

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1994

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Legislative Document

No. 1956

H.P. 1431

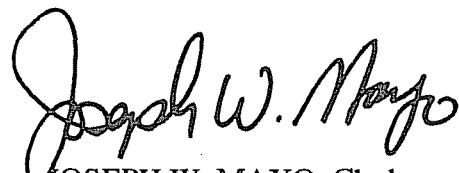
House of Representatives, March 1, 1994

**An Act to Revise the Laws of Maine to Incorporate the Office of  
Rehabilitation Services within the Department of Education.**

(EMERGENCY)

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Reference to the Committee on Education suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative AULT of Wayne. (GOVERNOR'S BILL)  
Cosponsored by Representative: SMALL of Bath, Senator: AMERO of Cumberland.



- 2           B. Testing, fitting or training in the use of prosthetic or  
          orthotic devices;
- 4           C. Prevocational conditioning or recreational therapy;
- 6           D. Physical and occupational therapy;
- 8           E. Speech and hearing therapy;
- 10          F. Psychological and social services;
- 12          G. Vocational evaluation;
- 14          H. Personal and work adjustment;
- 16          I. Vocational training, in combination with other  
          rehabilitation services;
- 18          J. Placement;
- 20          K. Transitional and supported employment; and
- 22          L. Extended employment for people with severe disabilities  
24          who can not be readily absorbed in the competitive labor  
26          market.

28          2. Disadvantaged individuals. "Disadvantaged individuals"  
          means:

- 30          A. Persons with disabilities as defined in this section;
- 32          B. Individuals disadvantaged by reason of youth or advanced  
34          age, low educational attainments, ethnic or cultural  
          factors, prison or delinquency records or other conditions;  
36          and
- 38          C. Other members of their families when the provision of  
          rehabilitation services to family members is necessary for  
40          the rehabilitation of individuals described in paragraph A  
          or B.

42          3. Evaluation and vocational services. "Evaluation and  
44          vocational services" includes, as appropriate in each case, such  
          services as:

- 46          A. A preliminary diagnostic study to determine that the  
48          individual is disadvantaged or has a disability-related  
          barrier to employment and that services are needed;

2 B. A diagnostic study consisting of a comprehensive  
4 evaluation of pertinent medical, psychological, vocational,  
6 educational, cultural, social and environmental factors that  
8 bear on the individual's barrier to employment and  
10 rehabilitation potential, including, to the degree needed,  
12 an evaluation of the individual's personality, intelligence  
14 level, educational achievements, work experience, vocational  
16 aptitudes and interests, personal and social adjustments,  
18 employment opportunities and other pertinent data helpful in  
20 determining the nature and scope of services needed;

22 C. Services to appraise the individual's patterns of work  
24 behavior and ability to acquire occupational skills and to  
26 develop work attitudes, work habits, work tolerances and  
28 social and behavior patterns suitable for successful job  
30 performance, including the utilization of work, simulated or  
32 real, to assess and develop the individual's capacities to  
34 perform adequately in a work environment;

36 D. Any other goods or services provided to a disadvantaged  
38 individual that are determined in accordance with federal  
40 regulations to be necessary for, and are provided for the  
42 purpose of, ascertaining the nature of the barrier to  
44 employment and whether it may reasonably be expected that  
46 the individual can benefit from vocational rehabilitation  
48 services or other services available to disadvantaged  
50 individuals;

E. Outreach, referral and advocacy; and

F. The administration of these evaluation and vocational  
services.

34 4. Gainful employment. "Gainful employment" includes  
36 employment in the competitive labor market; practice of a  
38 profession; self-employment; homemaking; farm or family work,  
40 including work for which payment is in kind rather than in cash;  
42 supported employment; sheltered employment; and home industries  
44 or other gainful homebound work.

46 5. Person with disability. "Person with a disability" means  
48 an individual who has a physical or mental disability that  
50 constitutes a substantial barrier to employment but is of such a  
nature that vocational rehabilitation services may reasonably be  
expected to render the individual fit to engage in gainful  
employment that is consistent with the individual's capacities  
and abilities. "Person with a disability" also means an  
individual who has a physical or mental disability that  
constitutes a substantial barrier to employment and for whom  
vocational rehabilitation services are necessary to determine

2 rehabilitation potential. An individual who is under a physical  
3 or mental disability means an individual who has a physical or  
4 mental condition that materially limits, contributes to limiting  
5 or, if not corrected, results in limiting that individual's  
6 activities or functions.

7 6. Rehabilitation services. "Rehabilitation services,"  
8 which may be provided directly or through public or private  
9 resources, means goods and services necessary to assist a person  
10 with a disability to engage in a gainful occupation or to  
11 determine the individual's rehabilitation potential, including  
12 but not limited to vocational rehabilitation services.  
13 Vocational rehabilitation services to people with disabilities  
14 must include:

15 A. Evaluation, including diagnostic and related services,  
16 incidental to the determination of eligibility for and the  
17 nature and scope of services to be provided;

18 B. Counseling, guidance and placement services for people  
19 with disabilities, including follow-up services to assist  
20 those individuals to maintain employment;

21 C. Training services for people with disabilities, which  
22 must include personal and vocational adjustment, on-the-job  
23 training and books and other training materials;

24 D. Interpreting and other specific services necessary to  
25 meet the unique needs of those persons who are deaf or who  
26 have impaired hearing. These services must include the aid  
27 of qualified personnel and interpreters who can relate to  
28 and communicate on an effective and meaningful basis with  
29 persons who are deaf or have impaired hearing;

30 E. Recruitment and training services for people with  
31 disabilities to provide them with suitable employment  
32 opportunities;

33 F. Physical restoration services, including but not limited  
34 to:

35 (1) Corrective surgery or therapeutic treatment  
36 necessary to correct or substantially modify a physical  
37 or mental condition that is stable or slowly  
38 progressive and constitutes a substantial barrier to  
39 employment but is of such a nature that correction or  
40 modification may reasonably be expected to eliminate or  
41 substantially reduce the barrier within a reasonable  
42 length of time;

2                   (2) Necessary hospitalization in connection with  
3                   surgery or treatment;

4                   (3) Prosthetic and orthotic devices; and

6                   (4) Eye glasses and visual services as prescribed by a  
7                   physician skilled in the diseases of the eye or by an  
8                   optometrist;

10                  G. Maintenance as necessary during rehabilitation, as  
11                  established by the rules of the department;

12                  H. Occupational licenses, tools, equipment and initial  
13                  stocks and supplies;

16                  I. In the case of a small business operated by people with  
17                  severe disabilities, the operation of which can be improved  
18                  by management services and supervision provided by the  
19                  department, the provision of those services and that  
20                  supervision, alone or together with the acquisition by the  
21                  department of vending stands or other equipment and initial  
22                  stocks and supplies;

24                  J. The construction or establishment, in accordance with  
25                  federal regulations, of public or other nonprofit community  
26                  rehabilitation programs and the provision of other  
27                  facilities and services that may contribute substantially to  
28                  the rehabilitation of a group of individuals but are not  
29                  related directly to the rehabilitation plan of any one  
30                  person with a disability;

32                  K. Transportation in connection with the rendering of any  
33                  other rehabilitation service;

34                  L. Any other goods and services necessary to render a  
35                  person with a disability employable; and

38                  M. Services to the families of people with disabilities  
39                  when the services will contribute substantially to the  
40                  rehabilitation of the individuals.

42                  **§18003. Rehabilitation services unit created**

44                  There is created within the department a functional unit of  
45                  rehabilitation services, which is equal in administrative level  
46                  and status with the other major administrative units within the  
47                  department.

48                  **§18004. Authority**

2       The department is designated and established as the sole  
4       state agency to provide rehabilitation services, including but  
6       not limited to vocational rehabilitation services, and to provide  
8       evaluation and vocational services for purposes of the Federal  
10       Rehabilitation Act and acts amendatory and additional to the  
12       Federal Rehabilitation Act. The commissioner shall make those  
14       rules that the commissioner finds necessary and appropriate for  
16       the administration of a program of rehabilitation services and  
18       shall organize such a program within the department in a manner  
20       that is consistent with existing federal and state laws, rules  
22       and regulations.

24       **§18005. Powers and duties of department**

26       In carrying out this chapter, the commissioner:

28       1. Cooperates with other departments. Shall cooperate with  
30       other departments, agencies and institutions, both public and  
32       private, in providing for the rehabilitation of people with  
34       disabilities and the evaluation and vocational services of  
36       disadvantaged individuals, in studying the problems involved and  
38       in establishing, developing and providing, in conformity with the  
40       purposes of this chapter, programs, facilities and services  
42       necessary or desirable;

44       2. Reciprocal agreements with other states. May enter into  
46       reciprocal agreements with other states to provide for the  
48       rehabilitation of people with disabilities and disadvantaged  
50       individuals who are residents of the states concerned;

3. Community rehabilitation programs. May establish,  
      construct and operate community rehabilitation programs and make  
      grants to public or other nonprofit organizations for those  
      purposes;

4. Vending stands and other businesses. May supervise the  
      operation of vending stands and other small businesses  
      established pursuant to this chapter to be conducted by people  
      with severe disabilities;

5. Research fellowships and traineeships. May make  
      studies, investigations, demonstrations and reports and provide  
      training and instruction, including the establishment and  
      maintenance of research fellowships and traineeships, with  
      stipends and allowances as may be determined necessary, in  
      matters relating to rehabilitation;

6. Joint project. May share funding and administrative  
      responsibility with another state agency in order to carry out a  
      joint project to provide services to people with disabilities;



2           7. Joint undertakings. May enter into joint undertakings  
4 with public and private agencies to further the effectiveness of  
services for disadvantaged individuals;

6           8. Eligibility and priority. Shall determine the  
8 eligibility of individuals for rehabilitation services or  
evaluation and vocational services and the priority for those  
10 services in accordance with rules established by the department;  
and

12           9. Transitional services coordination projects. Shall  
14 participate in the coordination of rehabilitation services with  
local transitional services coordination projects for youth with  
16 disabilities, as established in chapter 308, assigning  
appropriate regional staff and resources as available and  
18 necessary in each region to be served by a project.

20           §18006. Acceptance of federal provisions

22           The department shall cooperate with the Federal Government  
24 in carrying out the purposes of federal statutes pertaining to  
26 vocational rehabilitation and is authorized to adopt methods of  
administration found by the Federal Government to be necessary  
for the proper and efficient operation of agreements or other  
conditions as may be necessary to secure the full benefits of the  
federal statutes to the State and its residents.

28           The department is authorized, subject to the approval of the  
30 Governor, to:

32           1. Apply for assistance. Apply for federal assistance  
34 under the Federal Rehabilitation Act, and acts amendatory and  
additional to the Federal Rehabilitation Act, and to comply with  
36 conditions, not inconsistent with this chapter, that may be  
required for such assistance; and

38           2. Perform for Federal Government. Perform functions and  
40 services for the Federal Government in addition to those provided  
for in this section.

42           §18007. Receipt and disbursement of funds

44           The Treasurer of State is the appropriate officer of the  
46 State to receive and administer federal grants for rehabilitation  
48 programs, as contemplated by the Federal Rehabilitation Act and  
acts amendatory and additional to the Federal Rehabilitation Act,  
and the State Controller shall authorize expenditures as approved  
by the department.

2 **§18008. Gifts**

4 The commissioner, with the approval of the Governor, may  
6 accept and use gifts made unconditionally by will or otherwise  
8 for carrying out the purposes of this chapter. Gifts made under  
10 conditions that in the judgment of the department are proper and  
12 consistent with this chapter may be accepted, with the approval  
14 of the Governor, and must be held, invested, reinvested and used  
16 in accordance with the conditions of the gift. All money  
18 received as gifts or donations must be deposited in the State  
20 Treasury and constitutes a permanent fund to be called the  
22 Special Fund for Rehabilitation of People with Disabilities, to  
24 be used by the department to defray the expenses of  
26 rehabilitation in special cases, as determined by the  
28 commissioner, including the payment of necessary expenses of  
30 persons undergoing training.

32 **§18009. Maintenance not assignable**

34 The right of a handicapped or disadvantaged individual to  
36 maintenance under this chapter is not transferable or assignable  
38 at law or in equity and none of the money paid or payable or  
40 rights existing under this chapter are subject to execution,  
42 levy, attachment, garnishment or other legal process or to the  
44 operation of bankruptcy or insolvency law.

46 **§18010. Hearings and judicial review**

48 An individual applying for or receiving rehabilitation under  
50 this chapter who is aggrieved by an action or inaction of the  
52 department is entitled to a fair hearing by the commissioner or  
54 the commissioner's designated representative. An individual  
56 aggrieved because of the decision made on the basis of the fair  
58 hearing may appeal to the Superior Court.

60 **§18011. Misuse of lists and records**

62 It is unlawful, except for purposes directly connected with  
64 the administration of the rehabilitation program and in  
66 accordance with its rules, for a person or individual to solicit,  
68 disclose, receive or make use of, or authorize, knowingly permit,  
70 participate in or acquiesce in the use of, a list of names of, or  
72 information concerning, individuals applying for or receiving  
74 rehabilitation when that list or information is directly or  
76 indirectly derived from the records, papers, files or  
78 communications of the State or subdivisions of the State or  
80 acquired in the course of the performance of official duties. A  
82 person who violates a provision of this section is subject to a  
84 fine of not less than \$50 nor more than \$300 or by imprisonment  
86 for not more than 60 days, or both.

2                   **§18012. Employees not to engage in political activities**

4                   An officer or employee engaged in the administration of the  
6                   rehabilitation program may not use that officer or employee's  
8                   official authority to influence or permit the use of the  
10                   rehabilitation program for the purpose of interfering with an  
12                   election or affecting the results of an election or for a  
                    partisan political purpose. An officer or employee may not  
                    solicit or receive or be obliged to contribute or render a  
                    service, assistance, subscription, assessment or contribution for  
                    a political purpose. An officer or employee violating this  
                    provision is subject to appropriate disciplinary action.

14                   **§18013. Continuing study of rehabilitation needs**

16                   The department shall make continuing study of the needs of  
18                   people with disabilities and disadvantaged individuals in the  
20                   State and how these needs may be met most effectively. The study  
22                   and planning must include appraisal of community rehabilitation  
24                   programs in the State and their effectiveness and adequacy in  
                    meeting the overall needs of people with disabilities and  
                    disadvantaged. The continuing study and recommendations are to  
                    be reflected in the biennial reports of the commissioner.

26                   **§18014. Office of Rehabilitation Services**

28                   The commissioner shall establish within the department the  
30                   Office of Rehabilitation Services, which shall administer that  
                    group of rehabilitation services specifically related to the  
                    federal vocational rehabilitation programs.

32                   **§18015. Provision of rehabilitation services**

34                   Rehabilitation services may be provided directly or through  
36                   public or private resources to people with disabilities,  
38                   including those who are eligible for rehabilitation services  
                    under the terms of an agreement with another state or with the  
                    Federal Government.

40                   **§18016. Rules**

42                   The department is authorized to establish rules required for  
44                   the proper administration of a vocational rehabilitation program  
46                   under the Federal Rehabilitation Act and acts amendatory and  
48                   additional to the Federal Rehabilitation Act. These rules must  
                    include procedures for ensuring access to records by the  
                    protection and advocacy agencies designated under Title 5, Part  
                    24 pursuant to an investigation of alleged rights violations.

50                   Sec. A-2. 22 MRSA c. 713, as amended, is repealed.

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**PART B**

**Sec. B-1. 20-A MRSA c. 703** is enacted to read:

**CHAPTER 703**

**DIVISION OF DEAFNESS**

**§18021. Division of Deafness**

There is established the Division of Deafness within the Department of Education, Office of Rehabilitation Services.

**§18022. Definitions**

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

1. **Advisory committee.** "Advisory committee" means the advisory committee for the Division of Deafness.

2. **Deaf or deafness.** "Deaf" or "deafness" means that the sense of hearing is nonfunctional for the purpose of ordinary communication.

3. **Deaf or hearing impaired persons.** "Deaf or hearing impaired persons" means the sense of hearing is defective but still functional, with or without amplification.

4. **Statewide registry.** "Statewide registry" means a current listing, developed in cooperation with various registries throughout the State, of those persons in the State who are deaf or hearing impaired persons.

**§18023. Powers and duties**

To provide the following services and information to deaf and hearing impaired persons, the Division of Deafness shall:

1. **Provide advocacy.** Provide cooperative agreements or coordinate with agencies or community resources to provide advocacy for the rights of deaf and hearing impaired persons in the areas of employment, education, legal aid, health care, social services, finance, housing and other personal assistance while avoiding duplication of effort in these areas;

2. **Statewide registry.** Maintain, coordinate and update a voluntary statewide registry of deaf and hearing impaired persons

2 developed in cooperation with various registries throughout the  
3 State. Use of this list is restricted by the provisions of  
4 section 18011.

5 3. Information and referral. Provide information and  
6 referral services to deaf and hearing impaired persons and their  
7 families on questions related to their disorder;

8 4. Develop objectives. Develop a plan with goals and  
9 objectives for development, planning and implementation within a  
10 framework for greater cooperation and coordination among agencies  
11 and organizations now serving or having the potential to serve  
12 deaf and hearing impaired persons;

13 5. Community service center. Continue to study the need to  
14 establish, maintain and fund at least one community service  
15 center where deaf and hearing impaired persons and their families  
16 can receive pertinent information relating to the coordination of  
17 services that each requires;

18 6. Promote accessibility. Promote accessibility to all  
19 governmental services for residents of the State who are deaf or  
20 hearing impaired persons; and

21 7. Recommendations. Make recommendations to the Governor  
22 and the joint standing committee of the Legislature having  
23 jurisdiction over human resources matters with respect to  
24 modifications in existing services or establishment of additional  
25 services for deaf and hearing impaired persons and their families.

26 §18024. Advisory committee

27 There is established within the Department of Education,  
28 Office of Rehabilitation Services, Division of Deafness, an  
29 advisory committee consisting of 23 members and 3 nonvoting  
30 members-at-large to be appointed by the Director of the Office of  
31 Rehabilitation Services in conjunction with the Director of the  
32 Division of Deafness and representing equally consumers,  
33 professionals and the public. Members are entitled to  
34 compensation in accordance with Title 5, chapter 379.

35 The Director of the Office of Rehabilitation Services, in  
36 conjunction with the Director of the Division of Deafness, shall  
37 appoint, from the advisory committee, a chair and vice-chair to  
38 serve 2-year terms. The committee shall meet at the call of the  
39 chair but not less than 4 times during a calendar year. The  
40 chair may delegate duties to members to carry out the functions  
41 of the committee.

2 **§18025. Advisory committee; powers and duties**

4 The advisory committee shall advise the Director of the  
6 Office of Rehabilitation Services and shall prepare an annual  
8 report, which is a public document to the extent that it complies  
10 with section 18011. The report must include, but is not limited  
12 to:

14 1. Review. Review of the status of services to deaf and  
16 hearing impaired persons;

18 2. Recommendations. Recommendations for priorities for the  
20 development and coordination of services to deaf and hearing  
22 impaired persons;

24 3. Evaluation. An evaluation of the progress made as the  
26 result of recommendations made in the preceding report of the  
28 chair;

30 4. Statement of goals. A statement of goals for activities  
32 of the division during the subsequent fiscal year; and

34 5. Implementation of functions. The steps to be taken by  
36 the division to implement the functions listed in section 18023.

38 **§18026. Director of the Division of Deafness**

40 1. Director. The Director of the Office of Rehabilitation  
42 Services shall appoint the Director of the Division of Deafness,  
44 who is responsible for administering the Division of Deafness and  
46 its programs and policies, including generating and seeking out  
48 financial aid, grants and money.

50 2. Director of the Division of Deafness; staff;  
qualifications. The Director of the Division of Deafness and the  
staff must be knowledgeable of the needs of the deaf and hearing  
impaired and possess the ability to communicate on a meaningful  
basis with those persons.

Sec. B-2. 22 MRSA c. 714, as amended, is repealed.

PART C

Sec. C-1. 20-A MRSA c. 705 is enacted to read:

**CHAPTER 705**

**INDEPENDENT LIVING SERVICES FOR**  
**PEOPLE WITH DISABILITIES**



2           A. Routine bodily functions, such as bowel or bladder care;

4           B. Dressing;

6           C. Preparation and consumption of food;

8           D. Moving in and out of bed;

10          E. Routine bathing;

12          F. Ambulation; and

14          G. Any other similar function of daily living.

16          4. Severe physical disability. "Severe physical disability"  
18          means a functional loss of 3 extremities when it is anticipated  
20          that the loss is permanent.

22          §18042. Subsidy

24          The office shall subsidize, in whole or in part, personal  
26          care assistance services for individuals eligible under section  
28          18043. The amount of the subsidy for each hour of personal care  
30          assistance services is determined by the director of the office.  
32          The director of the office shall establish a sliding scale for  
34          financial participation by individuals who receive subsidies for  
36          personal care assistance services under this chapter.

38          The sliding scale must be based on the net income of  
40          individuals who apply for or receive subsidies for personal care  
42          assistance services. The expenses associated with each  
44          individual's disabilities must be factored into the calculation  
46          of net income for the individual. Information needed to  
48          determine net income must be furnished through the  
50          self-declaration of individuals who apply for or receive  
              subsidies, or their representatives.

§18043. Eligibility

An individual is eligible for a subsidy under section 18042  
              if that individual:

1. Severe physical disability. Has a severe physical  
              disability;

2. Employed. Is employed or ready for employment;

3. Need for services. Has a need documented under section  
              18044 for no fewer than 14 nor more than 35 hours a week of  
              personal care assistance services, which services are necessary



2 to enable the individual to be employed. The limitation of 35  
3 hours may be exceeded as provided in section 18044;

4 4. Not otherwise eligible. Is not otherwise eligible for  
5 personal care assistance services under other state or federal  
6 programs;

8 5. Agrees to reevaluation. Agrees to a periodic  
9 reevaluation of the individual's need for personal care  
10 assistance services and of the extent of that need; and

12 6. Income and support. Has no or insufficient personal  
13 income or other support from public services, family members or  
14 neighbors.

16 **§18044. Evaluation team report**

18 1. Team designation. The director of the office shall  
19 designate one or more evaluation teams, which shall consist of at  
20 least 2 persons, one of whom must be a registered nurse, licensed  
21 under Title 32, chapter 31, subchapter III, and one of whom must  
22 be a registered occupational therapist.

24 2. Duties. An individual who applies to the office for a  
25 personal care assistance services subsidy must be evaluated by an  
26 evaluation team, which shall determine the need of that  
27 individual for personal care assistance services and the extent  
28 of that need. If the team determines that the individual needs  
29 more than 35 hours a week of personal care assistance services,  
30 that recommendation must be part of the report to the director.

32 3. Redetermination. An individual receiving a personal  
33 care assistance services subsidy under section 18042 must be  
34 periodically reevaluated by an evaluation team to determine the  
35 individual's continuing need for personal care assistance  
36 services and the extent of that need.

38 **§18045. Rules**

40 The director of the office may adopt rules necessary to  
41 carry out the director's duties under this chapter.

42 **Sec. D-2. 22 MRSA c. 717-A, as amended, is repealed.**

44 **PARTE**

46 **Sec. E-1. 20-A MRSA c. 709 is enacted to read:**

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CHAPTER 709

ADVISORY COMMITTEE ON IMPROVING OUTDOOR  
RECREATIONAL OPPORTUNITIES FOR PERSONS  
WITH DISABILITIES

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§18051. Definitions

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

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1. Committee. "Committee" means the Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities, commonly known as "Maine Outdoor Recreation for Everyone" or M.O.R.E.

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§18052. Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities

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The Advisory Committee on Improving Outdoor Recreational Opportunities for Persons with Disabilities, as established in Title 5, section 12004-I, subsection 40-A, is within the Office of Rehabilitation Services. The following provisions apply to the committee.

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1. Membership. The committee consists of the following 19 members:

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36

A. One person or that person's designee from the Office of Rehabilitation Services, appointed by the commissioner;

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40

B. One person or that person's designee from the Department of Conservation, Bureau of Parks and Recreation, appointed by the Commissioner of Conservation;

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C. One person or that person's designee from the Department of Inland Fisheries and Wildlife who is knowledgeable about outdoor recreation, appointed by the Commissioner of Inland Fisheries and Wildlife;

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D. One person or that person's designee from the Department of Marine Resources who is knowledgeable about outdoor recreation, appointed by the Commissioner of Marine Resources;

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E. One person or that person's designee from the Department of Transportation who is knowledgeable about highway parks and rest areas, appointed by the Commissioner of Transportation;

2 F. One person or that person's designee from the Department  
3 of Economic and Community Development who is knowledgeable  
4 about local recreation planning, appointed by the  
5 Commissioner of Economic and Community Development;

6 G. Nine persons with disabilities, appointed by the  
7 Governor;

8  
9 H. Two persons involved in the business of providing  
10 recreational opportunities, appointed by the Governor;

11 I. One person representing an association of municipal  
12 recreation and parks officials, appointed by the Governor;  
13 and

14  
15 J. One member of the Legislature, appointed by the Chair of  
16 the Legislative Council.

17  
18 2. Term; vacancy. All members are appointed for a term of  
19 3 years. A vacancy is filled in the same manner as the initial  
20 appointment and for the remainder of the vacant term.

21  
22 3. Compensation. If funds permit, the committee, by  
23 majority vote, may set an amount for reimbursement of nonstate  
24 employee members, which may not exceed the compensation provided  
25 in Title 5, chapter 379.

26  
27 4. Chair. Annually, the committee shall choose one of its  
28 members to serve as chair. The committee may select other  
29 officers and designate their duties.

30  
31 5. Funds. The committee is authorized to accept state and  
32 federal funds, private grants and donations. As funding permits,  
33 the committee may award grants, enter into contracts and  
34 otherwise expend funds to carry out the purposes of this  
35 chapter. Expenditures may not be incurred that have an impact on  
36 the General Fund.

37  
38 6. Duties. The committee shall:

39  
40 A. Advise the commissioner, the Commissioner of Human  
41 Services, the Commissioner of Conservation, the Commissioner  
42 of Transportation, the Commissioner of Marine Resources, the  
43 Commissioner of Economic and Community Development and the  
44 Commissioner of Inland Fisheries and Wildlife on ways:

45  
46 (1) To provide technical assistance to outdoor  
47 recreational providers and users with regard to  
48 improving access for persons with disabilities;

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(2) To promote the expansion of existing, and the creation of new, recreational areas that are accessible to persons with disabilities;

(3) To make the public aware of existing outdoor recreational opportunities that are accessible to persons with disabilities; and

(4) To provide and disseminate information and education to public and private clubs, organizations and civic groups on making outdoor recreation accessible to persons with disabilities; and

B. Conduct, upon request, accessibility evaluations and provide technical assistance to outdoor recreational providers and users with regard to providing access for persons with disabilities.

**§18053. Report**

By January 15, 1995, the committee shall submit a report to the Governor and to the joint standing committee of the Legislature having jurisdiction over education matters. The report must include a description of the committee's activities, an assessment of the committee's effectiveness and an assessment of whether the committee should remain within the department.

**Sec. E-2. 22 MRSA c. 718, as amended, is repealed.**

**PART F**

**Sec. F-1. 20-A MRSA c. 711 is enacted to read:**

**CHAPTER 711**

**REHABILITATION SERVICES**

**§18065. Rehabilitation services**

The department, under the direction of the Governor, may establish, conduct and maintain rehabilitation work as part of its program of aid and assistance for students with disabilities. That rehabilitation work must be in cooperation with vocational education, as provided by chapter 313.

Funds provided for aid and assistance carried on by the department may be used in providing rehabilitation services.

**Sec. F-2. 22 MRSA c. 851, as amended, is repealed.**

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PART G

Sec. G-1. 20-A MRSA c. 713 is enacted to read:

CHAPTER 713

SERVICES FOR BLIND AND VISUALLY  
IMPAIRED INDIVIDUALS

§18070. Definitions

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

1. Blind or visually impaired person. "Blind or visually impaired person" means a person having not more than 20/200 central visual acuity in the better eye after correction or an equally disabling loss of the visual field so that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

2. Director. "Director" means the Director of the Division for the Blind and Visually Impaired.

3. Division. "Division" means the Division for the Blind and Visually Impaired in the department.

4. Jurisdiction. "Jurisdiction" means the control of the maintenance, operation and protection of public buildings and property of the State or of a county or a municipality.

5. Licensing agency. "Licensing agency" means the Division for the Blind and Visually Impaired, which is the state agency designated by the Rehabilitation Services Administration in the United States Department of Education to issue licenses to blind persons for the operation of vending facilities.

6. Operator. "Operator" means the blind person, duly licensed by the division, who personally operates the vending facility.

7. Public building or property. "Public building or property" means a building or land owned, leased or occupied by a department, agency or authority of the State or a county or a municipality of the State.

8. Vending facility. "Vending facility" means a restaurant, a cafeteria, including the cafeteria located in the

2 State Office Building in Augusta, a snack bar, a vending machine  
4 for food and beverages and goods and services customarily offered  
6 in connection with a restaurant, a cafeteria, a snack bar or a  
8 vending machine.

6 **§18071. Division for the Blind and Visually Impaired**

8 The Division for the Blind and Visually Impaired is  
10 established within the Department of Education under the  
12 jurisdiction of the Director of the Division for the Blind and  
14 Visually Impaired. The commissioner shall appoint the director,  
16 subject to the Civil Service Law.

14 **§18072. Jurisdiction of director, defined**

16 "Jurisdiction of the director" means having direct  
18 administrative responsibility for all programs and personnel  
20 under this chapter.

20 **§18073. Program established**

22 The division shall provide a program of services for the  
24 blind, including prevention of blindness, locating of blind  
26 persons, vocational guidance and training of the blind, placement  
28 of blind persons in employment, assistance to local schools in  
30 meeting the special needs of blind students, instruction of adult  
32 blind persons in their homes and other social services to the  
34 blind.

30 **§18074. Education of blind children**

32 1. Division services. The division shall provide the  
34 following services to blind and visually impaired persons from  
36 birth to age 21:

36 A. Itinerant teacher services;

38 B. Mobility instruction;

40 C. Braille instruction;

42 D. Low-vision services;

44 E. Special aids and supplies needed to participate in the  
46 educational process; and

48 F. Advocacy, counseling and guidance services to students  
and their parents.

2           2. School administrative units. Nothing in this section  
3 relieves school administrative units from fulfilling their  
4 responsibilities under Part 4, subpart 1.

6           **§18075. Mandatory report of blindness**

8           Whenever, upon examination at a clinic, hospital or other  
9 institution, or elsewhere, by the physician, optometrist,  
10 institutional superintendent or other person conducting the  
11 examination, the visual acuity of a person is found to be with  
12 correction 20/200 or less in the better eye, or the peripheral  
13 field of the person's vision is found to have contracted to a  
14 20-degree diameter or less, regardless of visual acuity, the  
15 person conducting the examination shall, within 30 days, report  
16 to the director the result of the examination and that blindness  
17 of the person examined has been established. The report may not  
18 be made if the person examined so requests. If blindness of the  
19 person examined has been established, the division shall inform  
20 and advise that person as to services for the blind provided by  
21 the division.

22           **§18076. Business enterprise program**

24           To provide blind persons with remunerative employment,  
25 enlarge the economic opportunities of blind persons and encourage  
26 blind persons to become self-supporting, the officer, board or  
27 other authority in charge of a building or property shall grant  
28 to the division authority:

30           1. Vending facility. To install in a building or property  
31 a vending facility whenever a vending facility may be operated by  
32 an operator; and

34           2. Vending machines. To place vending machines operated by  
35 the division in a building or property if a vending facility  
36 operated by an operator is not warranted. Income from these  
37 vending machines must be used for the purposes set forth in this  
38 section.

40           **§18077. Preference**

42           The officer, board or other authority in charge of a  
43 building or property shall:

44           1. Policies. Adopt policies and take actions necessary to  
45 ensure that operators are given preference in the establishment  
46 and the operation of vending facilities on property under its  
47 jurisdiction;

2           2. Surveys. Cooperate with the division in surveys of  
3 properties and buildings under its control in order to find  
4 suitable locations for the operation of vending facilities by  
5 operators, and after a determination that a facility may be  
6 operated by an operator, shall cooperate with the division in the  
7 installation of a vending facility;

8           3. Income. To achieve and protect the preference of blind  
9 persons in the operation of vending facilities, arrange for the  
10 assignment of the income derived from vending machines that are  
11 located in proximity to and in direct competition with a vending  
12 facility for which authority is granted pursuant to this chapter,  
13 to the operator or operators affected. A vending machine that  
14 vends articles authorized for vending pursuant to section 18070,  
15 subsection 8, and is so located that it attracts customers who  
16 would otherwise patronize the vending facility considered to be  
17 in proximity to and in direct competition with the vending  
18 facility;

19           4. Licensing. Not less than 30 days prior to the license  
20 renewal or licensing for the operation of a vending facility,  
21 inform the division;

22           5. Vending machines. Allow the division to place vending  
23 machines in a building where a vending facility operated by an  
24 operator would not be feasible. Income from these machines  
25 accrues to the division's set-aside account for purposes stated  
26 in section 18076; and  
27

28           6. Locations. Inform the division of locations where  
29 vending facilities are planned that might be operated in or near  
30 other buildings or properties that may be or may come under the  
31 jurisdiction of a department, agency or authority of the State or  
32 of a county or a municipality.  
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35 **§18078. Powers and duties of the division**

36  
37 In carrying out this chapter the division shall:

38  
39 **1. Rules.** Prescribe rules governing:

40  
41 A. The maintenance of a roster of blind persons eligible to  
42 become operators and issuance of licenses;

43  
44 B. A fair hearing. In the case of an operator desiring to  
45 appeal a decision that the operator determines to be adverse  
46 to the operator the division shall appoint a hearing board  
47 consisting of 3 persons, one to be chosen by the operator,  
48 one to be chosen by the division and the 3rd person chosen  
49 by the other 2 persons. The decision of the board is final;  
50



2           C. The right to, the title to and the interest in vending  
4           facility equipment and stock; and

6           D. The civil rights of operators;

8           2. Other. Prescribe rules necessary to carry out the  
10           purposes of this chapter;

12           3. Surveys. Conduct surveys to find locations where vending  
14           facilities may be operated by operators and establish vending  
16           facilities as it determines appropriate;

18           4. Management. Provide management and supervisory services  
20           determined necessary to ensure that each vending facility is  
22           operated in the most effective and productive manner possible;

24           5. Plans. Provide plans and specifications for proposed  
26           vending facilities and equipment to the appropriate officer,  
28           board or authority for approval prior to installation; and

30           6. Other action. Take any other action necessary or  
32           appropriate to carry out the purposes of this chapter.

34           **§18079. Construction, remodeling; planning for vending facility**

36           To carry out the purposes of this chapter, when new  
38           construction, remodeling, leasing, acquisition or improvement of  
40           public buildings or properties is authorized, the agency  
42           directing that construction, remodeling, leasing, acquisition or  
44           improvement shall, when the size of the building or property  
46           warrants, make available suitable space and facilities for  
48           vending facilities to be operated in the building or property by  
50           operators.

**§18080. Construction of buildings**

If a suitable location is available for a vending facility  
          that requires the construction of a portable building, the  
          division may construct such a building and may have the use of  
          the land on which to construct the building..

**§18081. Exemptions**

A license fee, a rental fee or other charge may not be  
          demand, assessed, exacted, required or received from an  
          operator.

**§18082. Correctional, mental and certain educational institutions**

2 This chapter does not apply to or authorize the installation  
4 of vending facilities in a building wholly used by a correctional  
6 or mental institution or by an educational institution of any  
8 type supported in whole or in part from public funds, unless that  
10 educational institution is a university, college, junior college  
12 or a technical college.

8 **§18083. Application**

10 If a vending facility not under the control of the division  
12 exists in a building or on property of the State, a county or a  
14 municipality, the person having jurisdiction over that building  
16 or property shall give preference to the division to continue  
18 operation of the vending facility when an existing lease or  
20 contract expires or is terminated.

18 **Sec. G-2. 22 MRSA c. 959, as amended, is repealed.**

20 **PART H**

22 **Sec. H-1. 20-A MRSA c. 715 is enacted to read:**

24 **CHAPTER 715**

26 **DEAF AND HARD-OF-HEARING PERSONS**

28 **SUBCHAPTER I**

30 **GENERAL PROVISIONS**

32 **§18091. General provisions**

34 1. Definitions. As used in this chapter, unless the  
36 context otherwise indicates, the following terms have the  
38 following meanings.

40 A. "Deaf person" means a person whose sense of hearing is  
42 nonfunctional for the purpose of ordinary communication.

44 B. "Hard-of-hearing person" means a person whose sense of  
46 hearing is defective, but still functional, with or without  
48 amplification.

50 C. "Speech-impaired person" means a person whose speech is  
nonfunctional or defective for the purpose of ordinary  
communication.

D. "Telecommunications device for the deaf" means a  
teletypewriter or other telecommunication equipment used by

2           deaf, hard-of-hearing or speech-impaired persons to conduct  
3           telephone communications.

4           E. "Telecommunications relay service" means a service  
5           transmitting messages and information between a person using  
6           standard telephone equipment for spoken communications and a  
7           deaf, hard-of-hearing or speech-impaired person using a  
8           telecommunications device for the deaf.

10          2. Teletypewriter system. The department shall consult  
11          with appropriate agencies and organizations serving the deaf  
12          community concerning the needs of the teletypewriter system. To  
13          the extent that funds are available, the department shall take  
14          steps necessary to preserve and maintain a viable teletypewriter  
15          system for use by the deaf population in this State, including,  
16          but not limited to, providing for repair services and equipment  
17          for loaning to persons whose teletypewriter equipment is being  
18          repaired.

20          **§18092. Telecommunication equipment for deaf, hard-of-hearing and**  
21          **speech-impaired persons**

22          1. Money for telecommunication equipment. The Office of  
23          Rehabilitation Services within the department, pursuant to  
24          appropriation of money to the office for special  
25          telecommunication equipment for deaf, hard-of-hearing and  
26          speech-impaired persons, shall, upon request, provide up to 50%  
27          of the cost of special telecommunication equipment to an  
28          organization or municipality that makes available the remaining  
29          funds for this equipment in a manner satisfactory to the Director  
30          of the Office of Rehabilitation Services.

31          2. Telecommunications Equipment Fund. There is established  
32          the Telecommunications Equipment Fund to be used by the Division  
33          of Deafness within the Office of Rehabilitation Services. The  
34          Division of Deafness may accept gifts or grants for the purposes  
35          of this section. These gifts and grants and authorized  
36          appropriations must be deposited in the Telecommunications  
37          Equipment Fund and disbursed in accordance with this section.  
38          The Telecommunications Equipment Fund may be used for purchase,  
39          lease, upgrading, installation, maintenance and repair of special  
40          telecommunications equipment for deaf, hard-of-hearing or  
41          speech-impaired persons. The Division of Deafness may draw on  
42          the Telecommunications Equipment Fund in accordance with the  
43          telecommunications equipment plan required under subsection 3.

44          3. Telecommunications equipment plan. The Division of  
45          Deafness shall develop a plan to make special telecommunications  
46          equipment available to deaf, hard-of-hearing or speech-impaired  
47          persons and to distribute money from the Telecommunications  
48          equipment plan required under subsection 3.

2 Equipment Fund. The plan must be developed by the Division of  
4 Deafness annually, not later than January 1st, in accordance with  
6 the rule-making procedures in Title 5, chapter 375. The plan  
8 must provide for the expenditure of money from the  
10 Telecommunications Equipment Fund for the benefit of deaf,  
12 hard-of-hearing or speech-impaired persons for the purchase,  
14 lease, upgrading, installation, maintenance and repair of special  
16 telecommunications equipment capable of serving their needs.  
18 Persons who are profoundly deaf or speech impaired so that they  
20 are unable to use the telephone for expressive or receptive  
22 communications, as verified by a written report from an  
24 otologist, an audiologist or a physician, are eligible for  
26 assistance from the Telecommunications Equipment Fund. The plan  
28 must include specific criteria that govern the priorities  
30 assigned to various persons who need this equipment. The  
32 criteria must take into account household income, degree of  
34 impairment, need for emergency communications, living  
36 arrangements and other factors determined relevant by the  
38 Division of Deafness.

## 22 SUBCHAPTER II

### 24 RIGHTS OF DEAF AND HARD-OF-HEARING PERSONS

#### 26 §18101. Policy

28 It is the policy of this State to encourage and enable deaf  
30 and hard-of-hearing persons to participate fully in the social  
32 and economic life of this State and to engage in remunerative  
34 employment. The provisions of rights and penalties for denial of  
36 those rights, as specified in this subchapter, are not intended  
38 to abrogate any actions or penalties provided for violation of  
40 human rights, as specified in the Maine Human Rights Act, Title  
42 5, chapter 337.

#### 36 §18102. Rights

38 The rights, established by this subchapter, of deaf and  
40 hard-of-hearing persons are as follows.

42 1. Streets and public places. Deaf and hard-of-hearing  
44 persons have the same rights as able-bodied persons to the full  
46 and free use of the streets, highways, sidewalks, walkways,  
48 public buildings, public facilities and other public places.

48 2. Public conveyances. Deaf and hard-of-hearing persons  
50 are entitled to full and equal accommodations, advantages,  
facilities and privileges of all common carriers, airplanes,  
motor vehicles, railroad trains, motor buses, street cars, boats

2 or any other public conveyances or modes of transportation,  
3 hotels, lodging places, places of public accommodation or  
4 amusement, or resorts and other places to which the general  
5 public is invited, subject only to the conditions and limitations  
6 established by law and applicable alike to all persons.

7 3. Guide dogs. Every deaf or hard-of-hearing person has  
8 the right to be accompanied by a guide dog, described and known  
9 as a "hearing dog," especially trained for the purpose, and  
10 identified by a collar and leash colored hunter orange, as that  
11 color is defined in Title 12, section 7001, subsection 16, in a  
12 place listed in subsection 2 without being required to pay an  
13 extra charge for the guide dog, except that the person is liable  
14 for any damage done to the premises or facilities by that dog.  
15 When the deaf or hard-of-hearing person is accompanied by a guide  
16 dog, the person must also carry a card, issued by the Office of  
17 Rehabilitation Services, that states that the dog is an  
18 especially trained guide dog and cites section 18101 and this  
19 section that allow for access by the person and the person's dog  
20 to streets, public places and public conveyances.

21 4. Especially trained guide dog trainer; access to public  
22 facilities; responsibilities. An especially trained hearing dog  
23 trainer, while engaged in the actual training of hearing dogs,  
24 has the same rights, privileges and responsibilities with respect  
25 to access to public facilities as a deaf or hard-of-hearing  
26 person.

27 5. Housing accommodations; persons with hearing-assistance  
28 animals. Every hard-of-hearing person who has a  
29 hearing-assistance animal is entitled to full and equal access to  
30 all housing accommodations provided for in this section.  
31 Hard-of-hearing persons may not be required to pay extra  
32 compensation to keep hearing-assistance animals. A  
33 hard-of-hearing person is liable for any damage done to the  
34 premises by the animal.

35 6. Housing accommodations; defined. "Housing  
36 accommodations," as used in this section, means a real property,  
37 or portion of real property, that is used or occupied, or is  
38 intended, arranged or designed to be used or occupied, as the  
39 home, residence or sleeping place of one or more human beings,  
40 including, but not limited to, public housing projects and all  
41 forms of publicly assisted housing, single-family and multifamily  
42 rental and sale units, lodging places, condominiums and  
43 cooperative apartments. "Housing accommodations" does not  
44 include:

45 A. The rental of a housing accommodation in a building that  
46 contains housing accommodations for not more than 2 families  
47

2 living independently of each other, if the owner or members  
3 of the owner's family reside in that housing accommodation;  
4 or

5 B. The rental of a room or rooms in a housing  
6 accommodation, if the rental is by the occupant of the  
7 housing accommodation or by the owner of the housing  
8 accommodation and the owner or members of the owner's family  
9 reside in that housing accommodation.

10 **§18103. Motor vehicle drivers**

11 The driver of a vehicle approaching a deaf or  
12 hard-of-hearing person using a properly identified guide dog  
13 shall take all necessary precautions to avoid injury to that  
14 person and the guide dog. A driver who fails to take such  
15 precautions is liable in damages for any injury caused to that  
16 person or dog. A deaf or hard-of-hearing person not using a  
17 guide dog in any of the places, accommodations or conveyances  
18 listed in section 18102 has all of the rights and privileges  
19 conferred by law upon other persons. The failure of a deaf or  
20 hard-of-hearing person to use a guide dog in those places,  
21 accommodations or conveyances does not constitute nor is it  
22 evidence of contributory negligence.

23 **§18104. Penalty; misrepresentation of hearing dog**

24 A person or the person's agent who denies or interferes with  
25 admittance to or enjoyment of the public facilities described in  
26 section 18102 or otherwise interferes with the rights of a deaf  
27 or hard-of-hearing person under section 18102 commits a Class E  
28 crime.

29 A person who fits a dog with a collar and leash of the type  
30 required by section 18102, subsection 3 in order to represent  
31 that the dog is a hearing dog when training of the type that a  
32 hearing dog normally receives has not in fact been provided  
33 commits a civil violation for which a forfeiture not to exceed  
34 \$100 may be adjudged.

35 **Sec. H-2. 22 MRSA c. 963, as amended, is repealed.**

36 **PART I**

37 **Sec. I-1. 20-A MRSA c. 717 is enacted to read:**

38 **CHAPTER 717**

39 **PERSONAL CARE ASSISTANCE SERVICES FOR**

**ADULTS WITH SEVERE PHYSICAL DISABILITIES**

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**§18111. Program established**

The department shall establish a program of personal care assistance services, including consumer-directed personal care assistance services, for adults with long-term care needs who are eligible under section 18112.

**§18112. Eligibility**

An adult with long-term care needs is eligible for personal care assistance services under this chapter if the department or its designee determines that the adult:

1. Severe disability. Has a severe disability;
2. Need for services. Needs personal care assistance services or an attendant at night, or both, which services are necessary to prevent, or remove the adult from, inappropriate placement in an institutional setting; and
3. Income and support. Has no or insufficient personal income or other support from public services, family members and neighbors. A sliding scale must be established for services provided under this chapter. The sliding scale must be based on the net income of individuals who receive subsidies for personal care assistance services. The expenses associated with each individual's disabilities must be factored into the calculation of net income for the individual.

**§18113. Evaluation teams**

1. Team designation. The commissioner shall designate evaluation teams in the State to assist the department with evaluations of adults with long-term care needs who apply for personal care assistance services pursuant to this chapter.
2. Membership. Each evaluation team includes at least one registered nurse, one registered occupational therapist and the adult with long-term care needs.
3. Duties. For each adult with long-term care needs evaluated by an evaluation team, the team shall assist the department to:
  - A. Determine the eligibility of the adult for personal care assistance services;

2 B. Determine the capability of the adult, at the time of  
4 evaluation or after skills training provided pursuant to  
6 subsection 4, to hire and direct a personal care assistant;

8 C. Reevaluate the adult periodically to determine the  
10 adult's continuing need for the services; and

12 D. Consult when possible with the adult's attending  
14 physician.

16 4. Skills training. The commissioner may authorize an  
18 evaluation team to arrange for skills training for an adult with  
20 long-term care needs who applies for consumer-directed personal  
22 care assistance services pursuant to this chapter. Skills  
24 training may be provided in the following areas by the following  
26 individuals:

28 A. Personal health management to maximize personal  
30 well-being in relation to the adult's disability, provided  
32 by a registered nurse or other qualified person experienced  
34 in the rehabilitation of the severely disabled, including  
36 all aspects of prevention, maintenance and treatment  
38 techniques;

40 B. Personal care assistant management, provided by a  
42 registered nurse experienced in the rehabilitation of the  
44 severely disabled, including training in recruiting, hiring  
46 and managing a personal care assistant; scheduling; and  
48 potential problems; and

50 C. Functional skills required to maximize the adult's  
abilities in activities of daily living, provided by a  
registered occupational therapist experienced in the  
rehabilitation of the severely disabled.

Sec. I-2. 22 MRSA c. 1625, as amended, is repealed.

## PART J

Sec. J-1. 5 MRSA §48, sub-§3, as amended by PL 1989, c. 36, is  
further amended to read:

3. Interpreting services and coordination for interpreters;  
request to the Office of Rehabilitation Services; interpreter  
compensation; continuation of services. Interpreting services  
and coordination for interpreters are governed as follows.

A. With the cooperation of the Maine Association of the  
Deaf and the National Registry of Interpreters for the Deaf,



2 the Bureau Office of Rehabilitation Services is authorized  
and directed to prepare and continually update a listing of  
4 qualified and available interpreters.

6 B. When requested by an agency or court, the Bureau Office  
of Rehabilitation Services shall furnish the agency or court  
8 with a directory of information on appropriate and qualified  
interpreter sources.

10 C. An interpreter appointed under this section shall ~~must~~  
be reimbursed by the Bureau Office of Rehabilitation  
12 Services, upon certification by the appropriate agency or  
court of services performed, at a fixed rate reflecting the  
14 current fee schedule as established by the Bureau Office of  
Rehabilitation Services, plus travel expenses; ~~provided~~  
16 ~~except~~ that employees of the State or any of its political  
subdivisions, public employees and public or private school,  
18 university and college teachers or administrators for  
interpreting services or anyone who receives salary during  
20 regular work hours shall ~~may~~ not be reimbursed under this  
section for interpreter services performed during their  
22 regular working hours. Nothing in this section may ~~be~~  
~~construed as preventing~~ prevents any agency or court from  
24 employing a qualified interpreter on a full-time basis or  
under contract at a mutually agreed upon compensation rate.

26 D. It shall ~~be~~ is the sole responsibility of the Director  
of the Bureau Office of Rehabilitation Services to assure  
28 ensure implementation and continuation of the provisions of  
this section.  
30

32 Sec. J-2. 5 MRSA §937, sub-§1, as amended by PL 1991, c. 716,  
§2, is further amended to read:

34 I. Major policy-influencing positions. The following  
36 positions are major policy-influencing positions within the  
Department of Education. Notwithstanding any other provision of  
38 law, these positions and their successor positions shall ~~be~~ are  
subject to this chapter:

40 A. ~~Assistant to the~~ Deputy Commissioner;

42 B. Deputy Commissioner;

44 C. ~~Associate Commissioner, Bureau of School Management;~~

46 D. ~~Associate Commissioner, Bureau of Instruction;~~

48 E. ~~Associate Commissioner, Bureau of Applied Technology and~~  
50 ~~Adult Learning;~~

- 2 F. Director, Planning and Management Information;
- 4 G. Federal and State Education Program Coordinator; and
- 6 H. Executive Director, Interdepartmental Council, with the
- 8 approval of the other commissioners of the Interdepartmental
- 10 Council; and
- 10 I. Director, Office of Rehabilitation Services.

12 **Sec. J-3. 5 MRSA §1822**, as amended by PL 1989, c. 14, §1, is

14 further amended to read:

16 **§1822. Blind-made products**

18 A Blind-made Products Committee, comprising the State

20 Purchasing Agent, the Director of the Bureau Office of

22 Rehabilitation Services and the Director of the Division for the

24 Blind and Visually Impaired, Bureau Office of Rehabilitation

26 Services, and hereafter in this section and sections 1822 to 1823

28 and 1824 called "the committee," shall determine the price of all

30 products which that meet specifications prescribed by the State

32 Purchasing Agent and are agreeable to all members of the

34 committee and which are manufactured by the Maine Institution

Center for the Blind and Visually Impaired and offered for sale

to the State or any political subdivision, any governmental

agency or public benefit corporation thereof, and of the State.

The committee shall revise such prices from time to time in

accordance with changing cost factors and shall make such rules

and regulations regarding selection of products, time of delivery

and other relevant matters as shall be necessary to carry out the

purpose of this section and sections 1822 to 1823 and 1824.

36 **Sec. J-4. 5 MRSA §1824**, as enacted by PL 1973, c. 198, is

amended to read:

38 **§1824. Procurement by State or any political subdivisions of the**

40 **State**

42 Products manufactured by the blind and offered for sale by

44 the Maine Institution Center for the Blind and Visually Impaired,

46 meeting specifications prescribed by the State Purchasing Agent,

48 which that the State or any political subdivision, governmental

agency or public benefit corporation thereof shall require of the

State requires for their its purposes, shall must be purchased,

when and where possible, from the Maine Institution Center for

the Blind, whenever such products are selected by the committee,

and agreeable to Maine Institution for the Blind, and Visually

Impaired and offered to such the State or any political

subdivision, governmental agency or public benefit corporation thereof, of the State at the agreed-upon price and according to the rules and regulations as made by the committee.

Sec. J-5. 5 MRSA §1826-C, sub-§1, as enacted by PL 1985, c. 359, §3, is amended to read:

1. **Committee established.** There is established the Work Center Purchases Committee, consisting of the State Purchasing Agent, the Director of the Bureau Office of Rehabilitation Services, a representative of the Department of Mental Health and Mental Retardation, a representative of work centers, a disabled person and a representative of the business community.

Sec. J-6. 5 MRSA §12004-I, sub-§40, as enacted by PL 1987, c. 786, §5, is amended to read:

40.	Advisory Com-	Expenses	22	20-A	MRSA
Human	mittee to	Only	§3074	§18024	
Services+	Division of				
<u>Education</u>	Deafness				
Rehabilitation					
<u>Services</u>					

Sec. J-7. 20-A MRSA §203, sub-§1, as amended by PL 1993, c. 410, Pt. F, §2, is further amended to read:

1. **Commissioner's appointments.** The following officials ~~must--be~~ are appointed by and serve at the pleasure of the commissioner:

- A. ~~Assistant-to-the~~ Deputy Commissioner;
- B. Deputy Commissioner;
- F. Director, Planning and Management Information;
- G. Federal and State Education Program Coordinator; and
- H. Executive Director, Interdepartmental Council, with the approval of the other commissioners of the Interdepartmental Council; and
- I. Director, Office of Rehabilitation Services.

Sec. J-8. 20-A MRSA §7801, sub-§1, as repealed and replaced by PL 1993, c. 349, §46, is repealed.

Sec. J-9. 20-A MRSA §7803, first ¶, as repealed and replaced by PL 1993, c. 349, §47, is repealed.

2           **Sec. J-10. 26 MRSA §475, 2nd ¶**, as amended by PL 1985, c. 246,  
3           §2, is further amended to read:

4  
5           The board ~~shall consist~~ consists of 9 members, of whom 6  
6           ~~shall be~~ are appointed ~~to membership~~ by the director, subject to  
7           the approval of the Governor. Each member ~~shall hold~~ holds office  
8           until ~~his~~ a successor is duly appointed. At the expiration of  
9           each member's term, ~~his~~ that member's successor ~~shall be~~ is  
10          appointed by the director, subject to the approval of the  
11          Governor, from the same classification in accordance with this  
12          section for a term of 4 years. In case of a vacancy in board  
13          membership, the director, with the approval of the Governor,  
14          ~~shall appoint~~ appoints a member of the proper classification to  
15          serve the term of the absent member. Of the 6 members of the  
16          board appointed by the director, one ~~shall be representative of~~  
17          must represent owners or lessees of elevators ~~within~~ in the  
18          State; one ~~shall be a representative of~~ must represent  
19          manufacturers of elevators; one ~~shall~~ must be a licensed elevator  
20          mechanic; one ~~shall~~ must be a representative of a ski area  
21          operator presently operating tramways in the State; one ~~shall~~  
22          must be a qualified licensed professional engineer, who is  
23          familiar with tramway design, inspection and operation; and one  
24          ~~shall~~ must be a public member. The 7th member of the board ~~shall~~  
25          must be a physically handicapped person appointed by the Director  
26          of the Bureau Office of Rehabilitation Services, subject to the  
27          approval of the Governor, for a term of 4 years. The 8th member  
28          of the board ~~shall~~ must be a member of the Division of Fire  
29          Prevention appointed by the Commissioner of Public Safety and the  
30          9th member of the board ~~shall be~~ is the Director of the Bureau of  
31          Labor Standards, who ~~shall be chairman~~ is chair of the board.

32  
33           **Sec. J-11. 29 MRSA §252-F**, as enacted by PL 1987, c. 228, is  
34           amended to read:

35           **§252-F. Hard-of-hearing persons; special designating placards**

36  
37           The Secretary of State, on application, shall issue a  
38           ~~hearing-impaired~~ hard-of-hearing placard to any person who is  
39           ~~hearing-impaired~~ hard-of-hearing when that application is  
40           accompanied by a form, available from the Division of Deafness,  
41           Bureau Office of Rehabilitation Services, certified by a  
42           physician or an audiologist stating that the applicant is ~~hearing~~  
43           ~~impaired~~ hard-of-hearing and cannot hear or understand normal  
44           speech. The placard ~~shall~~ must be displayed in a conspicuous  
45           location in the vehicle as near to the operator as possible  
46           without obstructing the view of the operator. The fee for the  
47           placard ~~shall be~~ is \$1.

2           **Sec. J-12. 35-A MRSA §7302, sub-§1**, as amended by PL 1993, c.  
275, §1, is further amended to read:

4           **1. Rate reduction.** The commission shall establish a 70%  
6 rate reduction for intrastate toll calls made on lines, or via  
credit cards assigned to lines, used for making calls to and from  
8 certified deaf, hard-of-hearing or speech-impaired persons who  
must rely on teletypewriters for residential telephone  
10 communications. In addition, the 70% rate reduction must apply  
to all calls using the state telecommunications relay service.  
12 This reduction must also apply to intrastate toll calls made by  
agencies, certified by the Division of Deafness in the Department  
14 of ~~Human-Services~~ Education as eligible to receive a discount,  
while providing vocal relay services to deaf, hard-of-hearing or  
16 speech-impaired persons, as well as to community service centers  
serving deaf, hard-of-hearing or speech-impaired persons,  
18 certified by the Division of Deafness of the Department of ~~Human~~  
Services Education as eligible to receive a discount. The costs  
20 incurred by a telephone company under this subsection are just  
and reasonable expenses for rate-making purposes.

22           **Sec. J-13. 35-A MRSA §7505, sub-§§1 and 5**, as enacted by PL  
1987, c. 502, §1, are amended to read:

24           **1. State buildings.** The Department of ~~Administration~~  
26 Administrative and Financial Services shall require the  
installation and maintenance of telecommunication devices for  
28 communication for the hearing ~~hard-of-hearing~~ and ~~speech-impaired~~  
speech-impaired who rely on those devices for telephone  
30 communications in locations accessible to the public in state  
buildings where a primary function is the delivery of service to  
32 the general public, in accordance with a plan developed by the  
Department of ~~Administration~~ Administrative and Financial  
34 Services, Office of Information Services and the Department of  
~~Human--Services~~ Education, Bureau Office of Rehabilitation  
36 Services.

38           **5. Devices.** The requirements of this section may be  
40 satisfied by installation of telecommunication typewriters,  
including so-called telecommunication devices for the deaf, or  
42 other devices approved by the Department of ~~Human--Services~~  
Education, Bureau Office of Rehabilitation Services, Division of  
Deafness.

44           **Sec. J-14. 35-A MRSA §8704, sub-§1, ¶A**, as enacted by PL 1989,  
46 c. 851, §7, is amended to read:

48           **A.** The Director of the Division of Deafness, Department of  
~~Human-Services~~ Education, or a designee;

50

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

4

6

### STATEMENT OF FACT

8           This bill makes statutory changes in the laws necessary to  
incorporate the Office of Rehabilitation Services within the  
10 Department of Education and meet the requirements of Resolve  
1993, chapter 43.

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16           This document has not yet been reviewed to determine the  
need for cross-reference, stylistic and other technical  
18 amendments to conform existing law to current drafting standards.