

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 581

H.P. 424

House of Representatives, February 17, 1995

An Act to Amend Provisions of the Child and Family Services and Child Protection Act Relating to Voluntary Agreements.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative FITZPATRICK of Durham.
Cosponsored by Representatives: BRENNAN of Portland, DORE of Auburn, ETNIER of Harpswell, JONES of Bar Harbor, POVICH of Ellsworth.

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

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4 **Sec. 1. 22 MRSA §4002, sub-§5**, as enacted by PL 1979, c. 733, §18, is repealed and the following enacted in its place:

6 **5. Custodian.** "Custodian" means the person who has legal custody of a child or the person with whom the child lives and who has parental rights and responsibilities for that child.

10 **Sec. 2. 22 MRSA §4002, sub-§5-A** is enacted to read:

12 **5-A. Interdisciplinary team.** "Interdisciplinary team" means all parties to a voluntary agreement as established pursuant to section 4004-A, subsection 3.

16 **Sec. 3. 22 MRSA §4002, sub-§6-A**, as enacted by PL 1985, c. 495, §16, is repealed and the following enacted in its place:

18 **6-A. Licensed mental health professional.** "Licensed mental health professional" means any of the following individuals who are licensed to practice their profession in the state in which their practice is located: psychiatrist, psychologist, licensed clinical social worker, licensed clinical professional counselor, licensed master social worker conditional II or licensed clinical professional counselor conditional.

26 **Sec. 4. 22 MRSA §4004-A, sub-§1, ¶¶C to F** are enacted to read:

28 **C.** The child for whom the custodian is seeking services is 18 years of age or younger.

32 **D.** The department finds that the child for whom the custodian is seeking services is willing and able, as determined by a licensed mental health professional, to participate in the specific services recommended by the department.

36 **E.** The department finds that the custodian is willing and able, as determined by a licensed mental health professional, to participate to whatever degree is necessary in the treatment recommended for the child.

40 **F.** The department finds that the custodian has used all appropriate community resources before requesting a voluntary agreement with the department, including, but not limited to:

42 **(1)** The Bureau of Children with Special Needs case management system;

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(2) Special education services;

(3) Medicaid coverage through either categorically needy, medically needy or the so-called "Katie Beckett" option; and

(4) Local mental health clinic services.

Sec. 5. 22 MRS §4004-A, sub-§§1-A and 1-B are enacted to read:

1-A. Application for agreement. A custodian wishing to enter into a voluntary agreement shall contact the Bureau of Child and Family Services to request an application for the voluntary agreement program and shall return the completed application to the bureau along with the following:

A. A certified copy of the child's birth certificate;

B. The child's social security number;

C. A copy of the most recent pupil evaluation team recommendation, if any;

D. Copies of all psychological evaluations and testing results, discharge summaries from psychiatric hospitals, a family psycho-social evaluation and signed releases of information for all previous and current health and mental health providers;

E. A copy of the child's Medicaid card, if any;

F. The name, address and telephone number of the Bureau of Children with Special Needs case manager, if applicable;

G. A list of community resources used, the dates of services received and the providers' names, addresses and telephone numbers;

H. Copies of decisions of denial of services from providers;

I. A copy of the parents' state income tax returns for the past 2 years;

J. A copy of any child support order currently in effect; and

2 K. Documentation of private insurance, if covered, and a
3 signed 3rd-party resource information request on
4 departmental forms.

6 1-B. Procedures; decision; administrative appeal. The
7 following procedures govern decision making on an application for
8 a voluntary agreement.

10 A. The Bureau of Child and Family Services shall review the
11 application to determine that all conditions have been met
12 for an agreement established in subsection 1.

14 B. If the Bureau of Child and Family Services' application
15 fulfills the conditions of subsection 1 and the department
16 determines that it has sufficient funds and treatment
17 resources available:

18 (1) The department shall establish an
19 interdisciplinary team to develop a service plan,
20 including interdepartmental funding responsibilities,
21 and prepare a voluntary agreement under subsection 2
22 for signing; and

24 (2) Within 10 days of the signing of a voluntary
25 agreement, the department shall file a petition for a
26 court finding under subsection 1, paragraph A.

28 C. If the Bureau of Child and Family Services determines
29 that an application does not fulfill the conditions for an
30 agreement, the bureau will notify the applicant in writing
31 of its decision.

32 D. A custodian or authorized representative of the child
33 aggrieved by the department's decision based on failure to
34 meet the conditions of subsection 1 may request an
35 administrative hearing in accordance with the Maine
36 Administrative Procedure Act.

38 A written request for an administrative hearing must be
39 received by the department within 10 working days of receipt
40 of notice of the department's action. A request for a
41 hearing must state in detail the aggrieved person's reasons
42 for believing the department's action to be incorrect. If
43 the department does not receive a hearing request within the
44 time allowed, the department's action becomes final at the
45 end of that period.

48 Sec. 7. 22 MRSA §4004-A, sub-§2, ¶A, as enacted by PL 1993, c.
49 724, §1, is amended to read:

2 A. The agreement may not exceed 180 days measured from the
3 date the agreement is signed by all parties unless, within
4 the 180 days, the District Court has found that returning to
5 the custodian's home would be detrimental to the welfare of
6 the child. If the court has made that determination, the
7 agreement may continue but must be reviewed by the court no
8 more than 18 months after commencement of the agreement and
at least every 2 years following the 18-month review.

10 **Sec. 8. 22 MRSA §4004-A, sub-§2, ¶C**, as enacted by PL 1993, c.
11 724, §1, is repealed and the following enacted in its place:

12 C. The agreement must specify the financial contribution
13 that the custodian shall make to the care of the child, as
14 determined by the Bureau of Child and Family Services, based
15 on the forms used by the district courts in child support
16 orders. Resources that the custodian shall contribute
17 include, but are not limited to:

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19 (1) Benefits for which the child is eligible through
20 supplemental security income, disability, the veterans'
21 administration or other federal financial sources;

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23 (2) Private insurance coverage; and

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25 (3) Disposable income.

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27 **Sec. 9. 22 MRSA §4004-A, sub-§2, ¶D**, as enacted by PL 1993, c.
28 724, §1, is amended to read:

29 D. The agreement must be approved by the commissioner or
30 the commissioner's designee and signed by the Director of
31 the Bureau of Child and Family Services and the custodian.

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33 **Sec. 10. 22 MRSA §4004-A, sub-§§3-A and 3-B** are enacted to
34 read:

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36 **3-A. Implementation.** The department's caseworker shall
37 work with the case manager of the Bureau of Children with Special
38 Needs to ensure that the service plan is implemented.

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40 **3-B. Termination of agreement.** The voluntary agreement may
41 be terminated in the following manner.

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43 A. The voluntary agreement may be terminated by either
44 party within 48 hours of written notification.

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46 B. The voluntary agreement must be terminated if, within
47 165 days after the effective date of the agreement, the
48 court has not made a determination that returning to the
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