

MAINE STATE LEGISLATURE

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L.D. 175

(Filing No. S- 359)

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STATE OF MAINE
SENATE
115TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A " to S.P. 90, L.D. 175, Bill, "An Act Related to the Office of Substance Abuse"

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-§15-A, as enacted by PL 1989, c. 503, Pt. A, §16, is amended to read:

15-A.	Driver Edu-	\$75/Day	22 5 MRSA
Human	cation and Eval-		§7207
Services	uation Pre-		§20078
Substance	gram Programs		
Abuse	Appeals Board		

Sec. 2. 5 MRSA §20002, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

§20002. Purpose

The purposes of this Act are:

1. **Integrated and comprehensive approach.** To adopt an integrated approach to the problem of substance alcohol and other drug abuse and to focus all the varied resources of the State on developing a comprehensive and effective range of substance alcohol an other drug 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,

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2 implementing and, coordinating and evaluating all of the State's
substance alcohol and other drug abuse prevention and treatment
4 activities and services.

6 Sec. 3. 5 MRSA §20003, sub-§1, as enacted by PL 1989, c. 934,
Pt. A, §3, is amended to read:

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

14 Sec. 4. 5 MRSA §20003, sub-§§3-A and 3-B are enacted to read:

16 3-A. Chemically dependent person. "Chemically dependent
person" means a person who uses alcohol or other drugs to the
18 extent that the person's health is substantially impaired or
endangered or the person's social or economic function is
20 substantially disrupted.

22 3-B. Chemically dependent person who poses a likelihood of
serious and imminent self-harm. "Chemically dependent person who
24 poses a likelihood of serious and imminent self-harm" means an
adult who by reason of the habitual and excessive use of alcohol
26 or other drugs, or both:

28 A. Is incapable of self-management or management of
personal affairs; and

30 B. Poses a substantial risk of serious and imminent
32 self-harm, as demonstrated by:

34 (1) Evidence of recent threats of, or attempts at,
suicide or serious bodily injury to the person and,
36 after consideration of less restrictive treatment
settings and modalities, a determination that community
38 resources for that person's care are unavailable; or

40 (2) A reasonable certainty that severe physical
impairment or injury will result to the person as
42 manifested by recent evidence of that person's actions
or behavior that demonstrate that person's inability to
44 avoid or protect that person from that impairment or
injury and, after consideration of less restrictive
46 treatment settings and modalities, a determination that
suitable community resources for that person's care are
48 unavailable.

50 Sec. 5. 5 MRSA §20003, sub-§§4 and 6, as enacted by PL 1989, c.
934, Pt. A, §3, are amended to read:

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

6 6. **Department.** "Department" means the ~~Department of Human~~
8 ~~Services~~ Executive Department.

10 **Sec. 6. 5 MRSA §20003, sub-§§13 to 16,** as enacted by PL 1989,
c. 934, Pt. A, §3, are repealed.

12 **Sec. 7. 5 MRSA §20005, sub-§§1, 2, 5, 6, 7 and 12,** as enacted by PL
14 1989, c. 934, Pt. A, §3, are amended to read:

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

22 2. **Comprehensive plan.** Develop and provide for the
24 implementation of a comprehensive state plan for alcohol and drug
26 abuse. Any plan developed by the office must be subject to
public hearing prior to implementation;

28 5. **Budget.** Develop and submit to the Legislature by
30 January 15th of the first year of each legislative biennium
32 recommendations for continuing and supplemental allocations,
34 deappropriations or reduced allocations and appropriations from
all funding sources for all state alcohol and drug abuse
programs. The office shall make final recommendations to the
Governor before any substance abuse funds are appropriated or
deappropriated in the Governor's proposed budget;

36 6. **Contracts and licensing.** Through the director:

38 A. Administer all contracts with community service
40 providers for the delivery of alcohol and drug abuse
services; and

42 B. Establish operating and treatment standards, and inspect
44 and issue certificates of approval for approved treatment
46 facilities, drug abuse treatment facilities or programs,
including residential treatment centers, pursuant to section
20024.

48 The director may delegate contract and licensing duties under
50 this subsection to the Department of Human Services, the
Department of Corrections or the Department of Mental Health and
52 Mental Retardation, as long as that delegation ensures that
contracting for substance alcohol and other drug abuse services

provided in community settings are consolidated within the Department of Human Services, that contracting for substance alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for substance alcohol and other drug abuse services delivered within mental health and mental retardation facilities are consolidated within the Department of Mental Health and Mental Retardation.

The director may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The director may not issue requests for proposals for existing contract services until the director has adopted rules in accordance with the Maine Administrative Procedure Act to ensure: that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified; the protection of the consumer of services in such a way that any change in provider is accomplished in a manner that fully protects the consumer; and the reasonable financial protection of providers who have made capital investments in the fulfillment of contract responsibilities;

7. Uniform requirements. Develop, use and require the use of uniform contracting, information gathering and reporting formats by any state-funded substance alcohol and other drug abuse program programs. ~~To the extent feasible, information must maintain compatibility with federal information sharing standards~~ Contracting standards must include measurable performance-based criteria on which funding allocations are, in part, based;

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

All state agencies must comply with rules adopted by the office regarding uniform substance alcohol and other drug abuse contracting requirements, formats, schedules, data collection and reporting requirements; and

Sec. 8. 5 MRSA §20005, sub-§§12-A and 12-B are enacted to read:

12-A. Training programs. Provide or assist in the provision of training programs for all persons in the field of treating alcoholics and drug abusers, persons engaged in the prevention of alcohol and other drug abuse or any other organization or individual in need of or requesting training or

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other educational information related to alcohol or other drug abuse;

12-B. Motor vehicle operator programs. Administer and oversee the operation of the State's programs related to the abuse of alcohol by motor vehicle operators; and

Sec. 9. 5 MRSA §20006, first and 2nd ¶¶, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

The Governor shall appoint, subject to confirmation by the joint standing committee of the Legislature having jurisdiction over health and institutional services, a full-time director of the Office of Substance Abuse who shall serve at the pleasure of the Governor and have a salary fixed by the Governor.

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

Sec. 10. 5 MRSA §20006, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. Investigate. Conduct investigations and studies of any alcohol or drug abuse program or community service provider operating under the control of the office or providing treatment under this chapter through a contract with the office under section 20008, that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or federal funds, as necessary; and

Sec. 11. 5 MRSA §20008, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. Treatment. The office shall provide for adequate and appropriate treatment for alcoholics, chemically dependent persons, drug abusers, drug addicts, drug-dependent persons and intoxicated persons admitted under sections 20043 to 20046 20046-C. Treatment may not be provided at a correctional institution, except for inmates.

Sec. 12. 5 MRSA §20008, sub-§4 is enacted to read:

4. Contract with facilities. The office shall contract with approved treatment facilities whenever possible. The administrator of any treatment facility may receive for observation, diagnosis, care and treatment in the facility any person whose admission is applied for under any of the procedures in this subchapter.

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2 A. The treatment or approved facility, any person
3 contracting with the facility and any of its employees, when
4 admitting, treating or discharging a patient under the
5 provisions of sections 20045-A, 20046-A or 20048 under a
6 contract with the office, for purposes of civil liability
7 are deemed to be governmental entities or employees of
8 governmental entities under the Maine Tort Claims Act, Title
9 14, chapter 741.

10 B. A patient with a primary diagnosis as a chemically
11 dependent person who is in an approved treatment facility
12 that contracts with the office under this subsection is
13 entitled to the same rights and remedies as conferred by the
14 United States Constitution, the Constitution of Maine and
15 laws, regulations and rules of this State and of the United
16 States.

17 C. Before contracting with and approving the admission of
18 involuntary patients to an approved treatment facility, the
19 office shall require the facility to:

- 20 (1) Comply with all applicable rules and regulations;
- 21 and
- 22 (2) Demonstrate the ability of the facility to
- 23 coordinate and integrate care with other
- 24 community-based services.

25 **Sec. 13. 5 MRSA §20008, last ¶, as enacted by PL 1989, c. 934,**
26 **Pt. A, §3, is repealed.**

27 **Sec. 14. 5 MRSA §20009, sub-§1, as enacted by PL 1989, c. 934,**
28 **Pt. A, §3, is amended to read:**

29 **1. Biennial plan.** By January 15, 1991, and biennially
30 thereafter, with the advice and consultation of the Maine Council
31 on Alcohol and Drug Abuse Prevention and Treatment, a
32 comprehensive plan containing statements of measurable goals to
33 be accomplished during the coming biennium and establishing
34 performance indicators by which progress toward accomplishing
35 those goals will be measured; and

36 **Sec. 15. 5 MRSA §20021, as enacted by PL 1989, c. 934, Pt. A,**
37 **§3, is amended to read:**

38 **§20021. Public awareness**

39 The office shall create and maintain a program to increase
40 public awareness of the impacts and prevalence of alcohol and
41 drug abuse. The public awareness program must include
42 promotional and technical assistance to local governments.

2 schools and public and private nonprofit organizations interested
in alcohol and drug abuse prevention.

4 **Sec. 16. 5 MRSA §20022, first and 2nd ¶¶**, as enacted by PL 1989,
c. 934, Pt. A, §3, are amended to read:

6
8 As part of its comprehensive prevention and treatment
program, the office shall ~~support and coordinate the activities of~~
10 ~~operate~~ an information clearinghouse within the Department of
~~Human Services~~ and oversee, support and coordinate a resource
12 center within the Department of Educational and Cultural Services
Education. ~~Together, the~~ The information clearinghouse and
14 resource center constitute a comprehensive reference center of
information related to the nature, abuse, prevention and
16 treatment of alcohol and drugs other drug abuse. In fulfillment
of the requirement of this section, the resource center may be
located within the Department of Education and may operate there
pursuant to a memorandum of agreement between the office and the
department. ~~The office shall ensure that the information~~
20 ~~clearinghouse and resource center do not perform duplicative~~
~~services or functions~~. Information must be available for use by
22 the general public, political subdivisions, public and private
nonprofit agencies and the State.

24
26 Functions of the information clearinghouse and resource
center may include, but are not limited to:

28 **Sec. 17. 5 MRSA §20022, sub-§§1 and 4**, as enacted by PL 1989,
c. 934, Pt. A, §3, are amended to read:

30
32 **1. Research.** Conducting research on the causes and nature
of drugs, drug abuse or people who are dependent on drugs,
34 especially alcoholics, chemically dependent persons and
intoxicated persons;

36 **4. Treatment facility inventory.** Maintaining an inventory
of the types and quantity of drug abuse prevention facilities,
38 programs and services available or provided under public or
private auspices to drug addicts, drug abusers and drug-dependent
40 persons, especially alcoholics, chemically dependent persons and
intoxicated persons. This function includes the unduplicated
42 count, locations and characteristics of persons receiving
treatment, as well as the frequency of admission and readmission
44 and the frequency and duration of treatment of those persons.
The inventory must include the amount, type and source of
46 resources for drug abuse prevention.

48 **Sec. 18. 5 MRSA §20023, first ¶**, as amended by PL 1989, c. 700,
Pt. B, §§46 and 48 and enacted by c. 934, Pt. A, §3, is further
50 amended to read:

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To the fullest extent possible, the Commissioner of Education shall coordinate all elementary and secondary school alcohol and drug abuse education programs administered by the Department of Education and funded under the federal Drug-Free Schools and Communities Act of 1986 with programs administered by the office. The Commissioner of Education shall participate in planning, budgeting and evaluation of substance alcohol and other drug abuse programs, in cooperation with the Substance Abuse Advisory Group, and ensure that alcohol and drug abuse education programs administered by the Department of Education that involve any community participation are coordinated with available treatment services.

Sec. 19. 5 MRSA §20023, 2nd ¶, as amended by PL 1989, c. 700, Pt. B, §48, is further amended to read:

The Commissioner of Education, in cooperation with the Substance Abuse Advisory Group, shall prepare a plan to ensure the coordination and consolidation of substance alcohol and other drug abuse education programs and must present the plan to the director by January 1, 1992. The plan must be consistent with requirements of the federal Drug-Free Schools and Communities Act of 1986 and this chapter.

Sec. 20. 5 MRSA §20024, first ¶, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The office ~~may~~ shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. The office shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities.

Sec. 21. 5 MRSA §20024, as enacted by PL 1989, c. 934, Pt. A, §3, is amended by adding at the end a new paragraph to read:

Procedures to decertify any facility or to refuse certification are governed by the Maine Administrative Procedure Act.

Sec. 22. 5 MRSA §§20041 to 20044, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

§20041. Evaluation

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

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

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

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

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

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

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

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

§20042. Standards

~~Except as provided in section 20008, the~~ The office shall contract for treatment services only with approved treatment facilities.

1. Standards concerning restraints. By rules adopted in accordance with the Maine Administrative Procedure Act, the department shall establish standards for the reasonable restraint and treatment of chemically dependent persons subject to a physician's emergency treatment order. A facility may not restrain such a person against that person's will unless the following criteria are met:

A. The facility has been presented with an attested copy of an emergency treatment order; and

B. The facility has been certified by the office.

§20043. Acceptance for treatment of alcoholics, chemically dependent persons, drug abusers, drug addicts, drug-dependent persons and intoxicated persons

The office shall adopt rules for acceptance of persons into a treatment program, considering available treatment resources

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2 and facilities, for the purpose of early and effective treatment
of alcoholics, chemically dependent persons, drug abusers, drug
3 addicts, drug-dependent persons and intoxicated persons.

4
6 In establishing rules, the office must be guided by the
following standards.

8 1. Voluntary basis. Patients People must be treated on a
voluntary basis, unless an emergency treatment order has been
10 obtained.

12 2. Initial assignment. A patient person must be initially
assigned or transferred to outpatient or intermediate treatment,
14 unless the patient person is found to require inpatient
residential treatment.

16 3. Denial of treatment. A person may not be denied
18 treatment solely because that person has withdrawn from treatment
against medical advice on a prior occasion or has relapsed after
20 earlier treatment.

22 4. Individualized treatment plan. An individualized
treatment plan must be prepared and maintained on a current basis
24 for each patient.

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

30 6. Denial of treatment services. A person, firm or
32 corporation licensed by the ~~Department of Human Services~~ Office
of Substance Abuse as an approved alcohol or drug treatment
34 facility under Title 22 5, section 7245 20005 to provide shelter
or detoxification services, and that receives any funds
36 administered by the office, may not deny treatment to any person
because of that person's inability or failure to pay any assessed
38 fees.

40 7. Community-based. Treatment must be provided in the
42 least restrictive setting possible and in the person's home
community wherever possible.

44 8. Diagnosing. Diagnosing of a person's mental
capabilities, psychological or personality composition, or other
46 nonalcohol-related or drug-related conditions or mental states
may not be conducted until detoxification is complete and the
48 person is judged to be medically no longer under the influence of
a chemical or substance of abuse.

50
52 **§20044. Voluntary treatment of alcoholics, chemically dependent
persons, drug abusers, drug addicts, drug-dependent**

persons and intoxicated persons

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1. Voluntary treatment. An alcoholic, chemically dependent person, drug abuser, drug addict, drug-dependent or intoxicated person may apply for voluntary treatment directly to an approved public treatment facility. ~~If the proposed patient is a minor or an incompetent person, that person, a parent, a legal guardian or other legal representative may make the application.~~

2. Determination. A person who comes voluntarily or is brought to an approved treatment facility for residential care and treatment must be examined immediately by a licensed physician. That person may then be admitted or referred to another health facility based upon the physician's recommendation. Subject to rules adopted by the office, the administrator in charge of an approved public treatment facility may determine who shall may be admitted for treatment. If a person is refused admission to an approved public treatment facility, the administrator, subject to rules adopted by the office, shall refer the person to another approved public treatment facility for treatment if possible and appropriate.

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

4. Discharge. If a patient person leaves an approved public treatment facility, with ~~or~~ against the advice of the administrator in charge of the facility, ~~the office shall make reasonable provisions for that patient's transportation to another facility or to the patient's home~~ and it appears to the administrator in charge of the treatment facility that the person is a chemically dependent person who poses a likelihood of serious and imminent self-harm, the administrator shall arrange for the preparation of an emergency treatment order at the time of discharge. ~~If that person does not have a home, the patient must be assisted in obtaining shelter. If the patient is a minor or an incompetent person, the request for discharge from an inpatient facility must be made by a parent, legal guardian or other legal representative or by the minor or incompetent, if the minor or incompetent was the original applicant.~~

Sec. 23. 5 MRSA §20045, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

Sec. 24. 5 MRSA §20045-A is enacted to read:

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§20045-A. Involuntary treatment and services for chemically dependent persons who pose a likelihood of serious and imminent self-harm

1. Law enforcement officer's power. If a law enforcement officer has reasonable grounds to believe, based upon personal observation, that a person may be a chemically dependent person who poses a likelihood of serious and imminent self-harm, the law enforcement officer:

A. May take the person into protective custody; and

B. If the officer does take the person into protective custody, shall deliver the person immediately to an approved treatment facility or an emergency medical service facility customarily used for emergency service for examination by a licensed physician as provided in section 20046-A.

In taking the person into protective custody, the detaining officer may take reasonable steps for self-protection. The taking of a chemically dependent person who poses a likelihood of serious and imminent self-harm 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.

2. Emergency treatment order not executed. If an emergency treatment order relating to the person's likelihood of serious self-harm is not executed by the examiner under section 20046-A, the officer shall:

A. Release the person from protective custody and, with the person's permission, immediately return the person to the person's residence, if it is within the territorial jurisdiction of the officer;

B. Release the person from protective custody and, with the person's permission, immediately return the person to the place where the person was taken into protective custody; or

C. If the person is also under arrest for a violation of the law, retain the person in custody until the person is released in accordance with the law.

3. Emergency treatment order executed. If an emergency treatment order is executed by the examiner under section 20046-A, the officer shall immediately undertake to secure the endorsement of a judicial officer under section 20046-A and may detain the person for a reasonable period of time, not to exceed 18 hours pending that endorsement.

2 4. Transportation costs. The costs of transportation under
3 this section must be paid in the manner provided under section
4 20046-A.

5 5. Official duty. The officers who act in compliance with
6 this section are acting in the course of their official duties
7 and are not criminally or civilly liable for actions taken under
8 this section.

9 6. Further diagnosis and voluntary treatment. If the
10 administrator in charge of the approved treatment facility
11 determines that further diagnosis and treatment are for the
12 person's benefit, the person must be encouraged to agree to
13 further diagnosis and appropriate voluntary treatment.

14
15 Sec. 25. 5 MRSA §20046, as enacted by PL 1989, c. 934, Pt. A,
16 §3, is repealed.

17
18 Sec. 26. 5 MRSA §§20046-A to 20046-C are enacted to read:

19
20 §20046-A. Emergency treatment order procedure

21
22 A person may be admitted to residential treatment at an
23 approved treatment facility according to the following procedures.

24
25 1. Application. Any person may make a written application
26 to admit another person to an approved treatment facility,
27 subject to the prohibitions and penalties of section 20046-B,
28 stating:

29
30 A. The person's belief that the person for whom emergency
31 treatment is sought is a chemically dependent person who
32 poses a likelihood of serious and imminent self-harm; and

33
34 B. The grounds for this belief.

35
36 2. Certifying examination. The written application must be
37 accompanied by a dated certificate, signed by a licensed
38 physician stating that the physician:

39
40 A. Has examined the person on the date of the certificate,
41 the date of which may not be more than 3 days before the
42 date of the post-admission examination under subsection 7;
43 and

44
45 B. Is of the opinion that the person is a chemically
46 dependent person who poses a likelihood of serious and
47 imminent self-harm.

48
49 3. Judicial review. A Justice of the Superior Court, Judge
50 of the District Court, Judge of Probate or a justice of the peace
51 shall review the application and accompanying certificate.
52

2 A. If the justice or judge finds the application and
4 accompanying certificate to be regular and in accordance
 with the law, the justice or judge shall endorse them.

6 B. A person may not be held against the person's will in
8 any approved treatment facility under this section, whether
10 voluntary admission is sought under section 20044 or an
12 application for involuntary admission is made under this
14 section, unless the application and certificate have been
 endorsed by a justice or judge; except that a person for
 whom an examiner has executed the certificate under
 subsection 2 may be detained in an approved treatment
 facility for a reasonable period of time, not to exceed 18
 hours, pending endorsement by a justice or judge, if:

16 (1) The administrator of the approved treatment
18 facility undertakes to secure the endorsement
20 immediately upon execution of the certificate by the
 examiner for a person voluntarily admitted under
 section 20044; or

22 (2) The person or persons transporting that person to
24 the facility undertake to secure the endorsement
26 immediately upon execution of the certificate by the
 examiner when an application for involuntary admission
 is made for a person under this section.

28 4. Custody and transportation. Custody and transportation
30 under this section are governed as follows.

32 A. Upon endorsement of the application and certificate by
34 the justice or judge, any health officer, law enforcement
36 officer or other person designated by the justice or judge
 may take the person into custody and transport the person to
 the approved treatment facility designated in the
 application.

38 B. If the person is unable to pay, the county of which the
40 person is a legal resident is responsible for any expenses
42 of transportation under this section, including return from
44 the approved treatment facility if admission is declined.
 If a person is not a resident of the State or if the county
 of residence can not be determined, the expenses of
 transportation are the responsibility of the office.

46 5. Continuation of emergency treatment. If the
48 administrator of the approved treatment facility recommends
50 further treatment, the administrator shall determine the
 suitability of admission, care and treatment of the patient as a
 voluntarily admitted patient, as described in section 20044.

52

2 A. If the administrator or the admitting physician of the
4 approved treatment facility determines that admission of the
6 person as a voluntarily admitted patient is suitable, the
8 administrator or physician may admit the person on this
10 basis, if the person so desires.

12 B. If the administrator or the admitting physician of the
14 approved treatment facility determines that admission of the
16 person as a voluntarily admitted patient is not suitable, or
18 if the person declines admission as a voluntarily admitted
20 patient, the administrator of the approved treatment
22 facility may file an application for the issuance of an
24 order of involuntary emergency treatment under section
26 20046-C.

28 (1) The application must be made to the District Court
30 having territorial jurisdiction over the approved
32 treatment facility.

34 (2) The application must be filed within 5 days from
36 the admission of the person under this section,
38 excluding the day of admission and any Saturday, Sunday
40 or legal holiday.

42 C. If neither readmission nor application to the District
44 Court is effected under this subsection, the administrator
46 of the approved treatment facility shall discharge the
48 person immediately.

50 6. Notice. Upon admission of a person under this section,
52 and after obtaining the person's permission, the administrator of
54 the approved treatment facility shall mail notice of the fact of
56 admission to: the person's guardian, if applicable, spouse,
58 parent, adult child, or a next of kin or friend, if none of the
60 listed persons exists.

62 7. Post-admission examination. Every person admitted to an
64 approved treatment facility must be examined immediately after
66 admission.

68 A. The administrator of the approved treatment facility
70 shall arrange for examination by a staff physician of every
72 person admitted under this section.

74 B. The examiner may not be the certifying examiner under
76 this section or under section 20046-C.

78 C. If the post-admission examination is not held within 24
80 hours after the time of admission, or if a staff physician
82 fails or refuses after the examination to certify that, in
84 the physician's opinion, the person is a chemically
86 dependent person who poses a likelihood of serious and

2 imminent self-harm, the person must be immediately
3 discharged.

4 **§20046-B. Habeas corpus; prohibited acts; penalty**

6 1. Habeas corpus. Any person detained pursuant to this
7 chapter is entitled to the writ of habeas corpus, upon proper
8 petition by that person or by a friend, to any justice generally
9 empowered to issue the writ of habeas corpus in the county in
10 which the person is detained.

12 2. Unwarranted emergency treatment. A person is guilty of
13 causing an unwarranted emergency treatment, if that person
14 willfully causes the unwarranted involuntary emergency treatment
15 of a chemically dependent person.

16 3. Denial of rights. A person is guilty of causing a
17 denial of rights if that person willfully causes the denial to
18 any person of any rights accorded by this chapter.

19 4. Penalty. Causing unwarranted emergency treatment or
20 causing a denial of rights is a Class C crime.

21 **§20046-C. Judicial procedure and involuntary emergency treatment**

22 1. Application. An application to the District Court to
23 admit a person to an approved treatment facility under section
24 20046-A, subsection 5, paragraph B, must be accompanied by:

25 A. The emergency application under section 20046-A,
26 subsection 1;

27 B. The accompanying certificate of the physician under
28 section 20046-A, subsection 2; and

29 C. The certificate of the physician under section 20046-A,
30 subsection 7, stating that the physician:

31 (1) Has examined the person; and

32 (2) Is of the opinion that the person is a chemically
33 dependent person who poses a likelihood of serious and
34 imminent self-harm.

35 2. Detention pending judicial determination.
36 Notwithstanding any other provision of this subchapter, a person,
37 with respect to whom proceedings for treatment pursuant to
38 section 20046-A have been commenced, may not be released or
39 discharged during the pendency of the proceedings, unless:

2 A. The District Court orders release or discharge upon the
3 application of the person or person's guardian, parent,
4 spouse or next of kin;

5 B. The District Court orders release or discharge upon the
6 report of the administrator of the treatment facility that
7 the person may be discharged with safety; or

8 C. A court orders release or discharge upon a writ of
9 habeas corpus under section 20046-B.

10 3. Notice of receipt of application. Notice of receipt of
11 application under this section is governed as follows.

12 A. Upon receipt by the District Court of the application
13 and accompanying documents specified in subsection 1, the
14 court shall cause written notice of the application:

15 (1) To be given personally or by mail to the person
16 within a reasonable time before the hearing, but not
17 less than 3 days before the hearing; and

18 (2) To be mailed to the person's guardian, if known,
19 and to the person's spouse, the person's parent or an
20 adult child, or if none of these persons exists or if
21 none of them can be located, to the next of kin or a
22 friend.

23 B. A docket entry is sufficient evidence that notice under
24 this subsection has been given.

25 4. Examination. Examinations under this section are
26 governed as follows.

27 A. Upon receipt by the District Court of the application
28 and the accompanying documents specified in subsection 1,
29 the court shall immediately cause the person to be examined
30 by 2 examiners.

31 (1) Each examiner must be a licensed physician.

32 (2) One of the examiners must be a physician chosen by
33 the person or by the person's counsel, if the chosen
34 physician is reasonably available.

35 (3) Neither examiner appointed by the court may be the
36 certifying examiner under section 20046-A, subsection 2
37 or 7.

38 B. The examination must be held at the approved treatment
39 facility or at any other suitable place not likely to have a
40 harmful effect on the health of the person.

2 C. If the report of the examiners is to the effect that the
4 person is not chemically dependent or does not pose a
 likelihood of serious or imminent self-harm, the application
 must be ordered discharged immediately.

6
8 D. If the report of the examiners is to the effect that the
 person is a chemically dependent person who poses a
10 likelihood of serious and imminent self-harm, the hearing
 must be held on the date, or on the continued date, that the
12 court has set for the hearing.

14 5. Hearing. Hearings under this section are governed as
 follows.

16 A. The District Court shall hold a hearing on the
 application not later than 15 days from the date of the
18 application.

20 (1) On a motion by any party, the hearing may be
 continued for cause for a period not to exceed 10
22 additional days.

24 (2) If the hearing is not held within the time
 specified, or within the specified continuance period,
26 the court shall dismiss the application and order the
 person discharged immediately.

28 (3) In computing the time periods set forth in this
30 paragraph, the Maine Rules of Civil Procedure apply.

32 B. The hearing must be conducted in as informal a manner as
 may be consistent with orderly procedure and in a physical
34 setting not likely to have harmful effect on the health of
 the person.

36 C. The court shall receive all relevant and material
38 evidence that may be offered in accordance with accepted
 rules of evidence and accepted judicial dispositions.

40 (1) The person, the applicant, and all other persons
42 to whom notice is required to be sent must be afforded
 an opportunity to appear at the hearing to testify and
44 to present and cross-examine witnesses.

46 (2) The court may, in its discretion, receive the
 testimony of any other person and may subpoena any
48 witness.

50 D. The person must be afforded an opportunity to be
 represented by counsel and if neither the person nor others

2 provide counsel, the court shall appoint counsel for the
3 person.

4 E. In addition to proving that the patient is a chemically
5 dependent person who poses a likelihood of serious and
6 imminent self-harm, the applicant must show:

8 (1) By evidence of the person's actions and behavior,
9 that the person poses a likelihood of serious
10 self-harm; and

12 (2) That, after full consideration of less restrictive
13 treatment settings and modalities, residential
14 treatment is the best available means for the treatment
15 of the person.

16 F. In each case, the applicant shall submit to the court,
17 at the time of the hearing, testimony indicating the
18 individual treatment plan to be followed by the approved
19 treatment facility staff, if the person is admitted under
20 this section, and shall bear any expense for witnesses for
21 this purpose.

22 G. A stenographic or electronic record must be made of the
23 proceedings in all judicial involuntary treatment hearings.

24 (1) The record and all notes, exhibits and other
25 evidence are confidential.

26 (2) The record and all notes, exhibits and other
27 evidence must be retained as part of the District Court
28 records for a period of 2 years from the date of the
29 hearing.

30 H. Unless the court orders a public hearing on the request
31 of the person or counsel, the hearing is confidential and no
32 report of the proceedings may be released to the public or
33 press, except by permission of the person or counsel and
34 with approval of the presiding District Court Judge.

35 6. Court findings. Procedures dealing with the District
36 Court's findings under this section are as follows.

37 A. If the District Court makes the following findings upon
38 completion of the hearing and consideration of the record,
39 it shall include in the record a statement including:

40 (1) That by clear and convincing evidence the person
41 is chemically dependent and that recent actions and
42 behavior demonstrate that the person is a chemically
43 dependent person who poses a likelihood of serious and
44 imminent self-harm;

2 (2) That residential treatment is the best available
3 means for treatment of the person; and

4
5 (3) That it is satisfied with the individual treatment
6 plan offered by the approved treatment facility.

7
8 B. If the District Court makes the findings described in
9 paragraph A, subparagraphs (1) and (2), but is not satisfied
10 with the individual treatment plan as offered, it may
11 continue the case for not longer than 10 days, pending
12 reconsideration and resubmission of an individual treatment
13 plan.

14
15 7. Involuntary treatment. Upon making the findings
16 described in subsection 6, the court may order involuntary
17 residential treatment at any approved treatment facility for a
18 period not to exceed 60 days in the first instance, and not to
19 exceed 120 days after the first and all subsequent hearings.

20
21 A. The court may issue an order of involuntary treatment
22 after the completion of the hearing, or it may take the
23 matter under advisement and issue an order within 24 hours
24 of the hearing.

25
26 B. If the court does not issue an order of involuntary
27 treatment within 24 hours of completion of the hearing, it
28 shall dismiss the application and order the person
29 discharged immediately.

30
31 8. Continued involuntary treatment. If the administrator
32 or the admitting physician of the approved treatment facility
33 determines that continued involuntary treatment is necessary for
34 a person who has been ordered by the District Court to receive
35 such treatment, the administrator or the admitting physician
36 shall, not later than 30 days prior to the expiration of a period
37 of commitment ordered by the court, apply to the District Court
38 that has territorial jurisdiction over the treatment facility for
39 a hearing to be held under this section.

40
41 9. Transportation. Unless otherwise directed by the court,
42 the sheriff of the county in which the District Court has
43 jurisdiction and in which the hearing takes place shall provide
44 transportation to any facility to which the court has committed
45 the person.

46
47 10. Expenses. With the exception of expenses incurred by
48 the application pursuant to subsection 5, paragraph F, the
49 District Court is responsible for any expenses incurred under
50 this section, including fees of appointed counsel, witness and
51 notice fees and expenses of transportation for the person.

52

2 11. Appeals. A person ordered by the District Court to be
3 committed to a treatment facility may appeal from that order to
4 the Superior Court.

6 A. The appeal is on questions of law only.

8 B. Any findings of fact of the District Court may not be
9 set aside unless clearly erroneous.

10 C. The order of the District Court remains in effect
11 pending the appeal.

12 D. The Maine Rules of Civil Procedure apply to the conduct
13 of the appeals, except as otherwise specified in this
14 subsection.

16 **Sec. 27. 5 MRSA §20049**, as enacted by PL 1989, c. 934, Pt. A,
18 §3, is repealed.

20 **Sec. 28. 5 MRSA §20050, sub-§1**, as enacted by PL 1989, c. 934,
21 Pt. A, §3, is amended to read:

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

32 **Sec. 29. 5 MRSA §20061, sub-§3, ¶¶B and C**, as enacted by PL
33 1989, c. 934, Pt. A, §3, are amended to read:

34 **B.** At least 4 members must be officials of public or
35 private nonprofit community-level agencies who are actively
36 engaged in drug abuse prevention or treatment in those
37 public or private nonprofit community agencies ~~or members of~~
38 ~~the regional alcohol and drug abuse councils located~~
39 ~~throughout the State.~~

40 **C.** Five members must be the ~~executive directors~~ presidents,
41 or their designees, of the 5 regional alcohol and drug abuse
42 councils located throughout the State.

44 **Sec. 30. 5 MRSA §20063, sub-§3**, as enacted by PL 1989, c. 934,
46 Pt. A, §3, is amended to read:

48 **3. Serve as advisory council.** The council shall serve as
49 the advisory council on behalf of the State to the state agencies
50 as required by the federal regulations governing administration
51 of the Drug Abuse Office and Treatment Act of 1972, 21 United
52 States Code, Section 1101 et seq. (1982), as amended; and the

2 federal Comprehensive Alcohol Abuse and Alcoholism Prevention,
Treatment and Rehabilitation Act of 1970, Public Law 91-616
4 (1982), as amended; and other Acts of the United States as
appropriate. The council shall advise on state and federal
6 plans, policies, programs and other activities relating to drug
abuse and drug dependence in the State. The council shall submit
8 its recommendations and comments on the state plan, and any plan
revisions, and reports to federal or state agencies and to the
10 Legislature. Statements at variance with or in addition to those
of the office must be attached to the plan or reports upon
12 submission by the office to agencies of the Federal Government,
to the Legislature and to state agencies.

14 **Sec. 31. 5 MRSA §20063, sub-§7** is enacted to read:

16 7. Report. By February 1, 1992 and each year thereafter,
17 the council shall present a report to the Governor, the
18 Legislature, the Judicial Council and the director assessing the
19 State's substance abuse services and describing the activities of
20 the council and its recommendations.

22 **Sec. 32. 5 MRSA c. 521, sub-c. V** is enacted to read:

24 **SUBCHAPTER V**

26 **DRIVER EDUCATION AND EVALUATION PROGRAMS**

28 **§20071. Definitions**

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

32 **1. Alcohol-related or drug-related motor vehicle incident.**
34 "Alcohol-related or drug-related motor vehicle incident" means a
35 conviction or administrative action resulting in the suspension
36 of a motor vehicle operator's license for a violation under Title
37 29, section 1311-A; Title 29, former section 1312, subsection
38 10-A; Title 29, former section 1312-B; Title 29, former section
39 1312-C; Title 29, section 1312-B; or Title 29, section 2241-G,
40 subsection 2, paragraph B, subparagraph (2).

42 **2. Client.** "Client" means a person who is required to
43 complete an alcohol and other drug education, evaluation and
44 treatment program for an alcohol-related or drug-related motor
45 vehicle offense.

46 **3. Community-based service provider.** "Community-based
47 service provider" means a provider of either the treatment
48 component or the evaluation component, or both, of the alcohol
49 and other drug education, evaluation and treatment program
50 certified under section 20075 or a program approved by the office.

2 4. Completion of treatment. "Completion of treatment," for
3 the purpose of recommendation by the office to the Secretary of
4 State concerning restoration of the driver's license to the
5 client, means that the individual has responded to treatment to
6 the extent that there is a substantial probability that the
7 individual will not be operating under the influence. This
8 substantial probability may be shown by:

9 A. An acknowledgement by the client of the extent of the
10 client's alcohol or drug problem;

11 B. A demonstrated ability to abstain from the use of
12 alcohol and drugs; and

13 C. A willingness to seek continued voluntary treatment or
14 to participate in an appropriate self-help program, or both,
15 as necessary.

16 5. Multiple offender. "Multiple offender" means a client
17 who has more than one alcohol-related or drug-related motor
18 vehicle incident within a 6-year period.

19 **§20072. Driver Education and Evaluation Programs**

20 The Driver Education and Evaluation Programs are established
21 in the Office of Substance Abuse and shall administer the alcohol
22 and other drug education, evaluation and treatment programs as
23 provided in this chapter. The office shall certify to the
24 Secretary of State:

25 1. Completion of Driver Education and Evaluation Programs.
26 Those individuals who have satisfactorily completed a program
27 prescribed by section 20073; and

28 2. Completion of Nondriver Education and Evaluation
29 Program. Those individuals who have satisfied the requirement
30 for completion of treatment as defined in section 20071 by means
31 other than a program prescribed by section 20073.

32 **§20073. Program components**

33 1. First offenders; adult. The alcohol and other drug
34 education, evaluation and treatment program required for clients
35 without a previous alcohol-related or drug-related motor vehicle
36 offense consists of education, assessment, evaluation and
37 treatment components. All first offender clients are required to
38 complete the education and assessment components unless otherwise
39 provided by this subchapter. The evaluation and treatment
40 components may be required if necessary. The components are as
41 follows:

2 A. The education component, consisting of at least 9 hours
4 of information using films, lectures and discussion and
6 designed to educate the client about the effects of alcohol
8 and other drugs on behavior, especially behavior involving
10 the operation of a motor vehicle;

12 B. The assessment component, using an assessment
14 instrument, the client's driving record for the 6-year
16 period prior to the most recent alcohol-related or
18 drug-related motor vehicle incident and an interview
20 designed to make a preliminary assessment regarding the
22 extent of a client's alcohol or other drug use or abuse or
24 potential for abuse. A client may be referred for further
26 evaluation based on the results of the preliminary
28 assessment;

30 C. The evaluation component, designed to identify abusers
32 of alcohol and other drugs. If the evaluation indicates
34 that treatment for alcohol or other drug abuse is needed,
36 the client must be referred to the appropriate alcohol or
38 other drug treatment service; and

40 D. The treatment component, provided by a community-based
42 service provider, designed to address the client's specific
44 problem with or abuse of alcohol or other drugs.

46 2. Multiple offender program offered to first offenders.
48 If the office determines that a first offender must have an
50 evaluation as described in subsection 1, paragraph C, the first
52 offender may choose a private evaluation or participation in the
54 multiple offender residential intervention program described in
56 subsection 4, paragraph A.

58 3. First offenders under 21 years of age. First offenders
60 under 21 years of age shall attend the driver education and
62 evaluation programs for teenagers as established by this
64 subsection. The driver education and evaluation programs for
66 teenagers consists of the following elements.

68 A. The education component is a program of at least 10
70 hours during which clients receive education, especially
72 designed for the age group, on substance use, abuse and
74 addiction. Education is provided through a group discussion
76 process, which includes segments on values clarification,
78 peer pressure and decision making.

80 B. The assessment component is designed to make a
82 preliminary assessment regarding the extent of a client's
84 alcohol or other drug use or abuse or potential for abuse.
86 A client may be referred for further evaluation based on the
88 results of the client's preliminary assessment.

90

2 C. The evaluation component is designed to identify abusers
4 of alcohol and other drugs. If the evaluation indicates
6 that treatment for alcohol or other drug abuse is needed,
8 the client must be referred to the appropriate alcohol or
10 other drug treatment service.

12 D. The treatment component is designed to address the
14 client's specific problem with or abuse of alcohol or other
16 drugs.

18 4. Multiple offenders; adult. The education, evaluation
20 and treatment program required for adult multiple offenders
22 consists of the following components:

24 A. A rigorous, highly structured, residential intervention
26 program, consisting of at least 22 hours, using films,
28 lectures, group discussion and individual sessions, designed
30 to educate the client on the effects of substance use, abuse
32 and addiction and an evaluation using assessment
34 instruments, data collection and self-assessment, designed
36 to create an acceptance and commitment by the client for
38 treatment; and

40 B. A treatment program provided by a community-based
42 service provider, designed to address the client's specific
44 alcohol or other drug problem and abuse, using a treatment
46 plan based on the completion of treatment guidelines adopted
48 by the office, if additional treatment is necessary.

50 The office may require completion of the first offender program
52 to satisfy the requirements of the multiple offender program if
54 an approved multiple offender program is unavailable for the
56 client. In such cases, the fee schedule of the first offender
58 program applies.

60 5. Multiple offenders under 21 years of age." Multiple
62 offenders under 21 years of age shall attend the alcohol and
64 other drug education, evaluation and treatment program for adult
66 offenders under subsection 4.

68 §20074. Separation of evaluation and treatment functions

70 A Driver Education and Evaluation Programs private
72 practitioner or a counselor employed by a substance abuse
74 facility approved or licensed by the office providing services
76 under this subchapter may not provide both treatment services and
78 evaluation services for the same individual participating in
80 programs under this subchapter. The practitioner or counselor
82 providing evaluation services shall give a client the name of 3
84 practitioners or counselors who can provide treatment services,
86 at least one of whom may not be employed by the same agency as
88 the practitioner or counselor conducting the evaluation.

2 **§20075. Certification; recertification**

4 All providers of the evaluation, intervention and treatment
6 components of the program must be certified by the office. The
8 certification period for individual providers is 3 years and 2
 years for agencies. The office shall adopt rules requiring
 continuing education for recertification.

10 **§20076. Fees**

12 1. First offender program. The office may charge a
14 registration fee, not to exceed \$105, to clients for the
16 education and assessment components of the program. This fee
18 must be transferred to the General Fund. The client is
 responsible for the costs of the evaluation and treatment
 components. The office may waive all or part of the fee for
 clients who provide sufficient evidence of inability to pay.

20 2. Multiple offender program. This subsection applies to
22 multiple offenders and first offenders who choose to participate
24 in the multiple offender residential intervention program in
 accordance with this subchapter. The fees and costs for the
 multiple offender program are as follows.

26 A. The office may charge a registration fee, not to exceed
28 \$350, to clients for the expenses of the intervention
30 program, including the initial evaluation. This fee must be
 transferred to the General Fund.

32 B. The client is responsible for any costs associated with
34 2nd and subsequent evaluations or treatments that are not a
 part of the cost in paragraph A.

36 C. The office may waive all or part of the fee for clients
 who provide sufficient evidence of inability to pay.

38 **§20077. Report**

40 Beginning in 1992, the director shall report annually by
42 February 1st to the joint standing committee of the Legislature
44 having jurisdiction over human resource matters regarding the
 office's activities under this subchapter. A copy of the report
 must be sent to the Executive Director of the Legislative Council.

46 **§20078. Board of appeals**

48 The Driver Education and Evaluation Programs Appeals Board,
50 established by Title 5, section 12004-G, subsection 15-A, is
 referred to as the "board" in this subchapter and is governed by
 this section.

52

COMMITTEE AMENDMENT "A" to S.P. 90, L.D. 175

2 1. Qualifications. Each member of the board must have
3 training, education, experience and demonstrated ability in
4 successfully treating clients with substance abuse problems.
5 Board members may not hold a current certificate to provide
6 driver education, evaluation and treatment services during their
7 terms of appointment.

8 2. Appointment; term; removal. The board consists of 3
9 members appointed by the Governor for 2-year terms, except that,
10 initially, 2 members are appointed for 2-year terms and one
11 member for a one-year term. A vacancy occurring prior to the
12 expiration of a term must be filled by an appointment for the
13 unexpired term. Members may be removed by the Governor for cause.

14 3. Facilities; staff. The director shall provide adequate
15 facilities for the board and staff support.

16 4. Chair; rules. The board shall elect annually a chair
17 from its members. The director shall adopt rules to carry out
18 this section.

19 5. Compensation. Each member of the board is entitled to
20 compensation in accordance with Title 5, chapter 379.

21 6. Appeal from decision. A Driver Education and Evaluation
22 Programs client may appeal to the board as follows.

23 A. The client may appeal a failure to certify completion of
24 treatment pursuant to section 20072, subsection 2.

25 B. The client may appeal an evaluation decision referring
26 the client to treatment or a completion-of-treatment
27 decision pursuant to section 20073. A client may appeal
28 under this paragraph only after the client has sought a 2nd
29 opinion of the need for treatment or of satisfactory
30 completion of treatment.

31 7. Appeal procedure and action. An appeal is heard and
32 decided by one board member. The board may affirm or reverse the
33 decision of the treatment provider or agency, require further
34 evaluation, make a finding of completion of treatment or make an
35 alternate recommendation. The board, after due consideration,
36 shall make a written decision and transmit that decision to the
37 Driver Education and Evaluation Programs and the client who
38 appealed the case. The decision of the board is final agency
39 action for purposes of judicial review pursuant to Title 5,
40 chapter 375, subchapter VII.

41 Sec. 33. 22 MRSA c. 1602, sub-cc. I and II-A, as amended, are
42 repealed.

2 **Sec. 34. 29 MRSA §1312-B, sub-§2, ¶D-1**, as amended by PL 1987,
c. 791, §19, is further amended to read:

4 D-1. In addition to the penalties provided under paragraphs
6 C and D, the court shall order the defendant to participate
8 in the alcohol and other drug education, evaluation and
10 treatment program for multiple offenders administered by the
12 ~~Department of Human Services~~ Office of Substance Abuse, as
14 defined in ~~Title 22, chapter 1602~~ Title 5, chapter 521. The
court may waive the multiple offender intervention program
under ~~Title 22, section 7203, subsection 3,~~ Title 5, section
20073, subsection 4, paragraph A, if the court finds that
the defendant has completed a residential treatment program,
or its equivalent, subsequent to the date of the offense.

16 **Sec. 35. 29 MRSA §1313-A, sub-§3, ¶¶A to C**, as enacted by PL
18 1985, c. 331, are amended to read:

20 A. Satisfactory completion of the Driver Education and
22 Evaluation Program Programs of the ~~Department of Human~~
Services Office of Substance Abuse;

24 B. When required, satisfactory completion of a substance
26 abuse treatment program or rehabilitation program approved
or licensed by the ~~Department of Human Services~~ Office of
Substance Abuse; and

28 C. When required, attendance for 2 years at an after-care
30 program approved by the ~~Department of Human Services~~ Office
of Substance Abuse.

32 **Sec. 36. Transition.** Employees of the Office of Alcohol and
34 Drug Abuse Prevention who are transferred to the Office of
Substance Abuse are subject to the provisions of this Act.

36 1. The employees retain their accrued fringe benefits,
38 including vacation and sick leave, health and life insurance and
retirement benefits.

40 2. The employees who are members of collective bargaining
42 units on the effective date of this Act remain as members in
44 their respective bargaining units and retain all rights,
privileges and benefits provided by their collective bargaining
agreements with respect to state service.

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

50 4. The Bureau of Human Resources shall assist the Office of
52 Substance Abuse with the orderly implementation of the provisions
of this section.

2 5. All existing contracts, agreements and compacts in
4 effect in the Division of Driver Education Evaluation Programs or
the Office of Alcohol and Drug Abuse Prevention on the effective
date of this Act continue in effect.

6 6. All positions in the Department of Human Services,
8 Office of Alcohol and Drug Abuse Prevention, with the exception
of the Director of the Office of Alcohol and Drug Abuse and
Prevention, are transferred to the Office of Substance Abuse.

10 7. All records, property and equipment previously belonging
12 to the Department of Human Services, Division of Driver Education
14 Evaluation Programs or Office of Alcohol and Drug Abuse
Prevention are the property of the Office of Substance Abuse as
of the effective date of this Act.

16 8. All forms, licenses, contracts, letterheads and similar
18 items existing on the effective date of this Act bearing the name
20 "Division of Driver Education Evaluation Programs," "Office of
22 Alcohol and Drug Abuse Prevention," or that make reference to
these names may be used by the Office of Substance Abuse until
existing supplies of those items are exhausted.

24 9. All rules and procedures adopted by the Division of
26 Driver Education Evaluation Programs or the Office of Alcohol and
Drug Abuse Prevention remain in effect until rescinded, revised
or amended.

28 10. All unexpended balances in all accounts of the
30 Department of Human Services, Division of Driver Education
32 Evaluation Programs or the Office of Alcohol and Drug Abuse
34 Prevention are transferred to the Office of Substance Abuse.
Notwithstanding the Maine Revised Statutes, Title 5, accrued
36 expenditures, assets, liabilities, balances of appropriations,
allocations, transfers, revenues or other available funds in an
38 account or subdivision of an account of the Department of Human
Services used for the purchase of substance abuse services must
40 be transferred to the proper accounts by the State Controller
upon the request of the State Budget Officer and with the
approval of the Governor.

42 11. The Office of Substance Abuse is responsible for all
44 administrative and financial functions that were previously
46 performed on the office's behalf by the Department of Human
48 Services. The Director of the Office of Substance Abuse has the
authority to employ administrative and financial staff within the
resources available from the federal Alcohol, Drug Abuse and
Mental Health Services Block Grant.

50 **Sec. 37. Recommendations.** The Office of Substance Abuse
52 created in the Maine Substance Abuse Prevention and Treatment Act
and any other state agency affected by the provisions of that Act

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COMMITTEE AMENDMENT "A" to S.P. 90, L.D. 175

shall determine the best method of resolving any legal, fiscal, personnel or operational conflict created as a result of that Act and shall submit necessary recommendations for statutory changes to the Second Regular Session of the 115th Legislature for approval by January 1, 1992.

Sec. 38. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1991-92 1992-93

EXECUTIVE DEPARTMENT

Office of Substance Abuse

Positions	(1.0)	(1.0)
Personal Services	\$45,762	\$48,919
All Other	28,125	29,280
TOTAL	<u>\$73,887</u>	<u>\$78,199</u>

Provides for the transfer of funds and related functions from the Office of Alcohol and Drug Abuse Prevention, including one Social Services Program Specialist position.

Driver Education and Evaluation Programs - Office of Substance Abuse

Positions	(13.0)	(13.0)
Personal Services	\$338,953	\$484,178
All Other	343,993	481,369
TOTAL	<u>\$682,946</u>	<u>\$965,547</u>

Provides for the transfer of funds and the Driver Education and Evaluation Program from the Department of Human Services to the Office of Substance Abuse.

EXECUTIVE DEPARTMENT TOTAL

\$756,833 \$1,043,746

HUMAN SERVICES, DEPARTMENT OF

Alcoholism and Drug Abuse

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Prevention - Human Services

2			
	Positions	(-1.0)	(-1.0)
4	Personal Services	(\$27,821)	(\$54,723)
6	Provides for the		
	deappropriation of funds		
8	through the elimination of		
	the Director of the Office of		
10	Alcohol and Drug Abuse		
	Prevention position.		

**Alcoholism and Drug Abuse
Prevention - Human Services**

16	Positions	(-1.0)	(-1.0)
	Personal Services	(\$45,762)	(\$48,919)
18	All Other	(28,125)	(29,280)
20	TOTAL	<u>(\$73,887)</u>	<u>(\$78,199)</u>

22 Provides for the
 24 deappropriation of funds due
 to the transfer of the
 26 functions of the Office of
 Alcohol and Drug Abuse
 28 Prevention to the Executive
 Department, Office of
 Substance Abuse.

**Driver Education and Evaluation
Programs**

34	Positions	(-13.0)	(-13.0)
	Personal Services	(\$338,953)	(\$484,178)
36	All Other	(343,993)	(481,369)
38	TOTAL	<u>(\$682,946)</u>	<u>(\$965,547)</u>

40 Provides for the
 42 deappropriation of funds due
 to the transfer of the Driver
 44 Education and Evaluation
 Programs to the Executive
 46 Department, Office of
 Substance Abuse.

**DEPARTMENT OF HUMAN SERVICES
TOTAL**

<u>(\$784,654)</u>	<u>(\$1,098,469)</u>
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JUDICIAL DEPARTMENT

COMMITTEE AMENDMENT "A" to S.P. 90, L.D. 175

**Courts - Supreme, Superior,
District and Administrative**

4	All Other	\$16,868	\$22,491
6	Provides funds for expert witness fees, complaint justice fees and transportation costs related to commitment hearings and to hear petitions.		

Indigent Defense

14	All Other	\$13,283	\$17,710
16	Provides funds for costs associated with court-appointed counsel for indigent defendants.		

**JUDICIAL DEPARTMENT
TOTAL**

	<u>\$30,151</u>	<u>\$40,201</u>
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TOTAL APPROPRIATIONS

	<u>\$2,330</u>	<u>(\$14,522)</u>
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Sec. 39. Allocation. The following funds are allocated from Federal Block Grant funds to carry out the purposes of this Act.

	1991-92	1992-93
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EXECUTIVE DEPARTMENT

Office of Substance Abuse

36	Positions	(3.0)	(3.0)
38	Personal Services	\$86,066	\$121,863
40	All Other	63,236	77,207

Provides for the allocation of funds due to the transfer of the Office of Alcohol and Drug Abuse Prevention from the Department of Human Services.

**EXECUTIVE DEPARTMENT
TOTAL**

	<u>\$149,302</u>	<u>\$199,070</u>
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HUMAN SERVICES, DEPARTMENT OF

R. W. S.

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**Alcoholism and Drug Abuse
Prevention - Human Services**

Positions	(-3.0)	(-3.0)
Personal Services	(\$86,066)	(\$121,863)
All Other	(63,236)	(77,207)

Provides for the transfer of funds and functions from the Office of Alcohol and Drug Abuse Prevention to the Executive Department, Office of Substance Abuse.

DEPARTMENT OF HUMAN SERVICES		
TOTAL	<u>(\$149,302)</u>	<u>(\$199,070)</u>
TOTAL ALLOCATIONS	<u>\$-0-</u>	<u>\$-0-</u>

FISCAL NOTE

1991-92 1992-93

APPROPRIATIONS/ALLOCATIONS

General Fund	\$2,300	(\$14,522)
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This bill transfers the Driver Education and Evaluation Programs and the functions of the Office of Alcohol and Drug Abuse Prevention from the Department of Human Services to the Office of Substance Abuse and makes changes to several provisions relating to the Office of Substance Abuse and procedures affecting the judicial system. The net General Fund appropriations required to implement the provisions of this bill are \$2,330 in fiscal year 1991-92 and (\$14,522) in fiscal year 1992-93.

There will also be an impact to District Court clerks and judges, as well as Superior Court clerks and justices, as a result of this bill. A significant increase in the work load in the District Court and Superior Court and associated administrative costs may require additional General Fund appropriations to the Judicial Department in addition to the amounts appropriated in this bill.

The costs associated with public hearings, providing or assisting in the provision of training programs, overseeing, supporting and coordinating the resource center and fulfilling other provisions of this bill will be absorbed within the budgeted resources of the Office of Substance Abuse.

This bill also creates a new Class C crime for causing unwarranted emergency treatment or causing a denial of rights. The impact to the Department of Corrections will depend upon the number of individuals convicted of this crime who will serve their sentence in the state correctional institutions. The cost per year for each person sentenced for a Class C offense is \$21,170 with an average sentence length of one year and 7 months.

These estimates may require adjustment depending on the current services budget enacted by the Legislature. The Governor's proposed adjusted current services budget affects these programs and these estimates.'

STATEMENT OF FACT

This amendment reinstates the Driver Education and Evaluation Programs Appeals Board; replaces the words "hospital" with "facility" and "inpatient" with "residential;" and defines the phrase "chemically dependent person who poses a likelihood of serious and imminent self-harm." The amendment also makes changes in the bill in the areas of administration, contracting and treatment procedures.

1. The changes in administration are as follows.

A. The appointment of the Director of the Office of Substance Abuse is subject to Legislative confirmation.

B. The Maine Council on Alcohol and Drug Abuse Prevention and Treatment is directed to help develop the biennial plan.

C. The Office of Substance Abuse is required to do its own budgeting and advise the Governor on any appropriations or deappropriations for alcohol and drug abuse programs.

2. The amendment makes the following changes in contracting procedures.

A. The Office of Substance Abuse is required to use performance-based contracting.

B. The Office of Substance Abuse may not delegate contracting if delegation results in higher administration costs.

C. Redundant language regarding the authority of the Office of Substance Abuse to enter into contractual agreements is deleted.

R.O.S.
COMMITTEE AMENDMENT "A" to S.P. 90, L.D. 175

2 3. The amendment makes the following changes to treatment
procedures.

4 A. The requirement that the Office of Substance Abuse
6 reimburse all costs for new beds designated for involuntary
commitment at approved treatment facilities after July 1,
1992 is deleted.

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10 B. The preparation of an emergency treatment order for a
patient leaving a treatment facility against medical advice
12 who is also considered to be in imminent danger of self-harm
must be completed by the facility administrator rather than
the Office of Substance Abuse.

Reported by the Majority for the Committee on State and Local
Government. Reproduced and Distributed Pursuant to Senate Rule 12.
(6/12/91) (Filing No. S-359)