall
5 contract for treatment services only with approved treatment
6 facilities.

7 §20043. Acceptance for treatment of alcoholics and intoxicated
8 persons; rules

10 The office shall adopt rules for acceptance of persons into
11 a treatment program, considering available treatment resources
12 and facilities, for the purpose of early and effective treatment
13 of alcoholics and intoxicated persons.

14 In establishing rules, the office must be guided by the
15 following standards.

16
17 1. Voluntary basis. If possible, a patient must be treated
18 on a voluntary rather than an involuntary basis.

19
20 2. Initial assignment. A patient must be initially
21 assigned or transferred to outpatient or intermediate treatment,
22 unless the patient is found to require inpatient treatment.

23
24 3. Denial of treatment. A person may not be denied
25 treatment solely because that person has withdrawn from treatment
26 against medical advice on a prior occasion or has relapsed after
27 earlier treatment.

28
29 4. Individualized treatment plan. An individualized
30 treatment plan must be prepared and maintained on a current basis
31 for each patient.

32
33 5. Coordinated treatment. Provision must be made for a
34 continuum of coordinated treatment services, so that a person who
35 leaves a facility or a form of treatment has available and may
36 utilize other appropriate treatment.

37
38 6. Denial of treatment services. A person, firm or
39 corporation licensed by the Department of Human Services as an
40 alcohol or drug treatment facility under Title 22, section 7245
41 to provide shelter or detoxification services, and that receives
42 any funds administered by the office, may not deny treatment to
43 any person because of that person's inability or failure to pay
44 any assessed fees.

45 §20044. Voluntary treatment of alcoholics

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47
48 1. Voluntary treatment. An alcoholic may apply for
49 voluntary treatment directly to an approved public treatment
50 facility. If the proposed patient is a minor or an incompetent

2 person, that person, a parent, a legal guardian or other legal
3 representative may make the application.

4 2. Determination. Subject to rules adopted by the office,
5 the administrator in charge of an approved public treatment
6 facility may determine who shall be admitted for treatment. If a
7 person is refused admission to an approved public treatment
8 facility, the administrator, subject to rules adopted by the
9 office, shall refer the person to another approved public
10 treatment facility for treatment if possible and appropriate.

11 3. Outpatient or intermediate treatment. If a patient
12 receiving inpatient care leaves an approved public treatment
13 facility, that patient must be encouraged to consent to
14 appropriate outpatient or intermediate treatment. If it appears
15 to the administrator in charge of the treatment facility that the
16 patient is an alcoholic who requires help, the office shall
17 arrange for assistance in obtaining supportive services and
18 residential facilities.

19 4. Discharge. If a patient leaves an approved public
20 treatment facility, with or against the advice of the
21 administrator in charge of the facility, the office shall make
22 reasonable provisions for that patient's transportation to
23 another facility or to the patient's home. If that person does
24 not have a home, the patient must be assisted in obtaining
25 shelter. If the patient is a minor or an incompetent person, the
26 request for discharge from an inpatient facility must be made by
27 a parent, legal guardian or other legal representative or by the
28 minor or incompetent, if the minor or incompetent was the
29 original applicant.

30 **§20045. Treatment and services for intoxicated persons and**
31 **persons incapacitated by alcohol**

32 1. Intoxicated person. An intoxicated person may come
33 voluntarily to an approved public treatment facility for
34 emergency treatment. A person who appears to be intoxicated and
35 in need of help, if that person consents to the proffered help,
36 may be assisted home or to an approved public treatment facility,
37 an approved private treatment facility or other health facility
38 by the police or the emergency service patrol.

39 2. Incapacitated person. A person who appears to be
40 incapacitated by alcohol shall be taken into protective custody
41 by the police or the emergency service patrol and immediately
42 brought to an approved public treatment facility for emergency
43 treatment. If an approved public treatment facility is not
44 readily available, that person must be taken to an emergency
45 medical service customarily used for incapacitated persons. The
46 police or the emergency service patrol, by detaining the person
47 and taking that person to an approved public treatment facility,
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2 takes that person into protective custody and shall make every
4 reasonable effort to protect that person's health and safety. In
6 taking the person into protective custody, the detaining officer
8 may take reasonable steps for self-protection. The taking of a
person who appears to be incapacitated by alcohol into protective
custody under this section is not an arrest. An entry or other
record may not be made to indicate that the person has been
arrested or charged with a crime.

10 3. Voluntary commitment. A person who comes voluntarily or
12 is brought to an approved public treatment facility must be
14 examined by a licensed physician immediately. That person may
then be admitted as a patient or referred to another health
facility. The facility making the referral shall arrange for
that person's transportation.

16 4. Length of stay. A person who by medical examination is
18 found to be incapacitated by alcohol at the time of admission, or
20 to have become incapacitated at any time after admission, may not
22 be detained at the facility once that person is no longer
24 incapacitated by alcohol, or if that person remains incapacitated
by alcohol for more than 48 hours after admission as a patient,
unless committed under section 20046. A person may consent to
remain in the facility as long as the physician in charge
believes it is appropriate.

26 5. Shelter. A person who is not admitted to an approved
28 public treatment facility, is not referred to another health
30 facility and does not have funds may be taken home. If that
person does not have a home, the approved public treatment
facility shall assist the person in obtaining shelter.

32 6. Notification. If a patient is admitted to an approved
34 public treatment facility, the family or next of kin must be
36 notified as promptly as possible except that, if an adult patient
who is not incapacitated requests that there be no notification,
the request must be respected.

38 7. Official duty. The police or members of the emergency
40 service patrol who act in compliance with this section are acting
42 in the course of their official duties and are not criminally or
civilly liable for actions taken under this section.

44 8. Further diagnosis and voluntary treatment. If the
46 administrator in charge of the approved public treatment facility
determines that further diagnosis and treatment are for the
patient's benefit, the patient shall be encouraged to agree to
48 further diagnosis and appropriate voluntary treatment.

2 §20046. Emergency commitment of an incapacitated or intoxicated
4 person

6 1. Commitment. An intoxicated person who has threatened,
8 attempted or inflicted physical harm on another person and is
10 likely to inflict physical harm on another person unless
12 committed or is incapacitated by alcohol may be committed to an
14 approved public treatment facility for emergency treatment. A
16 refusal to undergo treatment does not in itself constitute
18 evidence of lack of judgment as to the need for treatment.

20 2. Application for commitment. The spouse, guardian or
22 relative of the person to be committed, or any other responsible
24 person, may make a written application for commitment under this
26 section, directed to the administrator of the approved public
28 treatment facility. The application must state facts to support
30 the need for emergency treatment and be accompanied by a
32 physician's certificate stating that the physician has examined
34 the person to be committed within 2 days before the date of the
36 application for admission and including facts supporting the need
38 for emergency treatment. A physician employed by the admitting
40 facility or the division is not eligible to be the certifying
42 physician. The certifying physician must be someone other than
44 the person making the written application for commitment.

46 3. Approval of application. Upon approval of the
48 application by the administrator in charge of the approved public
50 treatment facility, the person shall be brought to the facility
52 by a peace officer as defined in Title 21-A, section 1,
54 subsection 29; a health officer; a member of the emergency
56 service patrol; the applicant for commitment; the patient's
58 spouse; the patient's guardian; or any other interested person.
60 The person must be retained at the facility or transferred to
62 another appropriate public or private treatment facility until
64 discharged under subsection 5.

66 4. Refusal of application. The administrator in charge of
68 an approved public treatment facility shall refuse an application
70 if, in the opinion of a physician or physicians employed by the
72 facility, the application and certificate fail to meet the
74 grounds for commitment.

76 5. Discharge. When the administrator of an approved public
78 treatment facility determines, on the advice of the medical staff
80 of that facility, that the grounds for commitment no longer
82 exist, the administrator shall discharge a person committed under
84 this section. A person committed under this section may not be
86 detained in any treatment facility for more than 5 days. If a
88 petition for involuntary commitment under section 20047 is filed
90 within the 5 days and the administrator in charge of the facility
92 finds that grounds for emergency commitment still exist, the

2 administrator may detain the person until the petition has been
3 heard and determined, but no longer than 10 days after the
4 petition has been filed.

6 6. Opportunity to consult counsel. A copy of the written
7 application for commitment, a copy of the physician's certificate
8 and a written explanation of the person's right to counsel must
9 be given to the committed person within 24 hours after commitment
10 by the administrator who shall provide a reasonable opportunity
11 for the person to consult counsel.

12 §20047. Involuntary commitment of alcoholics or incapacitated
13 persons

14
15 1. Commitment. A person may be committed to the custody of
16 the office by the District Court upon the petition of a spouse,
17 guardian, relative or the administrator in charge of an approved
18 public treatment facility. The petition must allege that the
19 person is an alcoholic who habitually lacks self-control as to
20 the use of alcoholic beverages and has threatened, attempted or
21 inflicted physical harm on another person and is likely to
22 inflict physical harm on another person unless committed or is
23 incapacitated by alcohol. A refusal to undergo treatment does
24 not in itself constitute evidence of lack of judgment as to the
25 need for treatment. The petition must be accompanied by a
26 certificate of a licensed physician who has examined the person
27 within 2 days before submission of the petition, unless the
28 person whose commitment is sought has refused to submit to a
29 medical examination, in which case the fact of refusal must be
30 alleged in the petition. The certificate must set forth the
31 physician's findings in support of the allegations of the
32 petition. A physician employed by the admitting facility or the
33 division is not eligible to be the certifying physician. The
34 certifying physician must be someone other than the person
35 bringing the petition.

36
37 2. Petition. Upon filing of the petition, the court shall
38 fix a date for a hearing no later than 10 days after the date the
39 petition is filed. A copy of the petition and of the notice of
40 the hearing, including the date fixed by the court, must be
41 served on the petitioner, the person whose commitment is sought,
42 next of kin other than the petitioner, a parent or a legal
43 guardian, the administrator in charge of the approved public
44 treatment facility to which the person has been committed for
45 emergency care and any other person the court believes
46 advisable. A copy of the petition and certificate must be
47 delivered to each person notified.

48
49 3. Hearing. At the hearing, the court shall hear all
50 relevant testimony, including, if possible, the testimony of at
51 least one licensed physician who has examined the person whose
52 commitment is sought. The person must be present, unless the

1 court believes that the person's presence is likely to be
2 injurious to that person. In this event, the court shall appoint
3 a guardian ad litem to represent the person throughout the
4 proceeding. The court shall examine the person in open court, or
5 if advisable, out of court. If the person has refused to be
6 examined by a licensed physician, the person must be given an
7 opportunity to be examined by a court-appointed licensed
8 physician. If that person refuses and there is sufficient
9 evidence to believe that the allegations of the petition are
10 true, or if the court believes that more medical evidence is
11 necessary, the court may make a temporary order committing that
12 person to custody of the office for a period of not more than 5
13 days for purposes of a diagnostic examination.

14
15 **4. Findings.** If, after hearing all relevant evidence,
16 including the results of any diagnostic examination by the
17 office, the court finds that grounds for involuntary commitment
18 have been established by clear and convincing proof, it shall
19 make an order of commitment to the office. The court may not
20 order commitment of a person, unless it determines that the
21 office is able to provide adequate and appropriate treatment and
22 the treatment is likely to be beneficial.

23
24 **5. Custody.** A person committed under this section shall
25 remain in the custody of the office for treatment for a period of
26 30 days, unless discharged sooner. At the end of the 30-day
27 period, the person must be discharged automatically, unless the
28 office, before expiration of the period, obtains a court order
29 for recommitment upon the grounds set forth in subsection 1 for a
30 further period of 90 days, unless discharged sooner. If a person
31 has been committed as an alcoholic likely to inflict physical
32 harm on another person, the office shall apply for recommitment
33 if after examination it is determined that the likelihood still
34 exists.

35
36 **6. Recommitment.** A person recommitted under subsection 5
37 who has not been discharged by the office before the end of the
38 90-day period must be discharged at the expiration of that
39 period, unless the office, before expiration of the period,
40 obtains a court order on the grounds set forth in subsection 1
41 for the recommitment for a further period not to exceed 90 days.
42 If a person has been committed as an alcoholic likely to inflict
43 physical harm on another person, the office shall apply for
44 recommitment if after examination it is determined that the
45 likelihood still exists. A total of only 2 recommitment orders
46 under this subsection and subsection 5 is permitted.

47
48 **7. Petition for recommitment.** Upon the filing of a
49 petition for recommitment under subsection 5 or 6, the court
50 shall fix a date for hearing no later than 10 days after the date
51 the petition is filed. A copy of the petition and of the notice
52 of hearing, including the date fixed by the court, must be served

2 on the petitioner, the person whose commitment is sought, next of
4 kin other than the petitioner, the original petitioner under
6 subsection 1 if different from the petitioner for recommitment,
one parent or a legal guardian and any other person the court
believes advisable. At the hearing the court must proceed as
provided in subsection 3.

8 8. Treatment. The office shall provide for adequate and
10 appropriate treatment of a person committed to its custody. The
12 office may transfer a person committed to its custody from one
approved public treatment facility to another, if the transfer is
medically advisable.

14 9. Discharge. A person committed to the custody of the
16 office for treatment must be discharged at any time before the
18 end of the period for which that person has been committed if
either of the following conditions is met:

20 A. In case of an alcoholic committed on the grounds of
22 likelihood of infliction of physical harm upon another
person, the committed person is no longer an alcoholic or
the likelihood no longer exists; or

24 B. In case of an alcoholic committed on the grounds of the
26 need for treatment and incapacity, the incapacity no longer
28 exists, further treatment will not be likely to bring about
significant improvement in the person's condition or
treatment is no longer adequate or appropriate.

30 10. Right to contest. The court shall inform the person
32 whose commitment or recommitment is sought of the right to
34 contest the application, be represented by counsel at every stage
of any proceedings relating to commitment and recommitment and
have counsel appointed by the court or provided by the court, if
36 that person wants the assistance of counsel and is unable to
obtain counsel. If the court believes that the person needs the
38 assistance of counsel, the court shall require counsel, by
appointment if necessary, regardless of that person's wishes.
40 The person whose commitment or recommitment is sought must be
informed of the right to be examined by a licensed physician of
42 that person's choice. If the person is unable to obtain a
licensed physician and requests examination by a physician, the
court shall employ a licensed physician.

44 11. Private treatment facility. If a private or public
46 treatment facility agrees with the request of a competent patient
48 or a parent, sibling, adult child or guardian to accept the
patient for treatment, the administrator of the public treatment
50 facility shall transfer the patient to the private treatment
facility.

12. Habeas corpus. A person committed under this subchapter may at any time seek to be discharged from commitment by writ of habeas corpus.

13. Venue for proceedings. The venue for proceedings under this section is the place in which the person to be committed resides or is present.

§20048. Records

1. Registration and records. Registration and other records of treatment facilities must remain confidential and are privileged to the patient.

2. Information for research. Notwithstanding subsection 1, the director may make available information from patients' records for purposes of research into the causes and treatment of alcoholism and drug abuse. Information under this subsection may not be published in a way that discloses patients' names or other identifying information.

§20049. Visitation and communication of patients

1. Hours of visitation. Subject to reasonable rules regarding hours of visitation which the director may adopt, patients in any approved treatment facility must be granted opportunities for adequate consultation with counsel and for continuing contact with family and friends consistent with an effective treatment program.

2. Communication. Mail or other communication to or from a patient in any approved treatment facility may not be intercepted, read or censored. The director may adopt reasonable rules regarding the use of telephones by patients in approved treatment facilities.

3. Restrictions. The patient may exercise all civil rights, including, but not limited to, civil service status; the right to vote; rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law; and the right to enter contractual relationships and to manage the patient's property, except:

A. To the extent the director determines that it is necessary for the medical welfare of the patient to impose restrictions unless the patient has been restored to legal capacity; or

B. When specifically restricted by other laws or rules.

2 Restrictions on the exercise of civil rights may not be imposed
3 on any patient solely because of the fact of that person's
4 admission to a mental hospital.

6 **§20050. Emergency service patrol; establishment; rules**

8 1. Emergency service patrols. The office, counties and
9 municipalities may establish emergency service patrols. A patrol
10 consists of persons trained to give assistance in the streets and
11 in other public places to persons who are intoxicated due to the
12 use of alcohol or dependency-related drugs. Members of an
13 emergency service patrol must be capable of providing first aid
14 in emergency situations and shall transport intoxicated persons
15 to their homes and to and from public treatment facilities.

16 2. Rules. The office shall adopt rules for the
17 establishment, training and conduct of emergency service patrols.

18 **§20051. Payment for treatment; financial ability of patients**

20 1. Payment. If treatment is provided by an approved public
21 treatment facility and the patient has not paid the charge, the
22 treatment facility is entitled to any payment received by the
23 patient or to which the patient may be entitled because of the
24 services rendered, and from any public or private source
25 available to the treatment facility because of the treatment
26 provided to the patient.

28 2. Liability. A patient in an approved public treatment
29 facility, or the estate of the patient, or a person obligated to
30 provide for the cost of treatment who has sufficient financial
31 ability, is liable to the treatment facility for cost of
32 maintenance and treatment of the patient in accordance with
33 established rates.

34 3. Finances. The office shall adopt rules governing
35 financial ability that take into consideration the patient's
36 income, savings, other personal and real property and any support
37 being furnished to any other person that the patient is required
38 by law to support.

40 **§20052. Criminal law limitations**

42 1. Laws. A county, municipality or other political
43 subdivision may not adopt or enforce a local law, ordinance,
44 regulation or rule having the force of law that includes
45 drinking, being a common drunkard or being found in an
46 intoxicated condition as one of the elements of an offense giving
47 rise to a criminal or civil penalty or sanction.

48

- 2 A. Two of the private citizen members must be between the
 ages of 16 and 21 years.
- 4 B. At least 4 members must be officials of public or
6 private nonprofit community-level agencies who are actively
8 engaged in drug abuse prevention or treatment in those
10 public or private nonprofit community agencies or members of
 the regional alcohol and drug abuse councils located
 throughout the State.
- 12 C. Five members must be the executive directors of the 5
 regional alcohol and drug abuse councils located throughout
14 the State.
- 16 D. One of the public citizen members must be the President
 or the Executive Director of the National Council on
18 Alcoholism in Maine, Incorporated.
- 20 E. Two members must be representatives of public education.
- 22 F. Two members must be representatives from the fields of
 mental health and mental retardation.
- 24 G. Two members must be representatives from the fields of
26 corrections and criminal justice.
- 28 H. Two members must be representatives from the field of
 social services.
- 30 I. The Governor shall make appointments to the council to
32 ensure that at least 6 members are persons affected by or
 recovering from alcoholism, chronic intoxication, drug abuse
34 or drug dependency, having evidenced a minimum of 3 years of
 sobriety or abstention from drug abuse.
- 36 J. One member must be registered as a physician or surgeon
 under Title 32, chapter 48, subchapter II.
- 38 K. Membership may also include, but not be limited to,
40 representatives of professions such as law, law enforcement,
42 pharmacy and teaching, the insurance industry and businesses
 with employee assistance programs.
- 44 4. Term; vacancies. Except as provided in paragraphs A and
46 B, members must be appointed for terms of 3 years. A vacancy in
 the council does not affect its powers, but must be filled in the
48 same manner by which the original appointment was made. Terms of
 appointment shall begin and expire on June 1st.
- 50 A. Any member appointed to fill a vacancy occurring prior
 to the expiration of the term for which the member's

2 predecessor was appointed shall be appointed only for the
3 remainder of that term.

4 B. Members who are members of the Legislature and who are
5 appointed by the President of the Senate or the Speaker of
6 the House of Representatives shall serve at the pleasure of
7 the appointing authority.

8
9 5. Reappointment; termination. Members are eligible for
10 appointment to only 2 consecutive terms and may serve after the
11 expiration of their terms until their successors have been
12 appointed, qualified and taken office. The appointing authority
13 may terminate the appointment of any member of the council for
14 good and just cause and the appointing authority shall
15 communicate the reason for the termination to each member
16 terminated. The appointment of any member of the council must be
17 terminated if a member is absent from 3 consecutive meetings
18 without good and just cause that is communicated to the chair of
19 the council.

20
21 6. Ineligible to serve on the council. The Governor may
22 not appoint as a member of the council any official, employee,
23 consultant or any other individual employed, retained or
24 otherwise compensated by or representative of the executive
25 branch.

26
27 7. Officers. The Governor shall designate one member to
28 chair the council. The council may elect any other officers from
29 its members as it considers appropriate.

30
31 8. Subcommittees. The council may appoint from its
32 membership subcommittees relating to particular problem areas or
33 to other matters, provided that the council functions as an
34 integrated committee.

35
36 9. Administrative and financial assistance. The office
37 shall provide the council any administrative or financial
38 assistance that from time to time may be reasonably required to
39 carry out its activities. Any reasonable and proper expense of
40 the council must be borne by the office out of currently
41 available state or federal funds.

42 §20062. Meetings; compensation; quorum

43
44 1. Calling meetings. The council shall meet at the call of
45 the chair or at the call of at least 1/4 of the members appointed
46 and currently holding office.

47
48 2. Frequency of meetings. The council shall meet at least
49 5 times a year and at least once every 3 months.

2 3. Minutes. The council shall keep minutes of all
4 meetings, including a list of people in attendance. The council
6 shall immediately send copies of the minutes to the Governor and
 leadership of the Legislature, who shall provide for their
 appropriate distribution and retention in a place of safekeeping.

8 4. Compensation. Members of the council shall be
 compensated according to chapter 379.

10 5. Quorum; council action. A majority of the council
12 members constitutes a quorum for the purpose of conducting the
14 business of the council and exercising all the powers of the
 council. A vote of a majority of the members present is
 sufficient for all actions of the council.

16 §20063. Powers and duties of the council

18 The council, in cooperation with the office, has the
20 following powers and duties.

22 1. Advise, consult and assist. The council shall advise,
24 consult and assist the executive and legislative branches of
26 State Government and the Judicial Council, and especially the
28 Governor, on activities of State Government related to drug abuse
30 prevention, including alcoholism and intoxication. The council
32 may make recommendations regarding any function intended to
34 prevent drug traffic. If findings, comments or recommendations
 of the council vary from or are in addition to those of the
 office, those statements of the council must be sent to the
 respective branches of State Government as attachments to those
 statements submitted by the office. Recommendations may take the
 form of proposed budgetary, legislative or policy actions. The
 council shall be solely advisory in nature and may not be
 delegated any administrative authority or responsibility.

36 2. Serve as advocate. The council shall serve as an
38 advocate on alcoholism and drug abuse prevention, promoting and
40 assisting activities designed to meet the problems of drug abuse
42 and drug dependence at the national, state and community levels.
44 The council shall serve as an ombudsman on behalf of individual
 citizens and drug-dependent people as a class in matters under
 the jurisdiction of State Government. It shall be a proponent of
 drug abuse prevention to the office, Governor, Legislature,
 public at large and Federal Government.

46 3. Serve as advisory council. The council shall serve as
48 the advisory council on behalf of the State to the state agencies
50 as required by the federal regulations governing administration
52 of the Drug Abuse Office and Treatment Act of 1972, 21 United
 States Code, Section 1101 et seq. (1982), as amended; and the
 federal Comprehensive Alcohol Abuse and Alcoholism Prevention,
 Treatment and Rehabilitation Act of 1970, Public Law 91-616

2 (1982), as amended; and other Acts of the United States as
4 appropriate. The council shall advise on state and federal
6 plans, policies, programs and other activities relating to drug
8 abuse and drug dependence in the State. The council shall submit
its recommendations and comments on the state plan, and any plan
revisions, and reports to federal or state agencies. Statements
at variance with or in addition to those of the office must be
attached to the plan or reports upon submission by the office to
agencies of the Federal Government and to state agencies.

10
12 4. Review and evaluate. For the purposes of determining
14 the value and effect of state and federal policies and programs
16 on the lives of people who abuse or are dependent on drugs, the
18 council shall review and evaluate on a continuing basis, in
cooperation with the office, state and federal policies and
programs relating to drug abuse and other activities affecting
the people who abuse or are dependent on drugs that are conducted
or assisted by any state departments or agencies.

20 5. Inform the public. In cooperation with the office, the
22 council shall keep the public informed in order to develop a firm
24 public understanding of the current status of drug abuse and drug
26 dependence among citizens of the State, including information on
effective programs in the State or nation, by collecting and
disseminating information, conducting or commissioning studies
and publishing the study results, and by issuing publications and
reports.

28
30 6. Provide public forums. The council shall provide public
32 forums, including the conduct of public hearings and the
34 sponsorship of conferences, workshops and other meetings to
discuss, publicize and obtain information about the problems of
and solutions to drug abuse and drug dependence. The council may
hold statewide conferences, regional conferences and meetings.

36 **PART B**

38 **Sec. B-1. 22 MRSA c. 1601, as amended, is repealed.**

40 **Sec. B-2. 22 MRSA §7201, sub-§5 is enacted to read:**

42 5. Office. "Office" means the Office of Alcohol and Drug
44 Abuse Prevention established by section 7241.

46 **Sec. B-3. 22 MRSA c. 1602, sub-c. III, as amended, is repealed.**

2 Sec. B-4. 22 MRSA c. 1602, sub-c. II-A is enacted to read:

4 SUBCHAPTER II-A

6 OFFICE OF ALCOHOL AND DRUG ABUSE PREVENTION

8 §7241. Office established

10 There is created within the Department of Human Services the
12 Office of Alcohol and Drug Abuse Prevention. The office is
14 established to administer and oversee the operation of the
16 department's alcohol and drug abuse activities, including those
18 related to the abuse of alcohol by motor vehicle operators
20 pursuant to subchapter I and excepting the State Employee
22 Assistance Program established pursuant to chapter 254-A. The
24 office shall operate in accordance with the provisions of Title
26 5, chapter 521 and the alcohol and drug abuse prevention and
28 treatment plan developed pursuant to Title 5, section 20009.

30 §7242. Definitions

32 As used in this subchapter, unless the context otherwise
34 indicates, the following terms have the following meanings.

36 1. Approved treatment facility. "Approved treatment
38 facility" has the same meaning as set out in Title 5, section
40 20003.

42 2. Director. "Director" means the Director of the Office
44 of Alcohol and Drug Abuse Prevention.

46 3. Office. "Office" means the Office of Alcohol and Drug
48 Abuse Prevention established under section 7241.

50 4. Standards. "Standards" has the same meaning as set out
52 in Title 5, section 20003.

54 5. Treatment. "Treatment" has the same meaning as set out
56 in Title 5, section 20003.

58 6. Treatment program. "Treatment program" has the same
60 meaning as set out in Title 5, section 20003.

62 §7243. Powers and duties

64 The office shall provide assistance and guidance to
66 individuals, public and private organizations and especially
68 local governments in drug abuse prevention activities. In
70 addition, the office shall:

72 1. Information clearinghouse. Operate the information
74 clearinghouse established pursuant to Title 5, section 20022;

2 2. Licensing. Establish operating and treatment standards,
3 inspect and issue certificates of approval for drug abuse
4 treatment facilities or programs, including residential treatment
5 centers, that meet the standards promulgated under section 7245
6 and are licensed pursuant to section 7801 and other applicable
7 provisions of law. The office shall periodically enter, inspect
8 and examine a treatment facility or program and examine its books
9 and accounts. The office shall fix and collect the fees for the
10 inspection and certificate. Insofar as licensing and
11 certification of drug abuse prevention facilities and programs
12 may also be the responsibility of another administrative unit of
13 the department, the office may assign performance of this
14 responsibility to that unit or make other mutually agreeable
15 arrangements with that unit for assisting with performance of
16 this responsibility;

18 3. Training programs. Provide or assist in the provision
19 of training programs for all persons in the field of treating
20 alcoholics, intoxicated persons and drug abusers;

22 4. Rules. Adopt any rules necessary to carry out the
23 requirements of this subchapter. Any rules must be adopted in
24 accordance with the Maine Administrative Procedure Act, Title 5,
25 chapter 375 and must be approved by the Office of Substance Abuse
26 in accordance with Title 5, section 20005; and

28 5. Purposes and authority. Do other acts and exercise
29 other powers necessary or convenient to execute and carry out the
30 purposes and authority expressly granted in this subchapter.

32 §7244. Director

34 The office shall be administered by a director appointed,
35 subject to the Civil Service Law, under the classified service by
36 the commissioner. The director must be qualified by training and
37 experience related to drug abuse or alcoholism and intoxication,
38 or have satisfactory experience of a comparable nature in the
39 direction, organization and administration of prevention or
40 treatment programs for persons affected by drug abuse or drug
41 dependency.

42 The director shall possess full authority and responsibility
43 for administering all the powers and duties of the office
44 provided in section 7243, except as otherwise provided by law.
45 The director shall assume and discharge all responsibilities
46 vested in the office.

48 The director may employ, subject to the Civil Service Law
49 and within the limits of funds available, competent professional
50 personnel and other staff necessary to carry out the purposes of
51 this chapter. The director shall prescribe the duties of staff
52

2 and assign a sufficient number of full-time staff to the office
4 to achieve its powers and duties. The director may arrange to
6 house staff or assign staff, who are responsible to the director
and provide direct service to individuals or small groups of
individuals needing drug abuse treatment, to operating units of
the department that are responsible for similar functions.

8 **§7245. Standards for public and private alcohol or drug abuse**
10 **treatment facilities; enforcement procedures; penalties**

12 1. Standards. The office shall establish standards that
14 must be met for a treatment facility to be approved as a public
16 or private treatment facility, and fix the fees to be charged by
18 the office for the required inspections. The standards may
20 concern only the health standards to be met and the standards of
treatment to be afforded patients. The standards of treatment
may include provision for special education services for any
exceptional student, as defined by Title 20-A, section 7001,
subsection 2, residing in a facility under Title 20-A, chapter
303.

22 2. Inspection. The office shall periodically inspect and
24 examine approved public and private treatment facilities,
26 including books and accounts, at reasonable times and in a
28 reasonable manner. The office may at reasonable times enter to
inspect and examine any approved public or private treatment
facility that the office has reasonable cause to believe is
operating in violation of this subchapter.

30 3. List. The office shall maintain a list of approved
32 public and private treatment facilities.

34 4. File. Upon request, each approved public and private
36 treatment facility shall file with the office data, statistics,
38 schedules and information the office reasonably requires. An
40 approved public or private treatment facility that without good
cause fails to furnish data, statistics, schedules or information
as requested, or files fraudulent returns of that material, must
be removed from the list of approved treatment facilities.

42 5. Procedures. Procedures for the amendment, modification,
44 refusal to issue or renew, revocation or suspension of a
46 certificate of approval must be as set forth by the Maine
Administrative Procedure Act, Title 5, chapter 375. In addition,
the office may seek injunctive relief in Superior Court for
violation of this section.

48 6. Refusal of consent prohibited. An approved public or
50 private treatment facility may not refuse inspection or
examination by the office under this section.

2 also transmit any emergency bills which that authorize additional
3 appropriations or allocations in the current fiscal year that the
4 Governor may wish to propose.

6 **Sec. C-3. 28-A MRSA §§1701 and 1702**, as enacted by PL 1987,
7 c. 45, Pt. A, §4, are repealed.

8 **Sec. C-4. 28-A MRSA §1703, sub-§4**, as enacted by PL 1987, c.
9 45, Pt. A, §4, is amended to read:

10 **4. Payment to General Fund.** The commission shall
11 immediately pay all premiums it collects under this section to
12 the Treasurer of State to be credited to the ~~fund-under-section~~
13 ~~1702~~ General Fund.

14 **Sec. C-5. 28-A MRSA §1704**, as enacted by PL 1987, c. 45, Pt.
15 A, §4, is repealed.

16 **Sec. C-6. Transition.** The following provisions apply to the
17 creation of the Office of Substance Abuse and the transfer of the
18 indicated existing state substance abuse prevention and treatment
19 programs to the office.

20 **1.** Notwithstanding the provisions of the Maine Revised
21 Statutes, Title 5, all accrued expenditures, assets, liabilities,
22 balances of appropriations, allocations, transfers, revenues or
23 other available funds in an account or subdivision of an account
24 of the Alcohol and Drug Abuse Planning Committee must be
25 transferred to the proper accounts by the State Controller upon
26 the request of the State Budget Officer and with the approval of
27 the Governor.

28 **2.** Notwithstanding the provisions of the Maine Revised
29 Statutes, Title 5, accrued expenditures, assets, liabilities,
30 balances of appropriations, allocations, transfers, revenues or
31 other available funds in an account or subdivision of an account
32 of the Department of Human Services, Office of Alcoholism and
33 Drug Abuse Prevention, must be transferred to the proper accounts
34 by the State Controller upon the request of the State Budget
35 Officer and with the approval of the Governor.

36 **3.** Notwithstanding the provisions of the Maine Revised
37 Statutes, Title 5, accrued expenditures, assets, liabilities,
38 balances of appropriations, allocations, transfers, revenues or
39 other available funds in an account or subdivision of an account
40 of the Department of Corrections or the Department of Mental
41 Health and Mental Retardation used for the purchase of substance
42 abuse services must be transferred to the proper accounts by the
43 State Controller upon the request of the State Budget Officer and
44 with the approval of the Governor.

2 4. All agreements, leases, contracts or licenses, issued
4 under the Maine Revised Statutes, Title 22, Subtitle 4, Part 3,
6 prior to the effective date of this Act continue to be valid
8 under the terms of issuance until they expire or are rescinded,
10 amended or revoked.

12 5. All rules adopted under the Maine Revised Statutes,
14 Title 22, Subtitle 4, Part 3, chapter 1602, sections 7228 to
16 7237, or adopted with regard to these sections prior to the
18 effective date of this Act must be administered by the Office of
20 Substance Abuse created in this Act and continue in effect until
22 rescinded or amended by the office or overturned by a court of
24 law.

26 6. This Act has no effect on the terms of appointment of
28 members of the Maine Council on Alcohol and Drug Abuse Prevention
30 and Treatment.

32 7. Employees of the Alcohol and Drug Abuse Planning
34 Committee, the Office of Alcoholism and Drug Abuse Prevention and
36 the Bureau of Child and Family Services who are transferred to
38 the Office of Substance Abuse are subject to the provisions of
40 this subsection.

42 A. The employees shall retain their accrued fringe
44 benefits, including vacation and sick leave, health and life
46 insurance and retirement benefits.

48 B. The employees who are members of collective bargaining
50 units on the effective date of this Act shall remain as
52 members in their respective bargaining units and retain all
rights, privileges and benefits provided by their collective
bargaining agreements with respect to state service until
October 1, 1991, while employed with the Office of Substance
Abuse.

C. The employees who are members of collective bargaining
units may remain as members of the Maine State Retirement
System.

D. The Bureau of Human Resources shall assist the Office of
Substance Abuse with the orderly implementation of these
provisions.

8. The Office of Substance Abuse created in this Act and
any other state agency affected by the provisions of this Act
shall determine the best method of resolving any legal, fiscal,
personnel or operational conflict created as a result of this Act
and shall submit necessary recommendations for statutory changes
to the First Regular Session of the 115th Legislature for
approval by January 1, 1991.

2

STATEMENT OF FACT

4

This bill is the recommendation of an interim study committee of the Joint Standing Committee on State and Local Government on the structure of substance abuse assistance and service in the State. The bill creates substantial changes in the system of substance abuse services supported by state funds and is divided into 3 parts as follows.

1. Part A establishes the Office of Substance Abuse, a new office in the Executive Department created to replace and extend the responsibilities currently accorded to the Alcohol and Drug Abuse Planning Committee.

16

Under this legislation, the departments presently involved in delivering substance abuse services lose some of their current responsibilities and the department commissioners act as an advisory group to the office director.

In this bill, the Director of the Office of Substance Abuse is appointed by the Governor. Office responsibilities include:

24

A. Devising a comprehensive plan for adoption in accordance with the Maine Administrative Procedure Act;

26

B. Developing a unified budget request for all state substance abuse programs;

28

30

C. Approving and administering contracts awarded to community service providers for treatment of alcohol and drug abusers; and

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34

D. Approval and coordination of program development by the departments.

36

2. Part B repeals the Maine Revised Statutes, Title 22, chapter 1601, which established the Alcohol and Drug Abuse Planning Committee and the Maine Council on Alcohol and Drug Abuse Prevention and Treatment. The Maine Council on Alcohol and Drug Abuse Prevention and Treatment is retained in its current role in Part A.

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Part B also repeals the laws establishing the Office of Alcoholism and Drug Abuse Prevention, or OADAP, in the Department of Human Services and enacts new provisions to govern OADAP operations. Many current OADAP functions are transferred to the Office of Substance Abuse created in Part A, but OADAP is retained as the Office of Alcohol and Drug Abuse Prevention and

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2 is to administer the Driver Education Evaluation Program, the
alcohol and drug abuse information clearinghouse and the
licensing of substance abuse treatment facilities.

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6 3. Part C undedicates the alcohol premium by directing its
revenues to the General Fund. Part C also provides for the
transition between the existing system and the new Office of
8 Substance Abuse.