

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 974

H.P. 717

House of Representatives, March 23, 1995

**An Act to Create an Advisory Board and State and Local Interagency Teams to Assist in the Provision of Care for Children and Adolescents with Severe Emotional Disturbance.**

---

Reference to the Committee on Human Resources 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, LEMAIRE of Lewiston, MITCHELL of Portland, POVICH of Ellsworth.

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

Sec. 1. 5 MRSA §12004-G, sub-§§28-A to 28-C are enacted to read:

28-A. Interagency Legislative 34-B MRSA
Mental Health Team Per Diem §6242
Advisory and Expenses
Committee Public
Members
Only

28-B. Local Legislative 34-B MRSA
Mental Health Interagency Per Diem §6272
Team and Expenses
Public
Members
Only

28-C. State Legislative 34-B MRSA
Mental Health Interagency Per Diem §6271
Team and Expenses
Public
Members
Only

Sec. 2. 5 MRSA §19113, sub-§1, as enacted by PL 1993, c. 738, Pt. B, §3 and affected by §9, is amended to read:

1. Duties. The council shall:

A. Meet on a regular basis; and

~~B. Report annually by January 15th to the Legislature on its progress in meeting the goals cited in section 19112 and its proposals for implementing these goals in the forthcoming year. A copy of the report must be submitted to the Executive Director of the Legislative Council.~~

C. Ensure that appropriate services are provided to children and adolescents with severe emotional disturbance in accordance with Title 34-B, chapter 6, subchapter V.

Sec. 3. 5 MRSA §19116 is enacted to read:

§19116. Report required

The Interdepartmental Council shall report annually to the Legislature, in conjunction with the submission of the general appropriation bill, on its progress in meeting the goals cited in

2 section 19112, the duties cited in section 19113, and its  
3 proposals for implementing those goals and meeting those duties  
4 in the forthcoming year. The report must contain, but is not  
5 limited to, the following information:

6 1. Demographics. Comprehensive and accurate identification  
7 of the characteristics and number of children or adolescents with  
8 severe emotional disturbance in need of appropriate services,  
9 including:

10 A. Whether and to what extent the identified children or  
11 adolescents have received services; and

12 B. The characteristics and number of children or  
13 adolescents with severe emotional disturbance who have not  
14 received services, including the reasons why they have not  
15 received services;

16 2. Services needed. A description of the educational,  
17 residential, mental health or other treatment services needed;

18 3. Services available. A description of currently  
19 available programs and resources;

20 4. Plan. A recommended plan to meet the needs of all  
21 children or adolescents with severe emotional disturbance  
22 identified in subsection 1, including priorities for the  
23 continuation or development of programs and resources; and

24 5. Assessment. An assessment of the success of existing  
25 programs.

26 **Sec. 4. 20-A MRS §1, sub-§3-A is enacted to read:**

27 3-A. Child or adolescent with severe emotional disturbance.  
28 "Child or adolescent with severe emotional disturbance" means a  
29 person who:

30 A. Exhibits behavioral, emotional or social impairment that  
31 disrupts that person's academic or developmental progress or  
32 family or interpersonal relationships;

33 B. Has impaired functioning that has continued for at least  
34 one year or has an impairment of short duration and high  
35 severity;

36 C. Is under 18 years of age or is under 22 years of age and  
37 eligible for special education under state or federal law;  
38 and

2 D. Falls into one or more of the following categories,  
3 whether or not the person is diagnosed with other serious  
4 disorders including mental retardation, severe neurological  
5 dysfunction or sensory impairment:

6 (1) Children and adolescents who exhibit seriously  
7 impaired contact with reality and severely impaired  
8 social, academic and self-care functioning, whose  
9 thinking is frequently confused, whose behavior may be  
10 grossly inappropriate and bizarre and whose emotional  
11 reactions are frequently inappropriate to the situation;

12 (2) Children and adolescents who are classified as  
13 management or conduct disorder because they manifest  
14 long-term behavioral problems including  
15 developmentally inappropriate inattention,  
16 hyperactivity, impulsiveness, aggressiveness,  
17 antisocial acts, refusal to accept limits, suicidal  
18 behavior or substance abuse; or

19 (3) Children and adolescents who suffer serious  
20 discomfort from anxiety, depression, irrational fears  
21 and concerns, whose symptoms may be exhibited as  
22 serious eating and sleeping disturbances, extreme  
23 sadness of suicidal proportion, maladaptive dependence  
24 on parents, persistent refusal to attend school or  
25 avoidance of nonfamilial social contact.

26  
27  
28 **Sec. 5. 20-A MRSA §9** is enacted to read:

29 **§9. Coordination of services**

30  
31 Each administrative school unit shall cooperate with the  
32 Department of Corrections, the Department of Mental Health and  
33 Mental Retardation, the Department of Human Services and the  
34 Department of Education in accordance with the provisions of  
35 Title 34-B, chapter 6, subchapter V.

36  
37  
38 **Sec. 6. 20-A MRSA §253, sub-§8** is enacted to read:

39 **8. Cooperate with other departments.** The commissioner  
40 shall cooperate with the Commissioner of Human Services, the  
41 Commissioner of Corrections and the Commissioner of Mental Health  
42 and Mental Retardation to ensure the delivery of integrated  
43 services to children and adolescents with severe emotional  
44 disturbance as set forth in Title 34-B, chapter 6, subchapter V.

45  
46  
47 **Sec. 7. 22 MRSA §7**, as amended by PL 1985, c. 785, Pt. C, §3,  
48 is further amended by adding at the end a new paragraph to read:

2           The commissioner shall cooperate with the Department of  
3           Corrections, the Department of Education and the Department of  
4           Mental Health and Mental Retardation to ensure the delivery of  
5           integrated services to children and adolescents with severe  
6           emotional disturbances as set forth in Title 34-B, chapter 6,  
7           subchapter V.

8           **Sec. 8. 34-A MRSA §1402, sub-§11** is enacted to read:

9           **11. Cooperate with other departments.** The Commissioner of  
10           Corrections shall cooperate with the Department of Education, the  
11           Department of Human Services and the Department of Mental Health  
12           and Mental Retardation to ensure the delivery of integrated  
13           services to children and adolescents with severe emotional  
14           disturbance as set forth in Title 34-B, chapter 6, subchapter V.

15           **Sec. 9. 34-B MRSA §1001, sub-§§1-A and 4-A** are enacted to read:

16           **1-A. Child or adolescent with severe emotional**  
17           **disturbance.** "Child or adolescent with severe emotional  
18           disturbance" means a person who:

19           A. Exhibits a behavioral, emotional or social impairment  
20           that disrupts that person's academic or developmental  
21           progress or family or interpersonal relationships;

22           B. Has impaired functioning that has continued for at least  
23           one year or has an impairment of short duration and high  
24           severity;

25           C. Is under 18 years of age or is under 22 years of age and  
26           eligible for special education under state or federal law;  
27           and

28           D. Falls into one or more of the following categories,  
29           whether or not the person is diagnosed with other serious  
30           disorders including mental retardation, severe neurological  
31           dysfunction or sensory impairment:

32           (1) Children and adolescents who exhibit seriously  
33           impaired contact with reality and severely impaired  
34           social, academic and self-care functioning, whose  
35           thinking is frequently confused, whose behavior may be  
36           grossly inappropriate and bizarre and whose emotional  
37           reactions are frequently inappropriate to the situation;

38           (2) Children and adolescents who are classified as  
39           management or conduct disordered because they manifest

2           long-term behavioral problems including  
3           developmentally inappropriate inattention,  
4           hyperactivity, impulsiveness, aggressiveness,  
5           antisocial acts, refusal to accept limits, suicidal  
6           behavior or substance abuse; and

7           (3) Children and adolescents who suffer serious  
8           discomfort from anxiety, depression, irrational fears  
9           and concerns, whose symptoms may be exhibited as  
10           serious eating and sleeping disturbances, extreme  
11           sadness of suicidal proportion, maladaptive dependence  
12           on parents, persistent refusal to attend school or  
13           avoidance of nonfamilial social contact.

14           **4-A. Individual plan.** "Individual plan" means a written  
15           plan for a child or adolescent with severe emotional disturbance  
16           based upon the comprehensive assessment of the individual needs  
17           of the child, setting forth measurable goals and objectives,  
18           delineating responsibility for case management, placement and  
19           specific program services, including appropriate educational,  
20           residential, mental health and other treatment services and  
21           setting forth a timetable for delivery of services and a  
22           rationale for the placement and services chosen as well as the  
23           options rejected. The plan must be designed to meet the needs of  
24           the child or adolescent in that child's or adolescent's family,  
25           school and community. Placements must be made within the child's  
26           or adolescent's family, school or community unless it is not  
27           appropriate even with the provision of supplemental services.

28           **Sec. 10. 34-B MRSA §3602,** as enacted by PL 1983, c. 459, §7,  
29           is amended to read:

30           **§3602. Purpose**

31           The purpose of this subchapter is to expand community mental  
32           health services, encourage participation in a program of  
33           community mental health services by persons in local communities,  
34           obtain better understanding of the need for those services and  
35           secure aid for programs of community mental health services.  
36           Securing aid includes, but is not limited to, the authorization  
37           of funding for community mental health services by state aid and  
38           local financial support and payment by clients who have the  
39           ability to pay.

40           **Sec. 11. 34-B MRSA §3607** is enacted to read:

41           **§3607. Service to children and adolescents with severe emotional**  
42           **disturbance**

2 Any agency licensed to provide mental health services under  
3 section 3606 shall give its full cooperation to the local  
4 interagency teams established in section 6274 to ensure that a  
5 child or adolescent with severe emotional disturbance receives  
6 appropriate and adequate care as provided in chapter 6,  
7 subchapter V.

8 Within the limits of available resources, each designated  
9 community mental health agency shall plan, develop and provide or  
10 otherwise arrange for those community mental health and mental  
11 retardation services that are not assigned by law to the  
12 exclusive jurisdiction of another agency and that are needed by  
13 and not otherwise available to children and adolescents with  
14 severe emotional disturbance.

15 **Sec. 12. 34-B MRSA c. 6, first 2 lines** are repealed and the  
16 following enacted in their place:

17

18 **CHAPTER 6**

19

20 **AUTISM AND SEVERE**  
21 **EMOTIONAL DISTURBANCE**

22

23 **Sec. 13. 34-B MRSA §6204, sub-§1**, as amended by PL 1987, c.  
24 349, Pt. H, §27, is further amended to read:

25

26 **1. Duties.** There is established, within the Department of  
27 Mental Health and Mental Retardation, the Bureau of Children with  
28 Special Needs. The bureau shall:

29

30 **A.** Strengthen the capacity of families, natural helping  
31 networks, self-help groups and other community resources to  
32 support and serve children in need of treatment;

33

34 **B.** Facilitate the planning, promoting, coordination,  
35 delivery and evaluation of a complete and integrated  
36 statewide system of services to children in need of  
37 treatment and their families; and

38

39 **C.** Support those services appropriate to children in need  
40 of treatment and their families, including, but not  
41 necessarily limited to, the following:

42

43 (1) Advocacy;

44

45 (2) Assessment and diagnosis;

46

47 (3) Child development;

48

49 (4) Consultation and education;

50



- 2 (5) Crisis intervention;
- 4 (6) Family guidance and counseling;
- 6 (7) Preventive intervention;
- 8 (8) Professional consultation and training;
- 10 (9) Respite care and other family support services;
- 12 and
- 14 (10) Treatment,; and

16 D. Coordinate the efforts of all agencies and services,  
18 governmental and private, directed towards the control,  
20 reduction and prevention of those problems involving  
22 behavior disorders, mental retardation, mental illness and,  
in coordination with the Department of Human Services, the  
Department of Corrections and the Department of Education,  
severe emotional disturbance.

24 **Sec. 14. 34-B MRSA c. 6, sub-c. III, first 2 lines** are repealed and  
the following enacted in their place:

26 **SUBCHAPTER III**

28 **ADVISORY COMMITTEES**

30 **Sec. 15. 34-B MRSA §6242** is enacted to read:

32 **§6242. Interagency Team Advisory Committee established**

34 The Interagency Team Advisory Committee, referred to in this  
36 section as "committee," is established to advise the  
38 Interdepartmental Council, as established in Title 5, section  
12004-L, subsection 9 on children and adolescents with severe  
40 emotional disturbance and their families. The committee shall  
also advise the council on the development of the system of care  
plan described in section 6274.

42 **1. Membership selection.** The Interdepartmental Council  
44 shall recommend to the Governor a list of potential committee  
members. The Governor shall appoint from the list:

46 A. Five parents of children or adolescents with severe  
48 emotional disturbance;

2 B. Five advocates from organizations working on behalf of  
3 children and adolescents with severe emotional disturbance;  
4 and

5 C. Five professionals in related fields or agencies  
6 providing services.

7 2. Terms of office. All members of the committee shall  
8 serve for a term of 3 years, beginning January 1st of the year of  
9 appointment, or until their successors are appointed. For the  
10 purposes of implementing this section, the Governor shall  
11 initially appoint 1/3 of the members to one-year terms, 1/3 of  
12 the members to 2-year terms and 1/3 of the members to 3-year  
13 terms. As the initial terms expire, the new appointees must be  
14 appointed to fill 3-year terms.

15 3. Chair. The committee shall elect its own chair from  
16 among its membership and shall meet annually at the call of the  
17 chair. Other meetings may be called by the chair when necessary.

18 4. Compensation. Members of the committee who are  
19 employees of the State are not entitled to additional  
20 compensation for their services, but actual and necessary  
21 expenses are allowed and are charged to their departments.  
22 Members of the committee who are not employees of the State are  
23 entitled to compensation in accordance with the provisions of  
24 Title 5, chapter 379, to be paid by the Department of Mental  
25 Health and Mental Retardation.

26 **Sec. 16. 34-B MRSA c. 6, sub-c. V is enacted to read:**

27 **SUBCHAPTER V**  
28 **SERVICES FOR CHILDREN WITH SEVERE**  
29 **EMOTIONAL DISTURBANCE**

30 **§6271. State Interagency Team established**

31 The State Interagency Team is established to oversee the  
32 administration of this subchapter.

33 1. Membership. The State Interagency Team consists of 7  
34 members, who are:

35 A. The director of the division responsible for special  
36 education for the Department of Education;

37 B. The associate commissioner responsible for mental health  
38 programs for the Department of Mental Health and Mental  
39 Retardation;

- 2           C. The Director of the Bureau of Mental Health in the  
3           Department of Mental Health and Mental Retardation;
- 4
- 5           D. The deputy commissioner responsible for programs for the  
6           Department of Human Services;
- 7
- 8           E. The Director of the Bureau of Child and Family Services  
9           in the Department of Human Services;
- 10
- 11          F. The associate commissioner responsible for youth  
12          services in the Department of Corrections; and
- 13
- 14          G. A parent of a child or adolescent with severe emotional  
15          disturbance. This member is entitled to compensation as  
16          prescribed in Title 5, chapter 379 to be paid by the  
17          Department of Mental Health and Mental Retardation.
- 18
- 19          **2. Powers and duties.** The State Interagency Team shall:
- 20
- 21          A. Submit an annual report to the Interdepartmental Council  
22          on the status of programs for children and adolescents with  
23          severe emotional disturbance, which must include a system of  
24          care plan. The system of care plan must:
- 25
- 26                  (1) Identify the characteristics and number of children  
27                  and adolescents with severe emotional disturbance in  
28                  need of services;
- 29
- 30                  (2) Describe the educational, residential, mental  
31                  health or other services needed;
- 32
- 33                  (3) Describe the programs and resources currently  
34                  available;
- 35
- 36                  (4) Recommend a plan to meet the needs of the children  
37                  and adolescents with severe emotional disturbance; and
- 38
- 39                  (5) Recommend priorities for the continuation or  
40                  development of programs and resources;
- 41
- 42          B. Ensure that local interagency teams are established by  
43          January 1, 1996;
- 44
- 45          C. Develop and coordinate the provision of services to  
46          children and adolescents with severe emotional disturbance;
- 47
- 48          D. Make recommendations to a local interagency team for  
            resolution of any case of a child or adolescent with severe

2           emotional disturbance referred by that local interagency  
3           team under section 6272; and

4           E. Recommend to the Interdepartmental Council any fiscal  
5           policy or programmatic change at the local, regional or  
6           state level necessary to enhance the State's system of care  
7           for children and adolescents with severe emotional  
8           disturbance and their families.

10       **§6272. Local interagency teams; membership**

12           At least one local interagency team must be established for  
13           each mental health and mental retardation service delivery  
14           region, as established in section 1201-A. Each local interagency  
15           team is composed of permanent and ad hoc members. The local  
16           interagency team shall elect one of its permanent members to be  
17           chair. If they can not agree on a chair, one must be appointed  
18           by the State Interagency Team.

20           1. Permanent members. The permanent members of a local  
21           interagency team are:

22                   A. The person responsible for coordination of children's  
23                   services from the designated region's community mental  
24                   health agency;

25                   B. The program manager for child and family services in the  
26                   designated region's human services district office;

27                   C. A special education administrator from a school  
28                   administrative unit serving the designated region; and

29                   D. A parent of a child or adolescent with severe emotional  
30                   disturbance. This member is entitled to compensation, as  
31                   prescribed in Title 5, chapter 379 to be paid by the  
32                   Department of Mental Health and Mental Retardation.

33           2. Ad hoc members. The ad hoc members of a local  
34           interagency team are:

35                   A. The special education administrator of the school  
36                   administrative unit serving the child or adolescent with  
37                   severe emotional disturbance;

38                   B. The parents of the child or adolescent with severe  
39                   emotional disturbance; and

40                   C. Any other persons determined necessary for the  
41                   effectiveness of the team.

2  
3 **§6273. Local interagency teams; duties**

4 The local interagency team shall:

5 **1. Respond to referrals.** Respond to referrals made by a  
6 local agency, service provider or parent concerning a child or  
7 adolescent with severe emotional disturbance when local agencies  
8 have not developed or implemented an individual plan for that  
9 child or adolescent. When a referral is made, the local  
10 interagency team shall:

11 A. Make recommendations when eligibility for services is in  
12 dispute and ensure that coordinated case planning and  
13 services for the child or adolescent are provided; and

14 B. Review the individual plan for the child or adolescent  
15 and amend the plan if necessary;

16 **2. Serve as a forum.** Meet at the request of any agency or  
17 parent to serve as a forum for consideration of general issues  
18 relating to implementation of the provision of this subchapter;

19 **3. Inform local agencies.** Inform annually all local  
20 agencies and service providers for children and adolescents with  
21 severe emotional disturbance of the provisions of this subchapter  
22 and the rules adopted to implement this subchapter; and

23 **4. Transfer to State Interagency Team.** Transfer referrals  
24 to the State Interagency Team when all attempts have been made  
25 without success to resolve any matter considered under  
26 subsections 1 and 2.

27 **§6274. Coordinated system of care**

28 Services provided by or through the Department of Mental  
29 Health and Mental Retardation, the Department of Human Services,  
30 the Department of Corrections and the Department of Education to  
31 a child or adolescent with severe emotional disturbance must be  
32 in accordance with an individual plan and in a coordinated manner  
33 as provided by this subchapter. Nothing in this subchapter may  
34 be construed to grant an entitlement to a child or adolescent  
35 with severe emotional disturbance to receive any educational,  
36 residential, mental health or other service, unless the  
37 Legislature otherwise provides.

38 The Department of Corrections, the Department of Education,  
39 the Department of Human Services and the Department of Mental  
40 Health and Mental Retardation shall jointly adopt rules  
41 implementing the provisions of this subchapter. The rules must:

1           **1. Safeguards.**   Establish due process safeguards and  
2 procedures that may be invoked by or on behalf of a child or  
adolescent with severe emotional disturbance or the child's or  
4 adolescent's parents, guardians or surrogate parents contesting  
eligibility for services, appropriateness of services and the  
6 individual plan, the manner in which services are being  
coordinated and compliance with the individual plan;

8  
9           **2. Time frames.**   Set time frames for resolution of disputes;

10  
11           **3. Service continuation.**   Ensure that services are  
12 continued during the period of time necessary to resolve disputes;

13  
14           **4. Written notice.**   Provide written prior notice to the  
15 parents, guardian or surrogate parent of the child or adolescent  
16 whenever it is proposed to initiate or change or there is a  
refusal to initiate or change the identification, evaluation or  
18 individual plan of a child or adolescent with severe emotional  
disturbance;

19  
20           **5. Procedures.**   Establish adequate and appropriate  
21 procedures for the referral, screening and assessment of children  
22 or adolescents with severe emotional disturbance for services  
23 under this subchapter and for the development, review and  
24 revisions of individual plans, and establish procedures for  
25 notice, hearing and decisions of contested matters consistent  
26 with the provisions of Title 5, chapter 375;

27  
28           **6. Individual plan.**   Ensure that the individual plan of a  
29 child or adolescent with severe emotional disturbance is  
30 developed by local service providers and the child's parents,  
31 guardian or surrogate parent no later than 45 days after the  
32 initial referral;

33  
34           **7. Case management.**   Assign responsibility for case  
35 management and ensure that local agencies will provide service to  
36 children and adolescents with severe emotional disturbance in a  
37 coordinated manner;

38  
39           **8. Annual review.**   Ensure that each individual plan is  
40 reviewed and revised annually as necessary; and

41  
42           **9. Confidentiality.**   Ensure that information received by  
43 members of local interagency teams and the State Interagency Team  
44 with respect to individual children is kept confidential.

45  
46           The initial rules governing this section must be adopted  
47 under the provisions of Title 5, chapter 375 no later than April  
48 1, 1996.

50

2  
3 **§6275. Restrictions**

4 The receipt of services or benefits under this chapter does  
5 not require that the child or adolescent be placed in legal  
6 custody or under the protective supervision of the State.

7 Nothing contained in this subchapter may be construed to  
8 diminish the rights of children with disabilities or their  
9 parents, guardians or surrogate parents under federal or state  
10 law including, but not limited to, confidentiality, consent for  
11 services and evaluation and parental involvement.

12 Nothing contained in this chapter entitles children or  
13 adolescents with severe emotional disturbance to special  
14 education services unless they are otherwise eligible for special  
15 education services under state or federal law.

16  
17 **Sec. 17. Study and report.** The Legislative Council, with the  
18 cooperation and assistance of the Department of Corrections, the  
19 Department of Education, the Department of Human Services and the  
20 Department of Mental Health and Mental Retardation, shall conduct  
21 a study of the use of and need for group homes for children,  
22 adolescents and mentally ill adults served by those departments.  
23 The study must:

24  
25 1. Survey residential care practices in other states and  
26 within Maine for serving the populations concerned, the  
27 appropriate size of group homes for such populations and  
28 associated cost considerations;

29 2. Make findings and recommendations concerning the  
30 relative cost of different types and sizes of residential care  
31 programs; and

32 3. Review the relationship between zoning laws and  
33 practices and the development of group homes, including questions  
34 associated with locating group homes in residential districts.

35  
36  
37  
38  
39 **STATEMENT OF FACT**

40  
41 **42** This bill requires that a program of integrated case  
42 management and services be provided for children and adolescents  
43 with severe emotional disturbance. It establishes the State  
44 Interagency Team and several local interagency teams to direct  
45 and facilitate the delivery of the integrated services. The  
46 Commissioner of Mental Health and Mental Retardation, the  
47 Commissioner of Education, the Commissioner of Corrections and  
48 the Commissioner of Human Services are directed, as members of  
49 the Interdepartmental Council, to cooperate in the delivery of  
50 integrated services, and an advisory committee for the council is  
51 created.  
52