

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 975

H.P. 718

House of Representatives, March 23, 1995

An Act to Establish the Department of Health and Family Services.

Reference to the Committee on State and Local Government suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative MORRISON of Bangor.
Cosponsored by Representatives: CHIZMAR of Lisbon, CLARK of Millinocket,
FITZPATRICK of Durham, JOSEPH of Waterville, POULIOT of Lewiston, TUTTLE of
Sanford, Senator: AMERO of Cumberland.

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

PART A

Sec. A-1. 22-A MRSA is enacted to read:

TITLE 22-A

HEALTH AND FAMILY SERVICES

CHAPTER I

GENERAL PROVISIONS

§101. Department of Health and Family Services

The Department of Health and Family Services is established and referred to in this Title as the "department." The department consists of the bureaus and divisions as may be required to carry out the work of the department. The department has an official department seal, which must be judicially noticed.

The department is under the control and supervision of the Commissioner of Health and Family Services, referred to in this Title as the "commissioner."

The commissioner may employ 3 deputy commissioners and any bureau and division heads, deputies, assistants and employees who may be necessary to carry out the work of the department. All personnel of the department are under the immediate supervision, direction and control of the commissioner. These personnel must be employed subject to the Civil Service Law, except the deputy commissioners, including the Deputy Commissioner for Management and Budget; Director, Bureau of Child and Family Services; Director, Bureau of Health; Director, Bureau of Income Maintenance; Director, Bureau of Long-term Services; and assistant deputy commissioners.

§102. Duties of the department

The department is administered in accordance with the requirements of Titles 22 and 34-B and shall fulfill the duties assigned by those Titles and any other requirements of state law.

§103. Office of the commissioner

1. Appointment. The Governor shall appoint the commissioner subject to review by the joint standing committee of

2 the Legislature having jurisdiction over human resource matters
3 and to confirmation by the Senate, to serve at the pleasure of
4 the Governor.

6 2. Vacancy. Vacancies in the office of the commissioner
7 must be filled as follows.

8 A. Any vacancy in the office of commissioner must be filled
9 by appointment under subsection 1.

10 B. If the office of the commissioner is vacant or if the
11 commissioner is absent or disabled, the Deputy Commissioner
12 for Management and Budget shall perform the duties and has
13 the powers provided by law for the commissioner.

14 3. Qualifications. To qualify for appointment as
15 commissioner, a person must have training and experience in
16 health and family services administration or satisfactory
17 experience in the direction of work of a comparable nature.

18 **§104. Duties of the commissioner**

19 The commissioner shall administer the department in
20 accordance with and fulfill the duties assigned by this Title and
21 Titles 22 and 34-B and any other requirements of state law.

22 **§105. Bureaus**

23 The department contains the following bureaus: the Bureau of
24 Child and Family Services, the Bureau of Health, the Bureau of
25 Income Maintenance and the Bureau of Long-term Services.

26 **Sec. A-2. Effective date.** This Part takes effect July 1, 1996.

27 **PART B**

28 **Sec. B-1. Transition.** The following provisions apply to the
29 reassignment of the duties and responsibilities of the Department
30 of Human Services and the Department of Mental Health and Mental
31 Retardation.

32 1. The Department of Health and Family Services is the
33 successor in every way to the powers, duties and functions of the
34 Department of Human Services and the Department of Mental Health
35 and Mental Retardation.

36 2. Notwithstanding the provisions of the Maine Revised
37 Statutes, Title 5, all accrued expenditures, assets, liabilities,
38

2 balances or appropriations, allocations, transfers, revenues or
3 other available funds in an account or subdivision of an account
4 of the Department of Human Services or the Department of Mental
5 Health and Mental Retardation must be transferred to the proper
6 accounts of the Department of Health and Family Services by the
7 State Controller upon the request of the State Budget Officer and
8 with the approval of the Governor.

9
10 3. All rules of the Department of Human Services and the
11 Department of Mental Health and Mental Retardation in effect on
12 July 1, 1996 remain in effect until rescinded, revised or amended.

13
14 4. All contracts, agreements and compacts of the Department
15 of Human Services and the Department of Mental Health and Mental
16 Retardation in effect on July 1, 1996 remain in effect until they
17 expire or are altered by the parties involved in the contracts or
18 agreements.

19
20 5. All records of the Department of Human Services and the
21 Department of Mental Health and Mental Retardation must be
22 transferred to the Department of Health and Family Services.

23
24 6. All property and equipment of any bureau, division or
25 program of the Department of Human Services or the Department of
26 Mental Health and Mental Retardation are transferred to the
27 Department of Health and Family Services.

28
29 7. Employees of the Department of Human Services and the
30 Department of Mental Health and Mental Retardation retain those
31 positions in the departments to which they are transferred and
32 retain all their employee rights, privileges and benefits,
33 including sick leave, vacation and seniority, provided under the
34 Civil Service Law or collective bargaining agreements. The
35 Bureau of Human Resources within the Department of Administrative
36 and Financial Services shall assist with the orderly
37 implementation of this subsection.

38 **Sec. B-2. Maine Revised Statutes amended; revision clause.**

39 Wherever in the Maine Revised Statutes the words "Department of
40 Human Services" and "Department of Mental Health and Mental
41 Retardation," appear or reference is made to those words, they
42 are amended to read and mean "Department of Health and Family
43 Services," and the Revisor of Statutes shall implement this
44 revision when updating, publishing or republishing the statutes.

45 **Sec. B-3. Maine Revised Statutes amended; revision clause.**

46 Wherever in the Maine Revised Statutes the words "Commissioner of
47 Human Services" and "Commissioner of Mental Health and Mental
48 Retardation" appear or reference is made to those words, they are

2 amended to read and mean "Commissioner of Health and Family
3 Services," and the Revisor of Statutes shall implement this
4 revision when updating, publishing or republishing the statutes.

6 **Sec. B-4. Effective date.** This Part takes effect July 1, 1996.

8 **PART C**

10 **Sec. C-1. Budget.** The Bureau of the Budget shall work with
11 the Department of Human Services and the Department of Mental
12 Health and Mental Retardation to develop the initial budget for
13 the Department of Health and Family Services.

14 **Sec. C-2. Transitional activities.** With the approval of their
15 respective commissioners, personnel from the Department of Human
16 Services and the Department of Mental Health and Mental
17 Retardation may engage in any activities necessary to implement
18 this Act in a timely manner. The Commissioner of Human Services
19 and the Commissioner of Mental Health and Mental Retardation
20 shall cooperate to ensure that any federal approval required to
21 implement any part of this Act is requested and received. If
22 either commissioner determines that federal approval will not be
23 obtained for any part of this Act, that commissioner shall
24 immediately notify the Joint Standing Committee on Human
25 Resources and the Executive Director of the Legislative Council.

26 **Sec. C-3. Committee bill.** By January 1, 1996, the Joint
27 Standing Committee on Human Resources shall submit legislation to
28 correct errors, inconsistencies and unintended policy changes
29 that result from this Act. The Legislative Council shall provide
30 staff assistance to the committee for the preparation of the
31 legislation.

34 **Sec. C-4. Effective date.** This Part takes effect November 1,
35 1995.

38 **PART D**

40 **Sec. D-1. 5 MRSA §940,** as amended by PL 1989, c. 878, Pt. B,
41 §3, is repealed.

42 **Sec. D-2. 5 MRSA §946,** as amended by PL 1993, c. 410, Pt.
43 CCC, §2, is repealed.

44 **Sec. D-3. 5 MRSA §946-A** is enacted to read:

46 **§946-A. Department of Health and Family Services**
48

2 1. Major policy-influencing positions. The following
3 positions are major policy-influencing positions within the
4 Department of Health and Family Services. Notwithstanding any
5 other provision of law, these positions and their successor
6 positions are subject to this chapter:

- 7 A. Deputy Commissioner of Family Services;
- 8 B. Deputy Commissioner of Health;
- 9 C. Deputy Commissioner of Management and Budget;
- 10 D. Director, Bureau of Child and Family Services;
- 11 E. Director, Bureau of Health;
- 12 F. Director, Bureau of Income Maintenance;
- 13 G. Director, Bureau of Long-term Services;
- 14 H. Director, Division of Children with Special Needs;
- 15 I. Director, Division of Management and Budget;
- 16 J. Director, Division of Medical Services;
- 17 K. Director, Division of Mental Health;
- 18 L. Director, Division of Mental Retardation;
- 19 M. Director, Division of Rehabilitation Services;
- 20 N. Director, Division of Substance Abuse;
- 21 O. Superintendent, Augusta Mental Health Institute;
- 22 P. Superintendent, Bangor Mental Health Institute;
- 23 Q. Superintendent, Pineland Center;
- 24 R. Director, Bath Children's Home;
- 25 S. Director, Elizabeth Levinson Center;
- 26 T. Director, Mental Retardation Facility; and
- 27 U. Assistant Deputy Commissioners.

28 **Sec. D-4. Effective date.** This Part takes effect July 1, 1996.

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PART E

Sec. E-1. 22 MRS §1, as amended by PL 1993, c. 685, Pt. B, §2, is further amended to read:

§1. Department of Health and Family Services

The Department of Human Health and Family Services, as established and in this Title 22-A, called the "department" shall consist consists of such bureaus and divisions as may be required to carry out the work of the department. ~~The department shall have an official department seal, which shall be judicially noticed.~~

The department is under the control and supervision of the Commissioner of Human Health and Family Services, referred to in this Title as the "commissioner," ~~who is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over human resources matters and to confirmation by the Legislature, and serves at the pleasure of the Governor.~~

The commissioner has the powers conferred by this Title and Titles 22-A and 34-B and by other requirements of the law and also has the following powers: the power to appoint associate commissioners; the power to appoint, subject to the Civil Service Law and except as otherwise provided, any employees who may be necessary; the power to perform any legal act to carry out the duties assigned to the commissioner and to the department by this Title and Titles 22-A and 34-B; and the power to set salaries for appointed employees except those for whom salary levels are set by law.

The commissioner may employ any bureau and division heads, deputies, assistants and employees who may be necessary to carry out the work of the department. All personnel of the department shall be are under the immediate supervision, direction and control of the commissioner. ~~These personnel shall be employed subject to the Civil Service Law, except the Deputy Commissioner; Director, Bureau of Child and Family Services; Director, Bureau of Elder and Adult Services; Director, Bureau of Health; Director, Bureau of Rehabilitation; Director, Bureau of Income Maintenance; Director, State Health Planning and Development Agency; Director, Bureau of Medical Services; and Assistant Deputy Commissioners.~~

The commissioner shall appoint the following officials to serve at the commissioner's pleasure: associate commissioners;

2 the Director, Bureau of Child and Family Services; the Director,
3 Bureau of Health; the Director, Bureau of Income Maintenance; the
4 Director, Bureau of Long-term Care; the Director, Division of
5 Children with Special Needs; the Director, Division of Management
6 and Budget; the Director, Division of Medical Services; the
7 Director, Division of Mental Health; the Director, Division of
8 Mental Retardation; the Director, Division of Rehabilitation
9 Services; and the Director, Division of Substance Abuse.

10 The Director, Bureau of Child and Family Services, and the
11 Director, Bureau of Elder--and-Adult Long-term Services, must be
12 appointed by the commissioner. Each of these directors is
13 appointed and serves in the unclassified service at the pleasure
14 of the commissioner. Any vacancy in each of these positions must
15 be filled by appointment as in this paragraph for a like term.

16 The Director of the Bureau of Health must be a licensed
17 physician or a person eligible for licensure in this State under
18 Title 32, chapter 48, who is educated and experienced in public
19 health administration, or a person with an advanced degree in
20 public health and who has administrative experience.

21 **Sec. E-2. 22 MRSA §3, sub-§1**, as enacted by PL 1989, c. 167,
22 §1, is amended to read:

23 **1. Report.** The Department of Human Health and Family
24 Services shall prepare an annual report on all services
25 contracted with community providers. The department shall
26 deliver its report to the joint standing committee of the
27 Legislature having jurisdiction over appropriations and financial
28 affairs by January 31st of each year. The report shall must
29 include:

30 A. A listing, by community agency, of all funds received
31 from the State and a summary of the purposes for which those
32 funds were expended;

33 B. A summary of the most recent year's allocations of all
34 funds by bureau or office, service area, region and, if
35 available, county;

36 C. An evaluation of additional funding needed to equalize
37 funding among all regions by individual service areas,
38 presented in prioritized order;

39 D. The department's assessment, by individual service area,
40 of the outstanding service needs of the State. The
41 assessment shall must identify the funding source projected
42 by the department to be available for the expansion of
43 service, presented in prioritized order; and
44

2 E. Recommendations for changes in funding resulting from
the department's planning and evaluation system presented in
4 the following order of priority: greatest service need
within existing funding scheme; equalization of regional
6 funding with each service area; and new or outstanding needs.

8 **Sec. E-3. 22 MRSA §6-B**, as enacted by PL 1993, c. 738, Pt. F,
§1, is repealed.

10 **Sec. E-4. 22 MRSA §9, sub-§1**, as repealed and replaced by PL
1983, c. 292, is amended to read:

12 **1. Reasonable fees authorized.** The Department of Human
14 Health and Family Services may charge reasonable fees for any
services provided under this Title whether directly or indirectly
16 provided by the department. Any fees thus received shall
constitute a permanent fund for use by the department as special
18 revenue income and shall do not become part of the General Fund.
Fees so generated shall must be utilized in accordance with
20 federal regulations.

22 **Sec. E-5. 22 MRSA §14, sub-§§2-B and 2-C**, as amended by PL
1991, c. 9, Pt. N, §3, are further amended to read:

24 **2-B. Direct reimbursement to health care provider.** When an
26 insured is eligible under the Medicaid program administered by
the Department of Human Health and Family Services, pursuant to
28 the United States Social Security Act, Title XIX, or under the
Maine Health Program, section 3189, for the medical costs or
30 injury, disease, disability or similar occurrence for which an
insurer is liable, and the insured's claim is payable to a health
32 care provider as provided or permitted by the terms of a health
insurance policy or pursuant to an assignment of rights by an
34 insured, the insurer shall directly reimburse the health care
provider to the extent that the claim is honored.

36 **2-C. Direct reimbursement to the Department of Health and
38 Family Services.** When an insured is eligible under the Medicaid
program administered by the Department of Human Health and Family
40 Services, pursuant to the United States Social Security Act,
Title XIX, or under the Maine Health Program, section 3189, for
42 the medical costs of injury, disease, disability or similar
occurrence for which an insurer is liable, and the claim is not
44 payable to a health care provider under the terms of the health
insurance policy, the insurer shall directly reimburse the
46 Department of Human Health and Family Services, upon request, for
any medical services paid by the department on behalf of a
48 Medicaid or Maine Health Program recipient to the extent that
those medical services are payable under the terms of the health
50 insurance policy.

2 **Sec. E-6. 22 MRSA §812, sub-§1, ¶G**, as enacted by PL 1989, c.
487, §11, is amended to read:

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6 G. Undergoing a comprehensive medical assessment by the
State Forensic Service. The court, in selecting the
8 examination site, shall consider proximity to the court,
availability of an examiner and the need to protect the
10 public health. No person may be presented for examination
under this subsection without arrangements for examination
12 having first been made by the court, clerk of the court or
the petitioner with the State Forensic Service. The opinion
14 of the State Forensic Service shall must be reported to the
court forthwith following the examination.

16 The court shall order the individual to be further examined
by a psychiatrist, neurologist and any additional expert if,
18 based on the report of the State Forensic Service, it
appears that:

20 (1) The individual suffers from a mental disease or
22 defect ~~which~~ that causes the individual to act in such
a manner as to endanger others with risk of infection
24 with a communicable disease; or

26 (2) Further observation or examination is required.

28 If, based on the examinations, the ~~Department--of--Mental~~
~~Health--and--Mental--Retardation~~ department determines that
30 admission to an appropriate institution for the mentally ill
or mentally retarded is necessary, it shall petition for
32 involuntary hospitalization pursuant to Title 34-B, chapter
3. If the District Court orders the involuntary
34 hospitalization of the individual pursuant to Title 34-B,
chapter 3, the petition brought pursuant to section 811
36 shall must be dismissed without prejudice. If it is
determined that admission to an appropriate institution for
38 the mentally ill or the mentally retarded is not necessary,
the head of the institution where the examinations have
40 taken place shall notify the commissioner or the
commissioner's designee, prior to discharging the respondent.

42 In no event may the period of examination pursuant to this
44 subsection exceed 60 days without further order by the
court, which may extend commitment for further observation
46 or examination for an additional 60 days, provided that the
court finds facts sufficient to show that the individual
48 suffers from a mental disease or defect ~~which~~ that causes
the individual to act in such a manner as to endanger others
50 with risk of infection with a communicable disease; and

2 **Sec. E-7. 22 MRSA §3472, sub-§5**, as amended by PL 1989, c.
3 858, §4, is further amended to read:

4 **5. Department.** "Department" means either the ~~Department of~~
5 ~~Human Services through its~~ Bureau of Elder and Adult Long-term
6 Services or, in the case of mentally retarded adults, the
7 ~~Department of Mental Health and~~ Division of Mental Retardation.

10 **Sec. E-8. 22 MRSA §3573**, as amended by PL 1989, c. 700, Pt.
11 A, §82, is further amended to read:

12 **§3573. Reporting**

13 The Department of Human Health and Family Services,
14 ~~Department of Mental Health and Mental Retardation~~ and Department
15 of Education shall by January of each year submit a joint report
16 to the joint standing committee of the Legislature having
17 jurisdiction over human resources regarding the prevention
18 activities conducted over the past fiscal year, plans for the
19 succeeding year and a report on the incidence rate of births of
20 developmentally disabled children in the State.

24 **Sec. E-9. 22 MRSA §3739, sub-§2, ¶C**, as enacted by PL 1993, c.
25 158, §2, is amended to read:

26 C. One employee of the ~~Department of Mental Health and~~
27 ~~Mental Retardation, Bureau~~ Division of Children with Special
28 Needs, appointed by the ~~Commissioner of Mental Health and~~
29 ~~Mental Retardation~~ commissioner;

32 **Sec. E-10. 22 MRSA §4004-A, sub-§3**, as enacted by PL 1993, c.
33 724, §1, is amended to read:

34 **3. Additional parties.** The Department of Corrections, the
35 ~~Department of Mental Health and Mental Retardation,~~ the
36 Department of Education, the Office Division of Substance Abuse
37 and any other appropriate state agency may be additional parties
38 to the agreement.

40 **Sec. E-11. 22 MRSA §4010-A, sub-§1**, as amended by PL 1989, c.
41 819, §1, is further amended to read:

44 **1. Policy development.** Every public or private agency or
45 program that is administered, licensed or funded by the
46 Department of Human Health and Family Services, ~~the Department of~~
~~Mental Health and Mental Retardation~~ or the Department of

2 Corrections and hires staff or selects volunteers and provides
care or services for children shall develop a written policy
regarding child abuse and neglect.

4
6 The policy shall must include:

8 A. A description of how the program and children shall-be
are managed to prevent abuse or neglect;

10 B. The reporting of suspected abuse or neglect or other
violations to the appropriate designated authorities;

12 C. The agency's course of action if allegations of abuse or
neglect are made against the agency or its staff; and

14 D. The agency's grievance procedures for staff, and for
16 children and their parents or guardians regarding alleged
18 abuse or neglect.

20 **Sec. E-12. 22 MRSA §4088, sub-§1, ¶B**, as enacted by PL 1989,
c. 400, §9, is amended to read:

22 B. "Department" means the Department of Human Health and
24 Family Services.

26 **Sec. E-13. 22 MRSA §4088, sub-§1, ¶D**, as amended by PL 1989,
c. 700, Pt. A, §90, is further amended to read:

28 D. "Out-of-home abuse and neglect" means abuse and neglect
30 of a child which that occurs in a facility or by a person
subject to licensure or inspection by this department, the
32 Department of Education, and the Department of Corrections
~~and the Department of Mental Health and Mental Retardation~~
34 or in a facility operated by these departments.

36 **Sec. E-14. 22 MRSA §6202, sub-§5**, as amended by PL 1989, c.
878, Pt. B, §19, is further amended to read:

38 **5. Department.** "Department" means the Department of Human
40 Health and Family Services through its Bureau of ~~Elder-and-Adult~~
Long-term Services.
42

44 **Sec. E-15. 22 MRSA §7909, 2nd ¶**, as amended by PL 1981, c.
493, §2, is further amended to read:

46 Nothing in this section may be construed to mean that a
resident who is not a client of the Department of Human Health
48 and Family Services ~~or the Department of Mental Health and Mental~~
~~Retardation shall may~~ be required, as a condition of admission,
50 to provide records to the administrator of the facility.

- 2 ~~(10) Assistant to the Commissioner for Public~~
3 ~~Information;~~
- 4 (11) Assistant to---the---Commissioner Deputy
5 Commissioners; and
- 6
- 7 (12) Director, Bath Children's Home.

10 **Sec. F-5. 34-B MRSA §1204, sub-§8**, as enacted by PL 1989, c.
11 933, §2, is amended to read:

12 **8. Physicians.** Employees in the classifications of
13 physician I, II and III within the ~~Department of Mental Health~~
14 ~~and Mental Retardation~~ department are unclassified state
15 employees, as defined by Title 26, section 979-A, subsection 6,
16 and are members of bargaining units, subject to Title 26, chapter
17 9-B. An employee in any of these classifications shall, as a
18 condition of continued employment, maintain necessary clinical
19 privileges to practice medicine in that employee's position as
20 determined by the respective medical staff and the superintendent
21 of the facility. Any termination of employment due to a loss of
22 clinical privileges to practice medicine as referenced under this
23 paragraph is not subject to the grievance procedure under any
24 collective bargaining agreement.

25 **Sec. F-6. 34-B MRSA §1207, sub-§1, ¶B**, as amended by PL 1989,
26 c. 7, Pt. N, §3, is further amended to read:

27 B. Information may be disclosed if necessary to carry out
28 any of the statutory functions of the department, the
29 hospitalization provisions of chapter 3, subchapter IV, the
30 purposes of Title 22, section 3554, the purposes of United
31 States Public Law 99-319, dealing with the investigatory
32 function of the independent agency designated with advocacy
33 and investigatory functions under United States Public Law
34 88-164, Title I, Part C or United States Public Law 99-319,
35 or the purposes of Title 18-A, section 5-601, subsection
36 (b), where when the ~~Department of Human Services is~~
37 ~~requested by the Department of Mental Health and Mental~~
38 ~~Retardation to act~~ department acts as public guardian or
39 public conservator;

40 **Sec. F-7. 34-B MRSA §1431, sub-§1, ¶B**, as enacted by PL 1983,
41 c. 459, §7, is amended to read:

42 B. "Residential facility" means a boarding home, nursing
43 home, foster home, group home or halfway house licensed by
44 the ~~Department of Human Services or used by the Department~~
45 ~~of Mental Health and Mental Retardation~~ department.

2 **Sec. F-8. 34-B MRSA §3001**, as amended by PL 1993, c. 410, Pt.
CCC, §15, is further amended to read:

4 **§3001. Establishment**

6 There is established within the ~~Department of Mental Health~~
7 and ~~Mental Retardation~~ department the Division of Mental Health,
8 which is responsible for the direction of the mental health
9 programs in the state institutions and for the promotion and
10 guidance of mental health programs within the communities of the
11 State.

12 **Sec. F-9. 34-B MRSA §3008**, as enacted by PL 1993, c. 687, §8,
13 is amended to read:

14 **§3008. Sexual activity with recipient of services prohibited**

15 A person who owns, operates or is an employee of an
16 organization, program or residence that is operated,
17 administered, licensed or funded by the ~~Department of Mental~~
18 Health and ~~Mental Retardation~~ or the ~~Department of Human Services~~
19 department may not engage in a sexual act, as defined in Title
20 17-A, section 251, subsection 1, paragraph C, with another person
21 or subject another person to sexual contact, as defined in Title
22 17-A, section 251, subsection 1, paragraph D, if the other
23 person, not the actor's spouse, is a person with mental illness
24 who receives therapeutic, residential or habilitative services
25 from the organization, program or residence.

26 **Sec. F-10. 34-B MRSA §5201, first ¶**, as amended by PL 1993, c.
27 410, Pt. CCC, §28, is further amended to read:

28 There is established within the ~~Department of Mental Health~~
29 and ~~Mental Retardation~~ department the Division of Mental
30 Retardation, which is responsible for:

31 **Sec. F-11. 34-B MRSA §5201, sub-§4**, as amended by PL 1993, c.
32 738, Pt. E, §1 and affected by §6, is further amended to read:

33 **4. Community-based services.** Ensuring that adults with
34 mental retardation residing in community residential facilities,
35 including nursing homes, boarding homes, foster homes, group
36 homes or halfway houses licensed by the ~~Department of Human~~
37 Services department are provided, insofar as possible, with
38 residential accommodations and access to habilitation services
39 appropriate to their needs; and

40 **Sec. F-12. 34-B MRSA §6001**, as amended by PL 1993, c. 410,
41 Pt. CCC, §44, is further amended to read:

2
3 **§6001. Legislative intent**

4 It is the intent of the Legislature that social and
5 habilitative services directed at persons who have been diagnosed
6 as being autistic or having other pervasive developmental
7 disorders be developed and planned for, to the extent that
8 resources permit, by the ~~Department of Mental Health and Mental
Retardation~~ department through the Division of Mental Retardation.

10 **Sec. F-13. 34-B MRSA §6201, sub-§1**, as enacted by PL 1985, c.
11 503, §12, is amended to read:

12 **1. Division.** "Bureau Division" means the Bureau Division
13 of Children with Special Needs.

14 **Sec. F-14. 34-B MRSA §6201, sub-§2-A**, as enacted by PL 1987,
15 c. 778, §3, is amended to read:

16 **2-A. Respite care.** "Respite care" means temporary
17 care-giving to a child or adult for the purpose of relieving that
18 person's family or another primary care-giver. Persons who have
19 completed the training program for respite care providers through
20 the ~~Department of Human Services or the Department of Mental
Health and Mental Retardation~~ department are eligible for any
21 insurance provided to family foster home providers pursuant to
22 Title 5, section 1728-A. In any action for damages against a
23 respite care provider insured pursuant to Title 5, section
24 1728-A, for damages covered under that policy, the claims for and
25 award of those damages, including costs and interest, ~~shall~~ may
26 not exceed \$300,000 for any and all claims arising out of a
27 single occurrence. When the amount awarded to or settled for
28 multiple claimants exceeds the limit imposed by this section, any
29 party may apply to the Superior Court for the county in which the
30 governmental entity is located to allocate to each claimant that
31 claimant's equitable share of the total, limited as required by
32 this section. Any award by the court in excess of the maximum
33 liability limit ~~shall be~~ is automatically abated by operation of
34 this section to the maximum limit of liability. Nothing in this
35 subsection may be deemed to make respite care a state activity
36 nor may it expand in any way the liability of the State or
37 respite care provider.

38 **Sec. F-15. 34-B MRSA §6202, sub-§4**, as amended by PL 1989, c.
39 700, Pt. A, §165, is further amended to read:

40 **4. Other agencies.** Nothing in this subchapter may be
41 construed to constrain or impair the department, the Department
42 of Corrections, Department of Education, ~~Department of Human
Services~~ or any other state agency in carrying out statutorily
43 mandated responsibilities to children and their families or to
44

alter or diminish any services, benefits or entitlements received
by virtue of the statutory responsibilities.

Sec. F-16. 34-B MRSA §6203, sub-§1, ¶D, as amended by PL 1989,
c. 700, Pt. A, §166, is further amended to read:

D. Place a high priority on continued participation with
the Department of Education ~~and--the--Department--of--Human~~
~~Services~~ in preventive intervention services to families of
children in need of treatment;

Sec. F-17. 34-B MRSA §6203, sub-§2, ¶C, as amended by PL 1989,
c. 700, Pt. A, §167, is further amended to read:

C. The plan shall must establish a procedure for setting
priorities among the various services required by children
in need of treatment and their families, in cooperation with
other agencies of State Government that provide services to
children and families, including, but not limited to, the
Department of Corrections, and the Department of Education
~~and--Department--of--Human--Services.~~

Sec. F-18. 34-B MRSA §6203, sub-§2, ¶D, as enacted by PL 1985,
c. 503, §12, is amended to read:

D. The plan shall must specifically indicate the
department's efforts in assuring that services to children
in need of treatment and their families are effectively
coordinated with existing resources and procedures of all
~~Department---of---Mental---Health---and---Mental---Retardation~~
department institutions and programs.

Sec. F-19. 34-B MRSA §6204, as amended by PL 1989, c. 700,
Pt. A, §168, is further amended to read:

§6204. Establishment of division

1. Duties. There is established, within the ~~Department--of~~
~~Mental--Health--and--Mental--Retardation,~~ department the Bureau
Division of Children with Special Needs. The bureau division
shall:

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

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

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

- 6 (1) Advocacy;
- 8 (2) Assessment and diagnosis;
- 10 (3) Child development;
- 12 (4) Consultation and education;
- 14 (5) Crisis intervention;
- 16 (6) Family guidance and counseling;
- 18 (7) Preventive intervention;
- 20 (8) Professional consultation and training;
- 22 (9) Respite care and other family support services; and
- 24 (10) Treatment.

26 **2. Powers.** The bureau division may perform the duties
described in subsection 1 and may provide services to children in
28 need of treatment through state-operated facilities and programs
or through contracts and grants to public and private agencies.
30 In all cases, the bureau division shall ensure that services are
provided in the least restrictive setting consistent with the
32 child's needs, commensurate with the resources available to the
bureau division and in coordination with services and resources
34 of other state agencies serving children and families. Emphasis
shall must be placed on maintaining each child in ~~his~~ the child's
36 natural home or in an alternative placement within the community
whenever possible.

38 **2-A. Improvement and expansion of day treatment services
for emotionally handicapped children.** The bureau division shall
40 work cooperatively with the Department of Corrections, and the
42 Department of Education ~~and the Department of Human Services~~ to
improve and expand day treatment programs for emotionally
44 handicapped school-age children so that they and their families
may receive necessary, appropriate and coordinated therapeutic
46 and educational services in home and community settings, reducing
the likelihood that out-of-home or residential treatment
48 placements will be required. ~~The Department of Mental Health and~~
Mental--Retardation department shall license these programs
50 pursuant to sections 3603 and 3606. The Department of Education

2 shall approve these programs pursuant to Title 20-A, chapter
206. The 2 departments shall jointly develop standards to ensure
4 a consistent high quality throughout the State.

6 **3. Appointment of director.** The commissioner shall, with
the advice of the Maine Advisory Committee on Children with
8 Special Needs, appoint and set the salary for the director of the
bureau division, subject to the approval of the Governor.
10 Notwithstanding any other law, the commissioner may delegate any
employee of the department to serve, for a period not to exceed
12 180 days, as acting director of the bureau division, if the
office of the director is vacant. Service as acting director
14 shall-be is considered a temporary additional duty for the person
so delegated.

16 **4. Qualifications of director.** To be eligible for
appointment as director, a person must have:

18 A. A graduate degree in child development, social welfare
20 or a related field; and

22 B. At least 5 years of experience in the administration of
children's services programs or satisfactory experience in
24 work of a comparable nature.

26 **5. Term.** The director shall-serve serves at the pleasure
of the commissioner.

28 **6. Duties and powers of director.** In addition to other
30 duties and powers set out in this chapter, the director:

32 A. Shall report directly to the commissioner;

34 B. Shall carry out the duties and responsibilities of the
bureau division; and

36 C. May promulgate, amend or repeal rules governing the
38 administration of this chapter in accordance with the Maine
Administrative Procedure Act, Title 5, chapter 375.

40 **Sec. F-20. Effective date.** This Part takes effect July 1, 1996.

44 PART G

46 **Sec. G-1. 2 MRSA §6, sub-§1,** as amended by PL 1991, c. 780,
Pt. Y, §1, is further amended to read:

1. **Range 91.** The salaries of the following state officials
and employees are within salary range 91:

Commissioner of Transportation;

Commissioner of Conservation;

Commissioner of Administrative and Financial Services;

Commissioner of Education;

Commissioner of Environmental Protection;

~~Commissioner of Human Services;~~

~~Commissioner of Mental Health and Mental Retardation;~~

Commissioner of Health and Family Services;

Commissioner of Public Safety;

Commissioner of Professional and Financial Regulation;

Commissioner of Labor;

Commissioner of Agriculture, Food and Rural Resources;

Commissioner of Inland Fisheries and Wildlife;

Commissioner of Marine Resources;

Commissioner of Corrections; and

Commissioner of Economic and Community Development.

Sec. G-2. 5 MRSA §1642, sub-§1, as repealed and replaced by PL
1985, c. 96, is amended to read:

1. Department. "Department" means the Department of Human
Health and Family Services and ~~the Department of Mental Health
and Mental Retardation.~~

Sec. G-3. 5 MRSA §1653, sub-§4, as corrected by RR 1991, c. 2,
§8, is amended to read:

4. Department. "Department" means the Department of
Education, the Department of Human Health and Family Services,
~~the Department of Mental Health and Mental Retardation~~ and the
Department of Corrections; the Criminal Justice Planning and
Assistance Agency of the Executive Department; or the Department

of Transportation; and may mean such other administrative units
of State Government as are defined from time to time by the
commissioner, except that the Maine Health Care Finance
Commission is not defined as "department" for the purposes of
this chapter.

Sec. G-4. 5 MRSA §1665, sub-§2, as corrected by RR 1991, c. 2,
§9, is amended to read:

2. Inclusion in estimate. In preparing budget estimates
pursuant to this section, the Department of Human Health and
Family Services, ~~the Department of Mental Health and Mental
Retardation~~ and the Department of Corrections shall include in
their proposed current services budget estimates:

A. The amount necessary to cover projected increases in
costs attributable to contracted social services that will
be continued at current levels, based on the United States
Consumer Price Index established by the United States
Department of Labor, Bureau of Labor Statistics; or

B. A statement identifying the specific services that will
be eliminated or reduced in the event that funds are not
budgeted to continue all contracted social services at
current levels. The statement must indicate which
categories of clients and geographic areas will be affected.

The analysis and statement required by this subsection must be
included in the state budget document pursuant to section 1664.

Sec. G-5. 5 MRSA §19203, sub-§7, as repealed and replaced by
PL 1987, c. 811, §3, is amended to read:

7. Other agencies. To employees of, or other persons
designated by, the Department of Corrections, and the Department
of Human Health and Family Services ~~and the Department of Mental
Health and Mental Retardation~~, to the extent that those employees
or other persons are responsible for the treatment or care of
subjects of the test. Those agencies shall promulgate rules,
within 90 days of the effective date of this subsection, pursuant
to the Maine Administrative Procedure Act, chapter 375,
subchapter II, designating the persons or classes of persons to
whom the test results may be disclosed;

Sec. G-6. 5 MRSA §19203-B, as enacted by PL 1987, c. 539, is
amended to read:

§19203-B. Anonymous testing sites

2 The Department of Human Health and Family Services may
designate or establish certification and approval standards for
and support anonymous testing sites where an individual may
4 request an HIV test under conditions which that ensure anonymity.

6 **Sec. G-7. 5 MRSA §19203-E, sub-§2, ¶B**, as enacted by PL 1991,
c. 803, §3, is amended to read:

8
10 B. The exposure to blood or body fluids as alleged creates
a significant risk of HIV infection, as defined by the
Department of Human Health and Family Services, Bureau of
12 Health through the adoption of rules in accordance with the
Maine Administrative Procedure Act;

14 **Sec. G-8. 5 MRSA §19203-E, sub-§5, ¶A**, as enacted by PL 1993,
16 c. 803, §3, is amended to read:

18 A. The alleged exposure to blood or body fluids of the
convicted offender created a significant risk of HIV
20 infection as defined by the Department of Human Health and
Family Services, Bureau of Health through the adoption of
22 rules in accordance with the Maine Administrative Procedure
Act;

24 **Sec. G-9. 5 MRSA §19203-E, sub-§8**, as enacted by PL 1991, c.
26 803, §3, is amended to read:

28 **8. Reporting and counseling.** The health care facility in
which any person is tested pursuant to this section shall report
30 to the Bureau of Health. The health care facility in which a
convicted offender required to undergo an HIV test is tested
32 shall disclose the results of the convicted offender's test to
the victim-witness advocate who shall disclose the results to the
34 petitioner. The convicted offender's HIV test results may not be
disclosed to the petitioner until the petitioner has received
36 counseling regarding the nature, reliability and significance of
the convicted offender's HIV test and the confidential nature of
38 the test. All counseling must be provided by a Department of
Human Health and Family Services certified HIV antibody
40 counselor. All tests conducted pursuant to this section must be
accompanied by pretest and posttest counseling as defined in
42 section 19204-A.

44 **Sec. G-10. 5 MRSA §19205**, as amended by PL 1989, c. 700, Pt.
A, §28, is further amended to read:

46 **§19205. Coordination of services to persons with AIDS, AIDS**
48 **Related Complex and viral positivity**

2 providing treatment under this subchapter through a contract with
the ~~office~~ division under section 20008, or any facility funded
4 in whole or in part by municipal, state or federal funds.

6 **Sec. I-4. 5 MRSA §20003, sub-§3**, as amended by PL 1991, c.
850, §2, is further amended to read:

8 **3. Approved treatment facility.** "Approved treatment
10 facility" means a public or private alcohol treatment facility
meeting standards approved by the ~~office~~ division in accordance
12 with section 20005 and licensed pursuant to subchapter V and
other applicable provisions of state law.

14 **Sec. I-5. 5 MRSA §20003, sub-§6**, as amended by PL 1991, c.
601, §4, is further amended to read:

16 **6. Department.** "Department" means the ~~Executive~~ Department
18 of Health and Family Services.

20 **Sec. I-6. 5 MRSA §20003, sub-§8**, as enacted by PL 1989, c.
934, Pt. A, §3, is amended to read:

22 **8. Director.** "Director" means the Director of the ~~Office~~
24 Division of Substance Abuse.

26 **Sec. I-7. 5 MRSA §20003, sub-§8-A** is enacted to read:

28 **8-A. Division.** "Division" means the Division of Substance
30 Abuse established under section 20004.

32 **Sec. I-8. 5 MRSA §20003, sub-§17**, as enacted by PL 1989, c.
934, Pt. A, §3, is repealed.

34 **Sec. I-9. 5 MRSA §20003, sub-§20**, as enacted by PL 1989, c.
934, Pt. A, §3, is amended to read:

36 **20. Standards.** "Standards" means criteria and rules of the
38 ~~office~~ division or the department that are to be met before and
during operation of any treatment facility or treatment program.

40 **Sec. I-10. 5 MRSA §20004**, as enacted by PL 1989, c. 934, Pt.
42 A, §3, is amended to read:

44 **§20004. Division established**

46 The ~~Office~~ Division of Substance Abuse is established within
48 the ~~Executive-Department~~ department to fulfill the purposes of
this Act. ~~The-office-is-directly-responsible-to-the-Governor.~~
50 ~~The-office-shall-be-the-sole-agency-of-the-State-responsible-for~~
administering-this-Act.

2 **Sec. I-11. 5 MRSA §20004-A**, as enacted by PL 1993, c. 410,
Pt. LL, §6, is amended to read:

4
6 **§20004-A. Department and agencies responsible for cooperation in
implementation**

8 All departments and agencies in State Government are
required to cooperate with the ~~office~~ division in its
10 implementation and administration of this chapter.

12 **Sec. I-12. 5 MRSA §20005, first ¶**, as enacted by PL 1989, c.
934, Pt. A, §3, is amended to read:

14 The ~~office~~ division shall:

16 **Sec. I-13. 5 MRSA §20005, sub-§2**, as amended by PL 1991, c.
18 601, §6, is further amended to read:

20 **2. Comprehensive plan.** Develop and provide for the
implementation of a comprehensive state plan for alcohol and drug
22 abuse. Any plan developed by the ~~office-must-be~~ division is
subject to public hearing prior to implementation;

24 **Sec. I-14. 5 MRSA §20005, sub-§5**, as amended by PL 1991, c.
26 850, §3, is further amended to read:

28 **5. Budget.** Develop and submit to the Legislature--by
~~January--15th--of--the--first--year--of--each--legislative--biennium~~
30 department recommendations for continuing and supplemental
allocations, deappropriations or reduced allocations and
32 appropriations from all funding sources for all state alcohol and
drug abuse programs. ~~The-office-shall-make-final-recommendations~~
34 ~~to-the-Governor-before-any-substance-abuse-funds-are-appropriated~~
~~or-deappropriated-in-the-Governor's-proposed-budget.~~ The ~~office~~
36 division shall formulate all budgetary recommendations for the
Driver Education and Evaluation Programs with the advice,
38 consultation and full participation of the chief executive
officer of the Driver Education and Evaluation Programs;

40 **Sec. I-15. 5 MRSA §20005, sub-§6**, as amended by PL 1993, c.
42 349, §21, is further amended to read:

44 **6. Contracts and licensing.** Through the director:

46 A. Administer all contracts with community service
providers for the delivery of alcohol and drug abuse
48 services;

50 B. Establish operating and treatment standards and inspect

2 and issue certificates of approval for approved treatment
4 facilities, drug abuse treatment facilities or programs,
6 including residential treatment centers, and community-based
8 service providers pursuant to section 20024 and subchapter
10 V; and

12 C. Ensure community participation by funding regional
14 alcohol councils to:

16 (1) Assist in the development of comprehensive state
18 plans, the review of the effectiveness of existing
20 policies and services, and the identification of unmet
22 needs;

24 (2) Review and comment on proposed grants and
26 contracts;

28 (3) Increase public awareness and participation;

30 (4) Supply general reference information; and

32 (5) Advocate for individuals in need of assistance.

34 The director shall ensure that councils are funded in a
36 manner that recognizes local differences in cost and travel
38 distances and allows equal provision of services in each
40 geographic area to the extent that funds are available
42 within the ~~office~~ division for this purpose.

44 The director may delegate contract and licensing duties under
46 this subsection to the ~~Department of Human Services,~~ department
48 ~~or the Department of Corrections or the Department of Mental~~
50 ~~Health and Mental Retardation~~ as long as that delegation ensures
that contracting for alcohol and other drug abuse services
provided in community settings are consolidated within the
~~Department of Human Services~~ department, that contracting for
alcohol and other drug abuse services delivered within
correctional facilities are consolidated within the Department of
Corrections and that contracting for alcohol and other drug abuse
services delivered within mental health and mental retardation
facilities are consolidated within the ~~Department of Mental~~
~~Health and Mental Retardation~~ department.

The director may not delegate contract and licensing duties if
that delegation results in increased administrative costs.

The director may not issue requests for proposals for existing
contract services until the director has adopted rules in
accordance with the Maine Administrative Procedure Act to ensure
that the reasons for which existing services are placed out for

2 bid and the performance standards and manner in which compliance
3 is evaluated are specified and that any change in provider is
4 accomplished in a manner that fully protects the consumer of
5 services.

6 Any new contract must be awarded through a request-for-proposal
7 procedure and 1/3 of the contracts of \$100,000 per year or more
8 that are renewed must be awarded through a request-for-proposal
9 procedure at least every 2 years.

10 The director shall establish a procedure to obtain assistance and
11 advice from consumers of alcohol and other drug abuse services
12 regarding the selection of contractors when requests for
13 proposals are issued;

14 **Sec. I-16. 5 MRSA §20005, sub-§12**, as amended by PL 1991, c.
15 601, §6, is further amended to read:

16 **12. Rules.** Adopt rules, in accordance with the Maine
17 Administrative Procedure Act, necessary to carry out the purposes
18 of this chapter and approve any rules adopted by state agencies
19 for the purpose of implementing alcohol or drug abuse prevention
20 or treatment programs.

21 All state agencies must comply with rules adopted by the ~~office~~
22 division regarding uniform alcohol and other drug abuse
23 contracting requirements, formats, schedules, data collection and
24 reporting requirements;

25 **Sec. I-17. 5 MRSA §20005, sub-§§14 and 16**, as enacted by PL
26 1993, c. 410, Pt. LL, §10, are amended to read:

27 **14. Interdepartmental cooperation.** Document to the
28 Legislature's satisfaction, active participation and cooperation
29 between the ~~office~~ division and the other departments with which
30 it works through the commission;

31 **16. Substance abuse services plan.** Plan for not only those
32 services funded directly by the ~~office~~ division, but also those
33 additional services determined by the commission to be critical
34 and related;

35 **Sec. I-18. 5 MRSA §20006, first and 2nd ¶¶**, as amended by PL
36 1991, c. 601, §8, are further amended to read:

37 ~~The Governor~~ Commissioner of Health and Family Services
38 shall appoint, ~~subject to confirmation by the joint standing~~
39 ~~committee of the Legislature having jurisdiction over health and~~
40 ~~institutional services,~~ a full-time director of the ~~Office~~
41 Division of Substance Abuse ~~who shall serve at the pleasure of~~
42 ~~the Governor and have a salary fixed by the Governor.~~

2 The director must be qualified by training and experience in
4 the field of alcohol and other drug abuse prevention and
6 treatment. The director shall exercise the powers of the effiee
division and is responsible for the execution of its duties.

8 **Sec. I-19. 5 MRSA §20006, sub-§3**, as amended by PL 1991, c.
601, §9, is further amended to read:

10 **3. Investigate.** Conduct investigations and studies of any
12 alcohol or drug abuse program or community service provider
14 operating under the control of the effiee division or providing
16 treatment under this chapter through a contract with the effiee
division under section 20008, that are licensed pursuant to
section 20024 or any facility funded in whole or in part by
municipal, state or federal funds, as necessary; and

18 **Sec. I-20. 5 MRSA §20007**, as enacted by PL 1989, c. 934, Pt.
A, §3, is amended to read:

20 **§20007. Substance Abuse Advisory Group; agency cooperation**

22 The Commissioner of Corrections, the Commissioner of
24 ~~Educatiional-and-Cultural-Serviees~~ Education, the Commissioner of
26 ~~Human Health and Family Services,--the-Commissioner--of--Mental~~
~~Health--and--Mental--Retardation~~ and the Commissioner of Public
28 Safety shall constitute the Substance Abuse Advisory Group. The
commissioners shall elect a chair from among the members of the
advisory group and shall meet with the director to provide advice
30 on the development and operation of alcohol and drug abuse
prevention and treatment programs. The advisory group shall
32 meet, at a minimum, in alternate months.

34 State agencies shall cooperate fully with the effiee
division and council in carrying out this chapter. A state
36 agency may not develop, establish, conduct or administer any
alcohol or drug abuse prevention or treatment program without the
38 approval of the effiee division. The effiee division may request
40 personnel, facilities and data from other agencies as the
director finds necessary to fulfill the purposes of this Act.

42 **Sec. I-21. 5 MRSA §20008, first ¶**, as enacted by PL 1989, c.
934, Pt. A, §3, is amended to read:

44 The effiee division shall establish and provide for the
46 implementation of a comprehensive and coordinated program of
alcohol and drug abuse prevention and treatment in accordance
48 with subchapters II and III and the purposes of this Act. The
program must include the following elements.

2 by the Office of Substance Abuse and now assigned by this Act to
3 the Department of Health and Family Services, Division of
4 Substance Abuse.

5
6 1. The Department of Health and Family Services, Division
7 of Substance Abuse is the successor in every way to the powers,
8 duties and functions of the Office of Substance Abuse.

9
10 2. Notwithstanding the provisions of the Maine Revised
11 Statutes, Title 5, all accrued expenditures, assets, liabilities,
12 balances or appropriations, allocations, transfers, revenues or
13 other available funds in an account or subdivision of an account
14 of the Office of Substance Abuse attributable to functions
15 transferred in this Act to the Department of Health and Family
16 Services, Division of Substance Abuse must be transferred to the
17 proper accounts of the Department of Health and Family Services
18 by the State Controller upon the request of the State Budget
19 Officer and with the approval of the Governor.

20 3. All rules of the Office of Substance Abuse in effect on
21 July 1, 1996 remain in effect until rescinded, revised or amended.

22
23 4. All contracts, agreements and compacts of the Office of
24 Substance Abuse in effect on July 1, 1996 remain in effect until
25 they expire or are altered by the parties involved in the
26 contracts or agreements.

27
28 5. All records of the Office of Substance Abuse
29 attributable to the functions transferred in this Act to the
30 Department of Health and Family Services, Division of Substance
31 Abuse must be transferred to the Department of Health and Family
32 Services.

33
34 6. All property and equipment of the Office of Substance
35 Abuse is transferred to the Department of Health and Family
36 Services.

37
38 7. Employees of the Office of Substance Abuse retain those
39 positions in the Department of Health and Family Services to
40 which they are transferred and retain all their employee rights,
41 privileges and benefits, including sick leave, vacation and
42 seniority, provided under the Civil Service Law or collective
43 bargaining agreements. The Bureau of Human Resources within the
44 Department of Administrative and Financial Services shall assist
45 with the orderly implementation of this subsection.

46
47 **Sec. J-2. Maine Revised Statutes amended; revision clause.**

48 Wherever in the Maine Revised Statutes the words "Office of
49 Substance Abuse" or "Director of the Office of Substance Abuse"
50 appear or reference is made to those words, they are amended to

2 read and mean "Division of Substance Abuse" or "Director of the
Division of Substance Abuse," and the Revisor of Statutes shall
4 implement this revision when updating, publishing or republishing
the statutes.

6 **Sec. J-3. Effective date.** This Part takes effect July 1, 1996.

8 **PART K**

10 **Sec. K-1. Budget.** The Bureau of the Budget shall work with
the Office of Substance Abuse and the Department of Human
12 Services to develop the budget figures for the functions of the
Department of Health and Family Services, Division of Substance
14 Abuse transferred from the Office of Substance Abuse.

16 **Sec. K-2. Transitional activities.** Personnel from the Office of
Substance Abuse and the Department of Human Services may engage
18 in any activities necessary to implement this Act in a timely
manner. The Director of the Office of Substance Abuse and the
20 Commissioner of Human Services shall cooperate to ensure that any
federal approval required to implement any part of this Act is
22 requested and received. If either the commissioner or the
director determines that federal approval will not be obtained
24 for any part of this Act, the director or the commissioner shall
immediately notify the Joint Standing Committee on Human
26 Resources and the Executive Director of the Legislative Council.

28 **Sec. K-3. Committee bill.** By January 1, 1996, the Joint
Standing Committee on Human Resources shall submit legislation to
30 correct errors, inconsistencies and unintended policy changes
that result from this Act. The Legislative Council shall provide
32 staff assistance to the committee for the preparation of the
legislation.

34 **Sec. K-4. Effective date.** This Part takes effect November 1,
36 1995.

38 **STATEMENT OF FACT**

40 In Part A this bill establishes the Department of Health and
42 Family Services. The department assumes fully the duties of the
current Department of Human Services and Department of Mental
44 Health and Mental Retardation. The department consists of 4
bureaus: the Bureau of Child and Family Services, the Bureau of
46 Health, the Bureau of Income Maintenance and the Bureau of
Long-term Services. The department includes the Division of
48 Substance Abuse, bringing into the department the current Office
of Substance Abuse.

2 In Part B this bill transfers from the Department of Human
3 Services and the Department of Mental Health and Mental
4 Retardation to the Department of Health and Family Services all
5 of the expenditures, assets, liabilities, appropriations and
6 allocations, rules, contracts and agreements, records, property
7 and employees of those 2 departments. It directs the Revisor of
8 Statutes to make any statutory corrections necessary for
9 consistency of the statutes.

10 In Part C this bill directs transitional activities
11 concerning the budget and the functions of the departments
12 involved. It directs the Joint Standing Committee on Human
13 Resources to submit legislation needed to correct errors and
14 inconsistencies.

15 In Part D this bill amends the Maine Revised Statutes, Title
16 5 as required to establish the new department.

17 In Part E this bill amends the Maine Revised Statutes, Title
18 22 as required to transfer functions from the Department of Human
19 Services to the Department of Health and Family Services.

20 In Part F this bill amends the Maine Revised Statutes, Title
21 34-B as required to transfer functions from the Department of
22 Mental Health and Mental Retardation to the Department of Health
23 and Family Services.

24 In Part G this bill amends the Maine Revised Statutes, Title
25 2 as required to establish the Department of Health and Family
26 Services and corrects cross-references in Title 5.

27 In Part H this bill corrects cross-references in the Maine
28 Revised Statutes, Title 34-B.

29 In Part I this bill transfers the Office of Substance Abuse
30 from the Executive Department to the Department of Health and
31 Family Services and changes the office's name to the Division of
32 Substance Abuse.

33 In Parts J and K this bill transfers from the Office of
34 Substance Abuse to the Department of Health and Family Services
35 all of the expenditures, assets, liabilities, appropriations and
36 allocations, rules, contracts and agreements, records, property
37 and employees of that office. It directs the Revisor of Statutes
38 to make any statutory corrections necessary for consistency of
39 the statutes. It directs transitional activities concerning the
40 budget and the functions of the departments involved. It directs
41 the Joint Standing Committee on Human Resources to submit
42 legislation needed to correct errors and inconsistencies.