

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1835

H.P. 1266

House of Representatives, May 9, 1991

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative CARROLL of Gray.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Establish the Maine Human Development Foundation.

(EMERGENCY)



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

Whereas, due to increased mobility, economic concerns, educational pursuits and social conditions, families often do not live together under one roof; and

Whereas, the reality of modern life is that older generations often do not share residences with their children and grandchildren and therefore do not have the opportunity to help nurture the young; and

Whereas, this change often has a negative impact on human development, family life and child development; and

Whereas, young people in ever-increasing numbers are the victims of child dysfunction that often results in such severe disorders as educational dilemmas, health handicaps, juvenile delinquency, mental illness, physical harm, social problems or substance abuse; and

Whereas, currently, public policy and funding support a wide array of services to treat children after they develop dysfunctions and disorders; and

Whereas, it is prudent public policy to encourage human development, positive family life and child development and to increase the emphasis on the prevention of childhood disabilities; and

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

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

5 MRSA c. 513 is enacted to read:

CHAPTER 513

MAINE HUMAN DEVELOPMENT FOUNDATION

§19601. Definitions

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

1. Child dysfunction. "Child dysfunction" includes, but is not limited to, educational, developmental, health and juvenile

2 justice problems; mental illness; mental retardation; and
4 physical or social disorders of children, such as alcoholism, low
6 aspirations, child abuse and neglect, drug abuse, family
8 problems, handicaps, juvenile delinquency, poverty, dropping out
10 of school, truancy, teen pregnancy and teen suicide.

12 2. Primary prevention. "Primary prevention" means a
14 sustained purposeful process that enhances personal, family and
16 community social health by augmenting competencies and social
18 conditions that encourage positive human development of children,
20 adults and their families and strengthen the social aspects of
22 such groups in their communities as peers, friends, school or
24 work.

26 §19602. Foundation established

28 The Maine Human Development Foundation is established to
30 encourage, enhance, support and carry on human development and
32 primary prevention of child dysfunction through positive family
34 life and child development within the resources available.

36 The foundation exists as a nonprofit corporation with a
38 public purpose and the exercise by the foundation of the powers
40 conferred by this chapter is considered the performance of
42 essential governmental functions.

44 §19603. Governance

46 The Executive Board of Directors of the Maine Human
48 Development Foundation, assisted by a community leaders board,
50 shall administer the foundation in accordance with this chapter.

1. Board membership. Members of each board must be
selected from outstanding people representing:

A. The fields of business, commerce, developmental
disabilities, early childhood development, education,
development of family life, finance, health, industry,
infant development, juvenile justice, labor, law, law
enforcement, medical care, mental health, mental
retardation, municipal affairs, parenting and poverty;

B. Professionals and caregivers involved in the primary
prevention and rehabilitation of child dysfunction; and

C. Public officials, religious leaders, service clubs and
organizations, trade associations, volunteer and community
leaders and youth-serving programs.

Members must demonstrate and have documentation of an unselfish
and dedicated personal commitment to primary prevention of child

2 dysfunction through positive family life and child development.
3 To be qualified to serve, members of each board must be residents
4 of different geographical areas of the State who have diverse
5 experience, education, knowledge and expertise relating to
6 primary prevention of child dysfunction through positive family
7 life and child development.

8 **§19604. Executive board of directors**

10 1. Appointments; chair. The executive board of directors
11 consists of 15 members, including 5 appointed by the Governor, 5
12 appointed by the President of the Senate and 5 appointed by the
13 Speaker of the House of Representatives. The chair and the
14 vice-chair of the executive board of directors are elected to a
15 one-year term by a 2/3 vote of the members of the executive board
16 of directors present and voting at the foundation's annual
17 meeting held between September 1st and October 15th of each
18 year. The initial appointments to the executive board of
19 directors must be made within 30 days of the effective date of
20 this chapter.

22 2. Terms of office; vacancies. The term of office of
23 members of the executive board of directors is 3 years, except
24 for the first appointed directors. Of the first appointed
25 directors, directors appointed by the Governor serve terms as
26 follows: one director serves for 3 years, one director serves
27 for 2 years and 3 directors serve for one year; directors
28 appointed by the President of the Senate serve terms as follows:
29 2 directors serve for 3 years, 2 directors serve for 2 years and
30 one director serves for one year; and directors appointed by the
31 Speaker of the House of Representatives serve terms as follows:
32 2 directors serve for 3 years, 2 directors serve for 2 years and
33 one director serves for one year. The term of office of each
34 director is designated at the time of appointment. Vacancies on
35 the board are filled in the following manner.

36 A. Upon expiration of the term of a director of the
37 executive board of directors, that director serves until a
38 successor is appointed and qualified. Directors are
39 eligible for reappointment for not more than one full
40 consecutive term. Any director may be removed from office
41 by the original appointing authority for just cause and must
42 be notified of the cause for removal. Just cause includes
43 excessive absences from meetings of the executive board of
44 directors. Excessive absences must be defined by the
45 foundation in its bylaws.

46 B. Any vacancy on the executive board of directors must be
47 filled for the remainder of the term by the appointing
48 authority who made the original appointment. Any vacancy on
49 the executive board of directors does not affect its powers.
50

2 3. Meetings; quorum. The executive board of directors
3 shall meet at least once a month between September and June of
4 each 12-month period. Additional meetings may be held as
5 necessary and may be called and convened by the chair or any 4
6 directors. Meetings must be announced in advance and open to the
7 public. The foundation and the executive board of directors are
8 subject to Title 1, chapter 13, subchapter I. Seven directors of
9 the executive board constitute a quorum. An action may not be
10 taken by the executive board of directors except by affirmative
11 vote of a majority of those directors present and voting.

12 4. Compensation. The executive board of directors shall
13 set:

14 A. An amount for compensation for members of the board,
15 which may not exceed the amount of per diem compensation for
16 Legislators under Title 3, section 2; and

17 B. Reimbursement for expenses necessary to carry on the
18 work of the foundation, which may not exceed the amount
19 permitted to appointed state officials under Title 5,
20 chapter 379.

21 §19605. Community leaders board

22 1. Board responsibilities. The community leaders board is
23 authorized, pursuant to rules adopted by the executive board of
24 directors, to assist the foundation with education, resource
25 development, advisory recommendations and other appropriate
26 matters. The community leaders board may not be granted any
27 powers and duties relating to the operation of the foundation.

28 2. Appointments; chair. The community leaders board
29 consists of no more than 45 members nominated and appointed by
30 the executive board of directors. The chair of the community
31 leaders board is nominated and appointed by the executive board
32 of directors. The initial appointments to the community leaders
33 board must be made within 90 days of the effective date of this
34 chapter.

35 3. Terms of office; vacancies. The term of office of
36 members of the community leaders board is 3 years, except for the
37 first appointed members. Of the first appointed members, 1/3
38 serve a term of 3 years, 1/3 serve a term of 2 years and 1/3
39 serve a term of one year. The term of each member must be
40 designated at the time of appointment. Vacancies on the board
41 are filled in the following manner.

42 A. Upon expiration of the term of a member of the community
43 leaders board, that member may serve until a successor is
44 appointed and qualified. Any member may be removed from
45 office for just cause and must be notified of the cause for
46 removal.

2 removal. Just cause includes excessive absences from
4 meetings of the community leaders board. Excessive absences
6 must be defined by the foundation in its bylaws. Any
8 vacancy on the community leaders board must be filled for
10 the remainder of the term.

12 4. Meetings; quorum. The community leaders board shall
14 meet at least annually. Twenty-one members of the community
16 leaders board constitute a quorum. Action may not be taken by
18 the community leaders board except by affirmative vote of a
20 majority of those members present and voting. Members serve
22 without compensation or reimbursement for expenses.

24 **§19606. Powers; duties**

26 In order to improve human development, strengthen family
28 life and expand measures to prevent childhood dysfunction, the
30 foundation has the following powers and duties to encourage,
32 enhance, support, participate in and carry on endeavors to attain
34 improved human development and primary prevention of child
36 dysfunction through positive family life and child development.

38 1. Powers. The foundation may:

40 A. Apply for or by any other manner receive and manage
42 funds from any private source or governmental entity,
44 including, but not limited to, awards, donations, grants,
46 loans, appropriations, seed funds and allocations of
48 private, state or federal resources.

50 (1) These funds may be segregated into an
52 administration account, program operation accounts and
54 other accounts as necessary to manage the foundation
56 and to conduct and account for specific programs.

58 (2) Funds received from any source may be augmented by
60 funds received from another source such as the private
62 sector;

64 B. Provide services to private or public entities and
66 charge fees for these services as it determines appropriate;

68 C. Purchase, receive, hold or lease and operate, manage,
70 license and sell, convey, transfer, grant or lease real and
72 personal property, together with such rights and privileges
74 as may be incidental and appurtenant to the property and its
76 use;

78 D. Make all expenditures and incur any obligations
80 reasonably required in the exercise of prudent business
82 principles to secure possession of, preserve, maintain,

2 insure and improve real and personal property or interests
3 in real and personal property acquired by the foundation;

4 E. Acquire, subscribe for, own, hold, sell, assign,
5 transfer, mortgage or pledge the stock, shares, bonds,
6 debentures, notes or other securities and evidences of
7 interest in or indebtedness of any firm, corporation, joint
8 stock company, partnership, association or trust and, while
9 the owner or holder thereof, exercise all the rights, powers
10 and privileges of ownership, including the right to vote
11 thereon;

12 F. Mortgage, pledge or otherwise encumber any property
13 right or thing of value acquired pursuant to paragraphs A to
14 E;

15 G. Make contracts, including contracts for services, and
16 incur liabilities for any of the purposes authorized in the
17 contracts;

18 H. Borrow money for any of the purposes authorized in this
19 chapter and incur debt and secure the same by mortgage,
20 pledge, deed of trust or other lien on its property, rights
21 and privileges, or any part of or interest in its property,
22 rights and privileges;

23 I. Sue or be sued in its own name;

24 J. Cooperate with and avail itself of the services of
25 private or governmental agencies, the University of Maine
26 System, and people who are experienced or experts in the
27 field of human development and in the prevention of child
28 dysfunction; and

29 K. Adopt bylaws consistent with this chapter for the
30 governance of its affairs, have the general powers accorded
31 corporations under Title 13-B, section 202, and do all other
32 things necessary or convenient to carry out the lawful
33 purposes of the foundation.

34 **2. Duties. The foundation shall:**

35 A. Educate the public, groups and organizations about human
36 development and primary prevention, child dysfunction,
37 family life and child development by:

38 (1) Collecting and disseminating information and
39 reports;

40 (2) Offering or teaching classes, courses and
41 curricula in and outside of schools, colleges and
42 vocational and other learning situations; and

2 (3) Providing public forums, including public
4 hearings, conferences, workshops, seminars and other
6 meetings to discuss, publicize and obtain information
 about the needs for, and application of, primary
 prevention approaches;

8 B. Commission the performance and publication of analyses,
10 findings, studies or basic and applied research that
12 includes analyzing opportunities to develop and purpose new
14 ideas and approaches, identifying and promoting
 opportunities for private and business investment of
 resources, identifying and assessing effective activities in
 other states and replicating effective demonstration or
 model projects;

16 C. Review and evaluate on a continuing basis the impact and
18 results of local, state and federal laws, policies, rules,
20 budgetary actions and administrative practices on human
22 development, family life, children and the primary
 prevention of child dysfunction;

24 D. Advise, consult and assist the executive and legislative
26 branches of government, including the Governor, on
 activities of government, including local, state and federal
 plans, policies, programs or financial matters;

28 E. Advise, consult and assist private sector community
30 groups, private organizations and businesses on augmenting
32 their human development and primary prevention competencies
 and social conditions and enhancing private sector,
 voluntary, community and youth-serving partnerships; and

34 F. Administer a grant program to promote and financially
36 assist human development and primary prevention of child
38 dysfunction through positive family life and child
 development.

40 **§19607. Limitations of powers**

42 The foundation, notwithstanding this chapter, may not enter
44 into contracts, obligations or commitments of any kind on behalf
46 of the State or any of its agencies, or have the power of eminent
48 domain or any other power not provided to corporations
 generally. Notes and other evidences of indebtedness of the
 foundation may not in any way be a debt or liability of the State
 or constitute a pledge of the faith and credit of the State.

50 **§19608. Liability of officers; directors**

52 All officers, directors, employees and other agents of the
 foundation entrusted with the custody of assets or securities of

2 the foundation or authorized to disburse the funds of the
3 foundation must be bonded, either by a blanket bond or by
4 individual bonds, with a surety having a minimum limitation of
5 \$100,000 coverage for each person covered, conditioned upon the
6 faithful performance of their duties. The premiums for the bonds
7 must be paid out of the resources of the foundation.

8 **§19609. Prohibited interest of officers, directors and employees**

10 Officers, executive board directors or employees of the
11 foundation or their spouses or dependent children may not receive
12 any direct personal benefit from the activities of the foundation
13 in assisting any private entity. This provision does not
14 prohibit corporations or other entities with which an officer or
15 director is associated by reasons of ownership or employment from
16 participating in activities with the foundation, provided that
17 the ownership or employment is made known to the executive board
18 of directors and the officer or director abstains from voting on
19 matters relating to that participation. The prohibition does not
20 extend to corporators who are not officers or members of the
21 executive board of directors of the foundation.

22 **§19610. Donations to foundation**

24 The State, through the Governor, may accept donations,
25 bequests, devises, grants or other interests of any nature on
26 behalf of the foundation and transfer these funds, property or
27 other interests to the foundation.

30 **§19611. Annual report; audit**

32 The foundation shall provide an annual report and an
33 independent audit of its activities to the Governor, the
34 Legislature and its corporators. The foundation is subject to
35 further audit and review as determined necessary by the Governor
36 or the Department of Audit at the expense of the State.

38 **§19612. General conditions; dissolution**

40 The following conditions apply to the operation or
41 dissolution of the foundation.

42 1. Net earnings of foundation. No part of the net earnings
43 of the foundation may inure to the benefit of any corporator,
44 officer, director or employee except that the foundation is
45 authorized and empowered to pay reasonable compensation for
46 services rendered and otherwise hold, manage and dispose of its
47 property in furtherance of the purposes of the foundation.

50 2. Dissolution of foundation. Upon dissolution of the
51 foundation, the executive board of directors shall, after paying
52 or making provision for the payment of all liabilities of the

2 foundation, cause all of the remaining assets of the foundation
3 to be transferred to the State.

4 **§19613. Liberal construction**

6 This chapter must be construed liberally to effect the
7 interest and purposes of the foundation to improve human
8 development and primary prevention of child dysfunction through
9 positive family life and child development and must be broadly
10 interpreted to effect such intent and purposes and not as a
11 limitation of powers.

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

16 **STATEMENT OF FACT**

18 This bill establishes the Maine Human Development Foundation
19 as a nonprofit corporation with the purpose of improving human
20 development, preventing child dysfunction through strengthening
21 family life and promoting children's attainment of their personal
22 potential.

24 To attain that purpose, the foundation is authorized to
25 perform education, research, studies and public and private
26 partnerships with business, private enterprise, schools and a
27 host of community-level service organizations.
28