

MAINE STATE LEGISLATURE

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DATE: 6/27/95

(Filing No. H-638)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to S.P. 251, L.D. 648, Bill, "An Act to Correct Errors and Inconsistencies in the Laws of Maine"

Amend the amendment by inserting after Part B the following:

PART C

Sec. C-1. 5 MRSA §6207, sub-§2, ¶¶A and C, as enacted by PL 1987, c. 506, §§1 and 4, are amended to read:

A. Contains recreation lands, prime physical features of the Maine landscape, areas of special scenic beauty, farmland or open space, undeveloped shorelines, wetlands, fragile mountain areas or lands with other conservation, wilderness or recreation values;

C. Provides nonmotorized or motorized public access to recreation opportunities or those natural resources identified in this section.

Sec. C-2. 22 MRSA §14, sub-§2-I, ¶A, as amended by PL 1993, c. 707, Pt. I, §1, is further amended to read:

A. The department has a claim against the estate of a Medicaid recipient when, after the death of the recipient:

(1) Property or other assets are discovered that existed and were owned by the recipient during the period when Medicaid benefits were paid for the recipient and disclosure of the property or assets at the time benefits were being paid would have rendered the recipient ineligible to receive the benefits;

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2 (2) It is determined that the recipient was 55 years
of age or older when that person received Medicaid
assistance; or

4 (3) It is determined that the recipient has received
6 or is entitled to receive benefits under a long-term
care insurance policy in connection with which assets
8 or resources ~~that~~ are disregarded and medical
assistance was paid on behalf of the recipient for
10 nursing facility or other long-term care services.

12 **Sec. C-3. 22 MRSA §14, sub-§2-I, ¶B**, as amended by PL 1993, c.
707, Pt. I, §1, is repealed and the following enacted in its
14 place:

16 B. The amount of Medicaid benefits paid and recoverable
18 under this subsection is a claim against the estate of the
deceased recipient.

20 (1) As to assets of the recipient included in the
22 probated estate, this claim may be enforced pursuant to
Title 18-A, Article III, Part 8.

24 (2) As to assets of the recipient not included in the
26 probated estate, this claim may be enforced by filing a
claim in any court of competent jurisdiction.

28 **Sec. C-4. 28-A MRSA §161-B, sub-§§1, 4 and 5**, as enacted by PL
1995, c. 140, §3, are amended to read:

30 **1. Application to local authorities.** Prior to registration
32 with the ~~commission~~ bureau under section 161, an owner or
operator of a bottle club must apply to the municipal officers
34 or, in the case of unincorporated places, the county
commissioners of the county in which the unincorporated place is
36 located, for permission to operate the bottle club or for
transfer of location of an existing bottle club. The ~~commission~~
38 bureau shall prepare and supply application forms.

40 **4. Appeal to bureau.** Any applicant aggrieved by the
decision of the municipal officers or county commissioners under
42 this section may appeal to the ~~commission~~ bureau. The ~~commission~~
bureau shall hold a public hearing in the city, town or
44 unincorporated place where the premises are situated. In acting
on such an appeal, the ~~commission~~ bureau may consider all of the
46 requirements referred to in subsection 3.

48 **A.** If the decision appealed is approval of the application,
the ~~commission~~ bureau may reverse the decision if it was
50 arbitrary or based on an erroneous finding.

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2 B. If the decision appealed is denial of the application,
4 the ~~commission~~ bureau may reverse the decision and register
6 the bottle club under section 161 only if it finds by clear
and convincing evidence that the decision was without
justifiable cause.

8 5. **Appeal to Superior Court.** Any person or governmental
10 entity aggrieved by a ~~commission~~ bureau decision under this
section may appeal the decision to the Superior Court.

12 **Sec. C-5. 30-A MRSA §1561, sub-§2,** as repealed and replaced by
14 PL 1995, c. 201, §1, is amended to read:

16 2. **Civil action for recovery of expenses.** Notwithstanding
18 the other provisions of this section, ~~the State~~ a county may
20 bring a civil action in a court of competent jurisdiction to
recover the cost of medical, dental, psychiatric or psychological
22 expenses incurred by ~~the State~~ a county on behalf of a prisoner
incarcerated in a facility. The following assets are not subject
to judgment under this subsection:

24 A. Joint ownership, if any, that the prisoner may have in
real property;

26 B. Joint ownership, if any, that the prisoner may have in
any assets, earnings or other sources of income; and

28 C. The income, assets, earnings or other property, both
30 real and personal, owned by the prisoner's spouse or family.

32 **Sec. C-6. 34-A MRSA §3031, sub-§2, ¶A,** as repealed and
34 replaced by PL 1995, c. 201, §2, is amended to read:

36 A. A client is exempt from payment of medical and dental
38 services fees and fees for prescriptions, medication or
prosthetic devices when the client:

40 (1) Receives treatment initiated by facility staff;

42 (2) Is a juvenile;

44 (3) Is pregnant;

46 (4) Is seriously mentally ill or developmentally
48 disabled. For the purposes of this paragraph,
"seriously mentally ill" or "developmentally disabled"
means a client who, as a result of a mental disorder or
50 developmental disability, exhibits emotional or
behavioral functioning that is so impaired as to

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- 2 interfere substantially with the client's capacity to
- 3 remain in the general prison population without
- 4 supportive treatment or services of a long-term or
- 5 indefinite duration, as determined by the facility's
- 6 psychiatrist or psychologist;
- 7
- 8 (5) Is an inpatient at a state-funded mental health or
- 9 mental retardation facility;
- 10
- 11 (6) Is undergoing follow-up treatment;
- 12
- 13 (7) Receives emergency treatment as determined by the
- 14 facility's medical or dental staff; and or
- 15
- 16 (8) Has less than \$15 in the client's facility account
- 17 and did not receive additional money from any source
- 18 for 6 months following the medical or dental service or
- 19 provision of the prescription, medication or prosthetic
- 20 device.

21 **Sec. C-7. PL 1991, c. 415, §1, first 3 lines** are repealed and the
22 following enacted in its place:

23 **Sec. 1. 7 MRSA §18**, as enacted by PL 1989, c. 869, Pt. C, §1,
24 is repealed and the following enacted in its place:'

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28 **STATEMENT OF FACT**

29 This amendment is the unanimous recommendation of the Joint
30 Standing Committee on Judiciary. It contains sections proposed
31 to be included in the errors bill that the committee has
32 identified as making substantive changes to the law. The
33 committee approves of the changes, but reports them separately in
34 this amendment to make review by the entire Legislature less
35 burdensome.

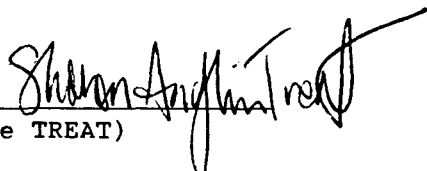
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38 Section 1 of Part C amends 2 paragraphs of the law
39 concerning the acquisition criteria for the Land for Maine's
40 Future Fund that were added as Part B to a bill in 1990. Part A
41 of the bill was a bond issue referendum that, by its terms, was
42 effective upon the approval of the bond issued by the voters in
43 the next election. The effective date of the 2 paragraphs was
44 inadvertently tied to the passage of the bond issue. The bill
45 passed, but the bond issue failed. This carries out the apparent
46 legislative intent by enacting the 2 paragraphs prospectively.
47 Sections 103 and 104 of the bill proposed a different method of
48 correcting the error. The Joint Standing Committee on
49 Agriculture, Conservation and Forestry approved this section.
50 Section 7 of Part C corrects a history line of Public Law 1991,
chapter 415 to accurately reflect the effect of the 1990

legislation that did not become effective when the bond issue failed.

Sections 2 and 3 of Part C clarify language concerning recovery of Medicaid benefits from the estates of deceased recipients. The language proposed by the Joint Standing Committee on Human Resources in 1994 was not incorporated into Public Law, chapter 707 as proposed, leading to a change in meaning from the meaning originally intended as evidenced by correspondence from the committee in 1994. These sections correct sections 46 and 47 of the bill. The Joint Standing Committee on Human Resources of the 117th Legislature has reviewed this issue and approved of the change.

Section 4 of Part C changes references to the State Liquor and Lottery Commission to the Bureau of Liquor Enforcement. Legislative Document 753, now Public Law 1995, chapter 140, incorrectly referred to the commission as the entity with which a bottle club must register and to whom the bottle club must appeal if aggrieved by a decision by municipal officers. All registration and hearing functions were transferred from the commission to the bureau by Public Law 1993, chapter 730. This section is new to the bill. The Joint Standing Committee on Legal and Veterans Affairs requested this correction.

Sections 5 and 6 of Part C make corrections to Legislative Document 1244, now Public Law 1995, chapter 201, concerning reimbursement by prisoners for medical expenses paid by the State and county during incarceration. Section 5 clarifies that counties may bring civil actions for the recovery of medical expenses at county jails, instead of the State bringing those actions. A drafting error mistakenly referenced the State instead of the counties. Section 6 corrects a drafting error by replacing "and" with "or" to make exemptions for payment of medical expenses for state and county prisoners. These sections are new to the bill. The Joint Standing Committee on Criminal Justice requested these corrections.

SPONSORED BY: 
(Representative TREAT)

TOWN: Gardiner