

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1338

H.P. 949

House of Representatives, April 13, 1995

**An Act to Restructure the Department of Human Services and the  
Department of Mental Health and Mental Retardation.**

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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 BRENNAN of Portland.

Cosponsored by Representatives: MITCHELL of Vassalboro, MORRISON of Bangor.

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 the Legislature having jurisdiction over human resource matters

2 and to confirmation by the Senate, to serve at the pleasure of  
3 the Governor.

4 2. Vacancy. Vacancies in the office of the commissioner  
5 must be filled as follows.

6 A. Any vacancy in the office of commissioner must be filled  
7 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.

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

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

26 **§105. Bureaus**

28 The department contains the following bureaus: the Bureau of  
29 Child and Family Services, the Bureau of Health, the Bureau of  
30 Income Maintenance and the Bureau of Long-term Services.

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

34 **PART B**

36 **Sec. B-1. Transition.** The following provisions apply to the  
37 reassignment of the duties and responsibilities of the Department  
38 of Human Services and the Department of Mental Health and Mental  
39 Retardation.

40 1. The Department of Health and Family Services is the  
41 successor in every way to the powers, duties and functions of the  
42 Department of Human Services and the Department of Mental Health  
43 and Mental Retardation.

46 2. Notwithstanding the provisions of the Maine Revised  
47 Statutes, Title 5, all accrued expenditures, assets, liabilities,  
48 balances or appropriations, allocations, transfers, revenues or  
other available funds in an account or subdivision of an account

of the Department of Human Services or the Department of Mental Health and Mental Retardation must be transferred to the proper accounts of the Department of Health and Family Services by the State Controller upon the request of the State Budget Officer and with the approval of the Governor.

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

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

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

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

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

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

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

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

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

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

4 **PART C**

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

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

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

30 **Sec. C-4. Effective date.** This Part takes effect November 1,  
32 1995.

34 **PART D**

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

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

42 Commissioner of Transportation;

44 Commissioner of Conservation;

46 Commissioner of Administrative and Financial Services;

48 Commissioner of Education;

2 Commissioner of Environmental Protection;  
4 Commissioner of Health and Family Services;  
6 ~~Commissioner of Human Services;~~  
8 ~~Commissioner of Mental Health and Mental Retardation;~~  
10 Commissioner of Public Safety;  
12 Commissioner of Professional and Financial Regulation;  
14 Commissioner of Labor;  
16 Commissioner of Agriculture, Food and Rural Resources;  
18 Commissioner of Inland Fisheries and Wildlife;  
20 Commissioner of Marine Resources;  
22 Commissioner of Corrections; and  
24 Commissioner of Economic and Community Development.

26 **Sec. D-2. 5 MRSA §940**, as amended by PL 1989, c. 878, Pt. B,  
28 §3, is repealed.

30 **Sec. D-3. 5 MRSA §946**, as amended by PL 1993, c. 410, Pt.  
32 CCC, §2, is repealed.

34 **Sec. D-4. 5 MRSA §946-A** is enacted to read:

36 **§946-A. Department of Health and Family Services**

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

42 A. Deputy Commissioner of Family Services;

44 B. Deputy Commissioner of Health;

46 C. Deputy Commissioner of Management and Budget;

48 D. Director, Bureau of Child and Family Services;

50 E. Director, Bureau of Health;

- 2           F. Director, Bureau of Income Maintenance;
- 4           G. Director, Bureau of Juvenile Corrections;
- 6           H. Director, Bureau of Long-term Services;
- 8           I. Director, Division of Children with Special Needs;
- 10          J. Director, Division of Management and Budget;
- 12          K. Director, Division of Medical Services;
- 14          L. Director, Division of Mental Health;
- 16          M. Director, Division of Mental Retardation;
- 18          N. Director, Division of Substance Abuse;
- 20          O. Superintendent, Augusta Mental Health Institute;
- 22          P. Superintendent, Bangor Mental Health Institute;
- 24          Q. Superintendent, Pineland Center;
- 26          R. Director, Mental Retardation Facility;
- 28          S. Director, Elizabeth Levinson Center;
- 30          T. Director, Office of Rehabilitation Services; and
- 32          U. Assistant Deputy Commissioners.

34           **Sec. D-5. Effective date.** This Part takes effect July 1, 1996.

36   **PART E**

38           **Sec. E-1. 22 MRS §1**, as amended by PL 1993, c. 685, Pt. B,  
40           §2, is further amended to read:

42           **§1. Department of Health and Family Services**

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



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

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

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

32           The commissioner shall appoint the following officials to  
33 serve at the commissioner's pleasure: associate commissioners;  
34 the Director, Bureau of Child and Family Services; the Director,  
35 Bureau of Health; the Director, Bureau of Juvenile Corrections;  
36 the Director, Bureau of Income Maintenance; the Director, Bureau  
37 of Long-term Care Services; the Director, Division of Children  
38 with Special Needs; the Director, Division of Management and  
39 Budget; the Director, Division of Medical Services; the Director,  
40 Division of Mental Health; the Director, Division of Mental  
41 Retardation; the Director, Division of Rehabilitation Services;  
42 and the Director, Division of Substance Abuse.

43           The Director, Bureau of Child and Family Services, and the  
44 Director, Bureau of Elder ~~and Adult~~ Long-term Services, must be  
45 appointed by the commissioner. Each of these directors is  
46 appointed and serves in the unclassified service at the pleasure

2 of the commissioner. Any vacancy in each of these positions must  
be filled by appointment as in this paragraph for a like term.

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

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

12  
14 **1. Report.** The Department of Human Health and Family  
Services shall prepare an annual report on all services  
16 contracted with community providers. The department shall  
deliver its report to the joint standing committee of the  
18 Legislature having jurisdiction over appropriations and financial  
affairs by January 31st of each year. The report shall must  
include:

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

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

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

32 D. The department's assessment, by individual service area,  
34 of the outstanding service needs of the State. The  
assessment shall must identify the funding source projected  
36 by the department to be available for the expansion of  
service, presented in prioritized order; and

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

44 **Sec. E-3. 22 MRSA §6-B**, as enacted by PL 1993, c. 738, Pt. F,  
46 §1, is repealed.

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

50

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

10           **Sec. E-5. 22 MRSA §14, sub-§§2-B and 2-C,** as amended by PL  
11 1991, c. 9, Pt. N, §3, are further amended to read:

12           **2-B. Direct reimbursement to health care provider.** When an  
13 insured is eligible under the Medicaid program administered by  
14 the Department of Human Health and Family Services, pursuant to  
15 the United States Social Security Act, Title XIX, or under the  
16 Maine Health Program, section 3189, for the medical costs or  
17 injury, disease, disability or similar occurrence for which an  
18 insurer is liable, and the insured's claim is payable to a health  
19 care provider as provided or permitted by the terms of a health  
20 insurance policy or pursuant to an assignment of rights by an  
21 insured, the insurer shall directly reimburse the health care  
22 provider to the extent that the claim is honored.

23           **2-C. Direct reimbursement to the Department of Health and**  
24 **Family Services.** When an insured is eligible under the Medicaid  
25 program administered by the Department of Human Health and Family  
26 Services, pursuant to the United States Social Security Act,  
27 Title XIX, or under the Maine Health Program, section 3189, for  
28 the medical costs of injury, disease, disability or similar  
29 occurrence for which an insurer is liable, and the claim is not  
30 payable to a health care provider under the terms of the health  
31 insurance policy, the insurer shall directly reimburse the  
32 Department of Human Health and Family Services, upon request, for  
33 any medical services paid by the department on behalf of a  
34 Medicaid or Maine Health Program recipient to the extent that  
35 those medical services are payable under the terms of the health  
36 insurance policy.

37           **Sec. E-6. 22 MRSA §812, sub-§1, ¶G,** as enacted by PL 1989, c.  
38 487, §11, is amended to read:

39           G. Undergoing a comprehensive medical assessment by the  
40 State Forensic Service. The court, in selecting the  
41 examination site, shall consider proximity to the court,  
42 availability of an examiner and the need to protect the  
43 public health. No person may be presented for examination  
44 under this subsection without arrangements for examination  
45 having first been made by the court, clerk of the court or  
46 the petitioner with the State Forensic Service. The opinion  
47  
48  
49  
50

2 of the State Forensic Service shall must be reported to the  
court forthwith following the examination.

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

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

14 (2) Further observation or examination is required.

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

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

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

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

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

2 **§3573. Reporting**

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

12 **Sec. E-9. 22 MRSA §3739, sub-§2, ¶C**, as enacted by PL 1993, c.  
14 158, §2, is amended to read:

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

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

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

28 **Sec. E-11. 22 MRSA §4010-A, sub-§1**, as amended by PL 1989, c.  
30 819, §1, is further amended to read:

32 **1. Policy development.** Every public or private agency or  
34 program that is administered, licensed or funded by the  
Department of Human Health and Family Services, ~~the Department of~~  
36 ~~Mental Health and Mental Retardation or the Department of~~  
Corrections and hires staff or selects volunteers and provides  
care or services for children shall develop a written policy  
38 regarding child abuse and neglect.

40 The policy shall must include:

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

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

48 C. The agency's course of action if allegations of abuse or  
neglect are made against the agency or its staff; and  
50

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

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

8 A. "Bureau" means the Bureau of Child and Family Services  
within the Department of Human Health and Family Services.

10 B. "Department" means the Department of Human Health and  
12 Family Services.

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

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

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

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

30 **Sec. E-15. 22 MRSA §7909, 2nd ¶,** as amended by PL 1981, c.  
32 493, §2, is further amended to read:

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

40 **Sec. E-16. Effective date.** This Part takes effect July 1, 1996.

## 42 PART F

44 **Sec. F-1. 34-B MRSA §1001, sub-§§3 and 4,** as enacted by PL  
1983, c. 459, §7, are amended to read:

46 3. **Commissioner.** "Commissioner" means the Commissioner of  
48 ~~Mental Health and Mental Retardation or his~~ Health and Family  
Services or the commissioner's designee, except that when the

2 term "commissioner and only the commissioner" is used, the term  
3 applies only to the person appointed Commissioner of Mental  
4 ~~Health and Mental Retardation~~ Health and Family Services and not  
to any designee.

6 **4. Department.** "Department" means the Department of Mental  
7 ~~Health and Mental Retardation~~ Health and Family Services.

8  
9 **Sec. F-2. 34-B MRSA §§1201 and 1202,** as enacted by PL 1983,  
10 c. 459, §7, are repealed.

12 **Sec. F-3. 34-B MRSA §1204, first ¶,** as enacted by PL 1983, c.  
13 459, §7, is amended to read:

14  
15 In addition to other powers granted in this Title and Titles  
16 22 and 22-A, the commissioner has the following powers.

18 **Sec. F-4. 34-B MRSA §1204, sub-§2, ¶C,** as amended by PL 1993,  
19 c. 410, Pt. CCC, §11, is further amended to read:

20  
21 C. The commissioner shall appoint the following officials  
22 to serve at the commissioner's pleasure:

- 24 (1) Associate Commissioners;
- 26 (3) Superintendent, Augusta Mental Health Institute;
- 28 (4) Superintendent, Bangor Mental Health Institute;
- 30 (6) Superintendent, Pineland Center;
- 32 (7) Director, ~~Bureau~~ Division of Children with Special  
33 Needs;
- 34 (8) Director, Mental Retardation Facility;
- 36 (9) Director, Elizabeth Levinson Center;
- 38 (10) Assistant to the Commissioner for Public  
39 Information;
- 42 (11) Assistant to the Commissioner; and
- 44 (12) Director, Bath Children's Home.

46 **Sec. F-5. 34-B MRSA §1204, sub-§8,** as enacted by PL 1989, c.  
47 933, §2, is amended to read:

48  
49 **8. Physicians.** Employees in the classifications of  
50 physician I, II and III within the ~~Department of Mental Health~~

2 and ~~Mental-Retardation~~ department are unclassified state  
4 employees, as defined by Title 26, section 979-A, subsection 6,  
6 and are members of bargaining units, subject to Title 26, chapter  
8 9-B. An employee in any of these classifications shall, as a  
10 condition of continued employment, maintain necessary clinical  
12 privileges to practice medicine in that employee's position as  
determined by the respective medical staff and the superintendent  
of the facility. Any termination of employment due to a loss of  
clinical privileges to practice medicine as referenced under this  
paragraph is not subject to the grievance procedure under any  
collective bargaining agreement.

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

16 B. Information may be disclosed if necessary to carry out  
18 any of the statutory functions of the department, the  
hospitalization provisions of chapter 3, subchapter IV, the  
20 purposes of Title 22, section 3554, the purposes of United  
States Public Law 99-319, dealing with the investigatory  
22 function of the independent agency designated with advocacy  
and investigatory functions under United States Public Law  
24 88-164, Title I, Part C or United States Public Law 99-319,  
or the purposes of Title 18-A, section 5-601, subsection  
26 (b), ~~where when the Department-of-Human-Services-is~~  
~~requested-by-the-Department-of-Mental-Health-and-Mental~~  
28 ~~Retardation-to-act~~ department acts as public guardian or  
public conservator;

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

32 B. "Residential facility" means a boarding home, nursing  
34 home, foster home, group home or halfway house licensed by  
the ~~Department-of-Human-Services-or-used-by-the-Department~~  
36 ~~of-Mental-Health-and-Mental-Retardation~~ department.

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

42 **§3001. Establishment**

44 There is established within the ~~Department-of-Mental-Health~~  
~~and-Mental-Retardation~~ department the Division of Mental Health,  
46 which is responsible for the direction of the mental health  
48 programs in the state institutions and for the promotion and  
guidance of mental health programs within the communities of the  
State.



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

4           **§3008. Sexual activity with recipient of services prohibited**

6           A person who owns, operates or is an employee of an  
7 organization, program or residence that is operated,  
8 administered, licensed or funded by the ~~Department--of--Mental~~  
9 ~~Health--and--Mental--Retardation--or--the--Department--of--Human--Services~~  
10 department may not engage in a sexual act, as defined in Title  
11 17-A, section 251, subsection 1, paragraph C, with another person  
12 or subject another person to sexual contact, as defined in Title  
13 17-A, section 251, subsection 1, paragraph D, if the other  
14 person, not the actor's spouse, is a person with mental illness  
15 who receives therapeutic, residential or habilitative services  
16 from the organization, program or residence.

18           **Sec. F-10. 34-B MRSA §5201, first ¶**, as amended by PL 1993, c.  
19 410, Pt. CCC, §28, is further amended to read:

20           There is established within the ~~Department--of--Mental--Health~~  
21 ~~and--Mental--Retardation~~ department the Division of Mental  
22 Retardation, which is responsible for:

24           **Sec. F-11. 34-B MRSA §5201, sub-§4**, as amended by PL 1993, c.  
25 738, Pt. E, §1 and affected by §6, is further amended to read:

26           **4. Community-based services.** Ensuring that adults with  
27 mental retardation residing in community residential facilities,  
28 including nursing homes, boarding homes, foster homes, group  
29 homes or halfway houses licensed by the ~~Department--of--Human~~  
30 ~~Services~~ department are provided, insofar as possible, with  
31 residential accommodations and access to habilitation services  
32 appropriate to their needs; and

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

35           **§6001. Legislative intent**

36           It is the intent of the Legislature that social and  
37 habilitative services directed at persons who have been diagnosed  
38 as being autistic or having other pervasive developmental  
39 disorders be developed and planned for, to the extent that  
40 resources permit, by the ~~Department--of--Mental--Health--and--Mental~~  
41 ~~Retardation~~ department through the Division of Mental Retardation.

42           **Sec. F-13. 34-B MRSA §6201, sub-§1**, as enacted by PL 1985, c.  
43 503, §12, is amended to read:

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

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

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

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

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

2           **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:

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

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

16          D. The plan shall must specifically indicate the  
18          department's efforts in assuring that services to children  
20          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.

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

26          **§6204. Establishment of division**

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

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

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

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

- 46                   (1) Advocacy;
- 48                   (2) Assessment and diagnosis;
- 50                   (3) Child development;

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

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

28 **2-A. Improvement and expansion of day treatment services**  
30 **for emotionally handicapped children.** The bureau division shall  
32 work cooperatively with the ~~Department of Corrections,~~ Department  
34 of Education and ~~the Department of Human Services~~ to improve and  
36 expand day treatment programs for emotionally handicapped  
38 school-age children so that they and their families may receive  
40 necessary, appropriate and coordinated therapeutic and  
42 educational services in home and community settings, reducing the  
likelihood that out-of-home or residential treatment placements  
will be required. The ~~Department of Mental Health and Mental~~  
~~Retardation~~ department shall license these programs pursuant to  
sections 3603 and 3606. The Department of Education shall  
approve these programs pursuant to Title 20-A, chapter 206. The  
2 departments shall jointly develop standards to ensure a  
consistent high quality throughout the State.

44 **3. Appointment of director.** The commissioner shall, with  
46 the advice of the Maine Advisory Committee on Children with  
48 Special Needs, appoint and set the salary for the director of the  
50 bureau division, subject to the approval of the Governor.  
Notwithstanding any other law, the commissioner may delegate any  
employee of the department to serve, for a period not to exceed  
180 days, as acting director of the bureau division, if the

office of the director is vacant. Service as acting director shall-be is considered a temporary additional duty for the person so delegated.

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

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

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

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

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

A. Shall report directly to the commissioner;

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

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

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

## PART G

**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;

2           ~~Commissioner of Human Services;~~  
4           ~~Commissioner of Mental Health and Mental Retardation;~~  
6           Commissioner of Health and Family Services;  
8           Commissioner of Public Safety;  
10          Commissioner of Professional and Financial Regulation;  
12          Commissioner of Labor;  
14          Commissioner of Agriculture, Food and Rural Resources;  
16          Commissioner of Inland Fisheries and Wildlife;  
18          Commissioner of Marine Resources;  
20          Commissioner of Corrections; and  
22          Commissioner of Economic and Community Development.

24          **Sec. G-2. 5 MRSA §1642, sub-§1**, as repealed and replaced by PL  
26          1985, c. 96, is amended to read:

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

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

34           **4. Department.** "Department" means the Department of  
36          Education, the Department of Human Health and Family Services,  
              ~~the Department of Mental Health and Mental Retardation~~ and the  
38          Department of Corrections; the Criminal Justice Planning and  
40          Assistance Agency of the Executive Department; or the Department  
42          of Transportation; and may mean such other administrative units  
44          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.

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

48           **2. Inclusion in estimate.** In preparing budget estimates  
50          pursuant to this section, the Department of Human Health and  
              Family Services, ~~the Department of Mental Health and Mental~~

2       ~~Retardation~~ and the Department of Corrections shall include in  
their proposed current services budget estimates:

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

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

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

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

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

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

36       **§19203-B. Anonymous testing sites**

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

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

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

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

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

10           **Sec. G-9. 5 MRSA §19203-E, sub-§8**, as enacted by PL 1991, c.  
11 803, §3, is amended to read:

12           **8. Reporting and counseling.** The health care facility in  
13 which any person is tested pursuant to this section shall report  
14 to the Bureau of Health. The health care facility in which a  
15 convicted offender required to undergo an HIV test is tested  
16 shall disclose the results of the convicted offender's test to  
17 the victim-witness advocate who shall disclose the results to the  
18 petitioner. The convicted offender's HIV test results may not be  
19 disclosed to the petitioner until the petitioner has received  
20 counseling regarding the nature, reliability and significance of  
21 the convicted offender's HIV test and the confidential nature of  
22 the test. All counseling must be provided by a Department of  
23 Human Health and Family Services certified HIV antibody  
24 counselor. All tests conducted pursuant to this section must be  
25 accompanied by pretest and posttest counseling as defined in  
26 section 19204-A.

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

29           **§19205. Coordination of services to persons with AIDS, AIDS**  
30 **Related Complex and viral positivity**

31           **1. Policy; services.** It shall--be is the policy of the  
32 State to provide to persons who test positive for HIV or have  
33 been diagnosed as having AIDS or AIDS-Related Complex services of  
34 departments and agencies, including, but not limited to, the  
35 Department of Education, ~~the--Department--of--Mental--Health--and~~  
36 ~~Retardation~~, the Department of Human Health and Family Services  
37 and the Department of Corrections.

38           **2. Coordination of services.** A person designated by the  
39 Commissioner of Human Health and Family Services shall insure  
40 coordination of new and existing services so as to meet the needs  
41 of persons with AIDS, AIDS-Related Complex and viral positivity  
42 and identify gaps in programs.



2 The committee established in section 12004-I, subsection 42,  
3 shall work with the person designated in this chapter to insure  
4 the coordination of services to meet the needs of persons with  
AIDS, AIDS-Related Complex and viral positivity.

6 **3. Development of a client support services system.** A  
7 client support services system shall ~~must~~ be developed to assist  
8 individuals infected with the Human Immune Deficiency Virus and  
9 to ensure that they receive necessary services. The client  
10 support service, arranged by the staff of community-based  
11 agencies, ~~shall--include~~ includes, but is not be limited to,  
12 assisting the individual's needs and assisting the individual  
13 with obtaining access to necessary health care, social service,  
14 housing, transportation, counseling and income maintenance  
15 services. The Department of Human Health and Family Services  
16 ~~shall-be~~ is responsible for providing overall direction for the  
17 development of the client support services system.

18 **Sec. G-11. Effective date.** This Part takes effect July 1, 1996.

20

22

## PART H

24 **Sec. H-1. 34-B MRSA §1205, sub-§1,** as amended by PL 1989, c.  
25 731, §1, is further amended to read:

26

27 **1. Establishment.** The Office of Advocacy is established  
28 within the department solely to investigate the claims and  
29 grievances of clients of the department, to investigate ~~with the~~  
30 ~~Department of Human Services,~~ as appropriate, all allegations of  
31 adult and child abuse in state institutions and to advocate on  
32 behalf of clients for compliance by any institution, other  
33 facility or agency administered, licensed or funded by the  
34 department with all laws, administrative rules and institutional  
35 and other policies relating to the rights and dignity of clients.

36

37 **Sec. H-2. 34-B MRSA §1205, sub-§3, ¶G,** as enacted by PL 1989,  
38 c. 7, Pt. N, §3, is repealed.

39 **Sec. H-3. 34-B MRSA §1207, sub-§1, ¶B-1,** as amended by PL 1991,  
40 c. 250, is repealed.

42

43 **Sec. H-4. 34-B MRSA §5004,** as enacted by PL 1993, c. 687,  
44 §9, is amended to read:

45 **§5004. Sexual activity with recipient of services prohibited**

46 A person who owns, operates or is an employee of an  
47 organization, program or residence that is operated,

administered, licensed or funded by the ~~Department--of--Mental Health and Mental Retardation or the Department of Human Services department~~ may not engage in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, with another person or subject another person to sexual contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, if the other person, not the actor's spouse, is a person with mental retardation who receives therapeutic, residential or habilitative services from the organization, program or residence.

**Sec. H-5. Effective date.** This Part takes effect July 1, 1996.

## PART I

**Sec. I-1. 5 MRSA §939-A,** as enacted by PL 1993, c. 410, Pt. LL, §1, is repealed.

**Sec. I-2. 5 MRSA §20002, sub-§2,** as amended by PL 1991, c. 601, §2, is further amended to read:

**2. Single administrative unit.** To establish a single administrative unit within State Government, ~~accountable--directly to--the--Governor~~ within the Department of Health and Family Services, with responsibility for planning, developing, implementing, coordinating and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services.

**Sec. I-3. 5 MRSA §20003, sub-§2,** as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

**2. Approved public treatment facility.** "Approved public treatment facility" means an alcohol treatment facility operating under the direction and control of the ~~office~~ division or providing treatment under this subchapter through a contract with the ~~office~~ division under section 20008, or any facility funded in whole or in part by municipal, state or federal funds.

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

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

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

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

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

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

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

14           **8-A. Division.** "Division" means the Division of Substance  
16 Abuse established under section 20004.

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

20           **Sec. I-9. 5 MRSA §20003, sub-§20**, as enacted by PL 1989, c.  
22 934, Pt. A, §3, is amended to read:

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

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

30           **§20004. Division established**

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

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

42           **§20004-A. Department and agencies responsible for cooperation in**  
implementation

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

48           **Sec. I-12. 5 MRSA §20005, first ¶**, as enacted by PL 1989, c.  
50 934, Pt. A, §3, is amended to read:

2           The ~~office~~ division shall:

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

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

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

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

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

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

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

36           B. Establish operating and treatment standards and inspect  
38 and issue certificates of approval for approved treatment  
facilities, drug abuse treatment facilities or programs,  
40 including residential treatment centers, and community-based  
service providers pursuant to section 20024 and subchapter  
42 V; and

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

46           (1) Assist in the development of comprehensive state  
48 plans, the review of the effectiveness of existing  
policies and services, and the identification of unmet  
50 needs;

- 2 (2) Review and comment on proposed grants and  
contracts;  
4  
6 (3) Increase public awareness and participation;  
8  
10 (4) Supply general reference information; and  
12  
14 (5) Advocate for individuals in need of assistance.

16 The director shall ensure that councils are funded in a  
18 manner that recognizes local differences in cost and travel  
20 distances and allows equal provision of services in each  
22 geographic area to the extent that funds are available  
24 within the ~~office~~ division for this purpose.

26 The director may delegate contract and licensing duties under  
28 this subsection to the ~~Department of Human Services,~~ department  
30 or the Department of Corrections ~~or the Department of Mental~~  
32 ~~Health and Mental Retardation~~ as long as that delegation ensures  
34 that contracting for alcohol and other drug abuse services  
36 provided in community settings are consolidated within the  
38 ~~Department of Human Services~~ department, that contracting for  
40 alcohol and other drug abuse services delivered within  
42 correctional facilities are consolidated within the Department of  
44 Corrections and that contracting for alcohol and other drug abuse  
46 services delivered within mental health and mental retardation  
48 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  
bid and the performance standards and manner in which compliance  
is evaluated are specified and that any change in provider is  
accomplished in a manner that fully protects the consumer of  
services.

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

The director shall establish a procedure to obtain assistance and  
advice from consumers of alcohol and other drug abuse services

2 regarding the selection of contractors when requests for  
proposals are issued;

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

6  
8 **12. Rules.** Adopt rules, in accordance with the Maine  
Administrative Procedure Act, necessary to carry out the purposes  
10 of this chapter and approve any rules adopted by state agencies  
for the purpose of implementing alcohol or drug abuse prevention  
or treatment programs.

12 All state agencies must comply with rules adopted by the office  
14 division regarding uniform alcohol and other drug abuse  
contracting requirements, formats, schedules, data collection and  
16 reporting requirements;

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

20  
22 **14. Interdepartmental cooperation.** Document to the  
Legislature's satisfaction, active participation and cooperation  
24 between the office division and the other departments with which  
it works through the commission;

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

30  
32 **Sec. I-18. 5 MRSA §20006, first and 2nd ¶¶**, as amended by PL  
1991, c. 601, §8, are further amended to read:

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

40  
42 The director must be qualified by training and experience in  
the field of alcohol and other drug abuse prevention and  
44 treatment. The director shall exercise the powers of the office  
division and is responsible for the execution of its duties.

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

48  
50 **3. Investigate.** Conduct investigations and studies of any  
alcohol or drug abuse program or community service provider

operating under the control of the ~~office~~ division or providing  
2 treatment under this chapter through a contract with the ~~office~~  
division under section 20008, that are licensed pursuant to  
4 section 20024 or any facility funded in whole or in part by  
municipal, state or federal funds, as necessary; and

6  
8 **Sec. I-20. 5 MRSA §20007**, as enacted by PL 1989, c. 934, Pt.  
A, §3, is amended to read:

10 **§20007. Substance Abuse Advisory Group; agency cooperation**

12 The Commissioner of Corrections, the Commissioner of  
~~Educational and Cultural Services~~ Education, the Commissioner of  
14 Human Health and Family Services, ~~the Commissioner of Mental~~  
~~Health and Mental Retardation~~ and the Commissioner of Public  
16 Safety shall constitute the Substance Abuse Advisory Group. The  
commissioners shall elect a chair from among the members of the  
18 advisory group and shall meet with the director to provide advice  
on the development and operation of alcohol and drug abuse  
20 prevention and treatment programs. The advisory group shall  
meet, at a minimum, in alternate months.

22  
24 State agencies shall cooperate fully with the ~~office~~  
division and council in carrying out this chapter. A state  
agency may not develop, establish, conduct or administer any  
26 alcohol or drug abuse prevention or treatment program without the  
approval of the ~~office~~ division. The ~~office~~ division may request  
28 personnel, facilities and data from other agencies as the  
director finds necessary to fulfill the purposes of this Act.

30  
32 **Sec. I-21. 5 MRSA §20008, first ¶**, as enacted by PL 1989, c.  
934, Pt. A, §3, is amended to read:

34 The ~~office~~ division shall establish and provide for the  
implementation of a comprehensive and coordinated program of  
36 alcohol and drug abuse prevention and treatment in accordance  
with subchapters II and III and the purposes of this Act. The  
38 program must include the following elements.

40 **Sec. I-22. 5 MRSA §20008, sub-§3**, as amended by PL 1991, c.  
601, §10, is further amended to read:

42  
44 **3. Treatment.** The ~~office~~ division shall provide for  
adequate and appropriate treatment for alcoholics, ~~drugs~~ drug  
46 abusers, drug addicts and drug-dependent persons admitted under  
sections 20043 to 20044. Treatment may not be provided at a  
correctional institution, except for inmates.

48  
50 **Sec. I-23. 5 MRSA §20008, sub-§4**, as enacted by PL 1991, c.  
601, §11, is amended to read:

2 **4. Contract with facilities.** The office division shall  
contract with approved treatment facilities whenever possible.  
4 The administrator of any treatment facility may receive for  
observation, diagnosis, care and treatment in the facility any  
6 person whose admission is applied for under any of the procedures  
in this subchapter.

8  
9 **Sec. I-24. 5 MRSA §20009**, as amended by PL 1991, c. 601, §13,  
10 is further amended to read:

12 **§20009. Planning**

14 The office division shall plan alcohol and drug abuse  
prevention and treatment activities in the State and prepare and  
16 submit to the Legislature the following documents:

18 **1. Biennial plan.** By January 15, ~~1991~~ 1997, and biennially  
thereafter, with the advice and consultation of the Maine Council  
20 on Alcohol and Drug Abuse Prevention and Treatment, a  
comprehensive plan containing statements of measurable goals to  
22 be accomplished during the coming biennium and establishing  
performance indicators by which progress toward accomplishing  
24 those goals will be measured; and

26 **2. Four-year assessment.** By January 15, ~~1991~~ 1997, and  
every 4th year thereafter, an assessment of the costs related to  
28 drug abuse in the State and the needs for various types of  
services within the State, including geographical disparities in  
30 the needs for various types of services and the needs of special  
populations of drug abusers.

32 **Sec. I-25. Effective date.** This Part takes effect July 1, 1996.

34 **PART J**

36 **Sec. J-1. Transition.** The following provisions apply to the  
38 reassignment of the duties and responsibilities formerly held by  
the Office of Substance Abuse and now assigned by this Act to the  
40 Department of Health and Family Services, Division of Substance  
Abuse.

42 **1.** The Department of Health and Family Services, Division  
44 of Substance Abuse is the successor in every way to the powers,  
duties and functions of the Office of Substance Abuse.

46 **2.** Notwithstanding the provisions of the Maine Revised  
48 Statutes, Title 5, all accrued expenditures, assets, liabilities,  
balances or appropriations, allocations, transfers, revenues or



2 other available funds in an account or subdivision of an account  
4 of the Office of Substance Abuse attributable to functions  
6 transferred in this Act to the Department of Health and Family  
8 Services, Division of Substance Abuse must be transferred to the  
10 proper accounts of the Department of Health and Family Services  
12 by the State Controller upon the request of the State Budget  
14 Officer and with the approval of the Governor.

16  
18 3. All rules of the Office of Substance Abuse in effect on  
20 July 1, 1996 remain in effect until rescinded, revised or amended.

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

32  
34 5. All records of the Office of Substance Abuse  
36 attributable to the functions transferred in this Act to the  
38 Department of Health and Family Services, Division of Substance  
40 Abuse must be transferred to the Department of Health and Family  
42 Services.

44  
46 6. All property and equipment of the Office of Substance  
48 Abuse is transferred to the Department of Health and Family  
Services.

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

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

38 Wherever in the Maine Revised Statutes the words "Office of  
40 Substance Abuse" or "Director of the Office of Substance Abuse"  
42 appear or reference is made to those words, they are amended to  
44 read and mean "Division of Substance Abuse" or "Director of the  
46 Division of Substance Abuse," and the Revisor of Statutes shall  
48 implement this revision when updating, publishing or republishing  
the statutes.

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

48 **PART K**



2 subchapter-IV 1707. Revocation of probation is governed by  
the procedure contained in subsection 2. Any disposition  
4 under this paragraph is subject to Title 17-A, section 1253,  
subsection 2, but not to Title 17-A, section 1253,  
6 subsection 3-B, 4 or 5. Any disposition under this  
paragraph ordering a period of detention to be served in a  
8 county-operated detention facility by a juvenile from  
another county is governed by section 1705.

10 **Sec. L-3. 15 MRSA §3314, sub-§4**, as amended by PL 1993, c.  
354, §9, is further amended to read:

12 **4. Medical support.** Whenever the court commits a juvenile  
14 to the ~~Maine-Youth-Center-or-to-the~~ Department of Human Health  
and Family Services or places a juvenile on a period of  
16 probation, it may require the parent or legal guardian to provide  
medical insurance for or contract to pay the full cost of any  
18 medical treatment, mental health treatment, substance abuse  
treatment and counseling that may be provided to the juvenile  
20 while the juvenile is committed, including while on entrustment  
or on probation.

22 **Sec. L-4. 15 MRSA §3315, sub-§1**, as amended by PL 1983, c.  
24 480, Pt. B, §20, is further amended to read:

26 **1. Right to review.** Every disposition pursuant to section  
3314, other than unconditional discharge, and every disposition  
28 made pursuant to the law in effect prior to July 1, 1978 shall  
must be reviewed not less than once in every 12 months until the  
juvenile is discharged. The review shall must be made by a  
30 ~~representative--of--the--Department--of--Corrections--unless--the~~  
~~juvenile--was--committed--to~~ the Department of Human Health and  
32 Family Services, ~~--in--which--case--such--review--shall--be--made--by--a~~  
~~representative--of--the--Department--of--Human--Services.~~ A report of  
34 the review shall must be made in writing to the juvenile's  
parents, guardian or legal custodian. A copy of the report shall  
36 must be forwarded to the program or programs which that were  
reviewed, and the department whose personnel made the review  
38 shall retain a copy of the report in their files. The written  
40 report shall must be prepared in accordance with subsection 2.

42 **Sec. L-5. 15 MRSA §3316**, as amended by PL 1993, c. 354, §11,  
is further amended to read:

44 **§3316. Commitment to the Department of Health and Family Services**

46 **1. Sharing of information about a committed juvenile.**

48 A. When a juvenile is committed to the ~~Department--of~~  
50 ~~Corrections--or--the~~ Department of Human Health and Family

2 Services, the court shall transmit, with the commitment  
order, a copy of the petition, the order of adjudication,  
4 copies of the social study, any clinical or educational  
reports and other information pertinent to the care and  
6 treatment of the juvenile; and

8 ~~B. The Department of Corrections or the~~ Department of Human  
Health and Family Services shall provide the court with any  
10 information concerning a juvenile committed to its care  
which that the court at any time may require.

12 **2. Indeterminate sentence.**

14 A. A commitment of a juvenile to the Department of  
~~Corrections~~ Health and Family Services, including a  
16 commitment to the Maine Youth Center, pursuant to section  
3314, must be for an indeterminate period not to extend  
18 beyond the juvenile's 18th birthday unless the court  
expressly further limits or extends the indeterminate  
20 commitment, as long as the court does not limit the  
commitment to less than one year nor extend the commitment  
22 beyond a juvenile's 21st birthday and as long as an order  
does not result in a commitment of less than one year,  
24 unless the commitment is for an indeterminate period not to  
extend beyond the juvenile's 21st birthday. Nothing in this  
26 Part may be construed to prohibit the provision to a  
juvenile following the expiration of the juvenile's term of  
28 commitment of services voluntarily accepted by the juvenile  
and the juvenile's parents, guardian or legal custodian if  
30 the juvenile is not emancipated; except that these services  
may not be extended beyond the juvenile's 21st birthday.

32 ~~B. A commitment of a juvenile to the Department of Human  
34 Services pursuant to section 3314 shall be for an  
indeterminate period not to extend beyond the juvenile's  
36 18th birthday unless the court expressly further limits the  
commitment.~~

38 ~~3. Provision of services. Nothing in this chapter may  
40 prevent juveniles in the custody of the Department of Corrections  
from receiving services from the Department of Human Services.~~

42 **Sec. L-6. 15 MRSA §3317**, as amended by PL 1991, c. 493, §25,  
44 is further amended to read:

46 **§3317. Disposition after return to Juvenile Court**

48 In instances of commitment of a juvenile to the Department  
of Human Health and Family Services ~~or~~ including the Maine Youth  
50 Center or when the juvenile is under a specified period of

2 probation, the commissioner of the department, the superintendent  
of the youth center or the Director Division of Probation and  
4 ~~Parole~~ following the commitment may for good cause petition the  
Juvenile Court having original jurisdiction in the case for a  
6 judicial review of the disposition, including extension of the  
period of commitment or period of probation. In all cases in  
8 which a juvenile is returned to a Juvenile Court, the Juvenile  
Court may make any of the dispositions otherwise provided in  
10 section 3314. When reviewing a commitment to the Department of  
Human Health and Family Services, the court shall consider  
12 efforts made by the ~~Department of Corrections and the~~ Department  
of Human Health and Family Services to reunify the juvenile with  
14 the juvenile's parents or custodians, shall make a finding  
regarding those efforts and shall return custody of the juvenile  
to a parent or legal custodian if the return of the juvenile is  
16 not contrary to the welfare of the juvenile. A petition for  
judicial review of a disposition committing the child to the  
18 Department of Human Health and Family Services must be served on  
the parents at least 7 days prior to the hearing.

20 **Sec. L-7. 15 MRSA §3502**, as amended by PL 1985, c. 439, §§19  
22 and 20, is further amended to read:

24 **§3502. The Department of Health and Family Services 24-hour**  
26 **referral services**

28 **1. Emergency placement decisions.** Placement referral  
services shall be are provided by the ~~Department of Corrections~~  
and Department of Human Health and Family Services as follows.

30 A. The Department of ~~Corrections~~ Health and Family Services  
32 shall provide for a placement referral service, staffed by  
juvenile caseworkers for 24 hours a day. This referral  
34 service shall make emergency detention or conditional  
release decisions pursuant to chapter 505 and emergency  
36 placement decisions pursuant to this chapter for all  
juveniles referred to the department by law enforcement  
38 officers.

40 ~~B. -- The Department of Human Services shall provide for a~~  
placement referral service, staffed by personnel 24 hours a  
42 day. -- This referral service shall make emergency placement  
decisions -- pursuant -- to -- this -- chapter -- for -- all -- juveniles  
44 referred to the department by law enforcement officers.

46 **2. Placement procedures.** Emergency placements shall must  
be arranged by juvenile caseworkers or the Department of Human  
48 Health and Family Services' personnel according to procedures and  
standards jointly adopted by the ~~Department of Corrections and~~  
50 ~~the Department of Human Services~~ department. Placement may

2 include voluntary care or short-term emergency services under  
Title 22, sections 4021 to 4023.

4 **Sec. L-8. Effective date.** This Part takes effect July 1, 1996.

6 **PART M**

8 **Sec. M-1. 22 MRSA c. 1, sub-c. III** is enacted to read:

10 **SUBCHAPTER III**

12 **OFFICE OF ADVOCACY FOR JUVENILES**

14 **§61. Office of Advocacy for Juveniles**

16 **1. Establishment.** The Office of Advocacy for Juveniles,  
18 referred to in this subchapter as the "office," is established  
20 within the department to investigate the claims and grievances of  
juvenile clients; to investigate, as appropriate, allegations of  
22 child abuse or neglect in correctional facilities and detention  
facilities; and to advocate for compliance by the department,  
24 correctional facilities, detention facilities and contract  
agencies with all laws, administrative rules and institutional  
26 and other policies relating to the rights and dignity of juvenile  
clients.

28 **2. Chief advocate.** A chief advocate shall direct and  
coordinate the program of the office.

30 **A.** The chief advocate shall report to the commissioner.

32 **B.** The chief advocate shall, with the approval of the  
34 commissioner, select other advocates needed to carry out the  
intent of this section who shall report to the chief  
36 advocate.

38 **C.** The chief advocate and all other advocates are  
classified state employees, except that the chief advocate  
40 may assign volunteers and interns to duties within the  
office with the approval of the commissioner.

42 **3. Duties.** The office, through the chief advocate and the  
44 other advocates, shall:

46 **A.** Receive or refer complaints made by juvenile clients;

48 **B.** Intercede on behalf of juvenile clients with officials  
of the department, a correctional facility, a detention

2 facility or a contract agency or assist juvenile clients in  
3 the initiation of grievance proceedings established by the  
4 commissioner;

6 C. Act as an information source regarding the rights of  
7 juvenile clients by keeping informed about all laws,  
8 administrative rules, institutional policies and other  
9 policies relating to the rights and dignity of juvenile  
10 clients and about relevant legal decisions and other  
11 developments related to the field of corrections, both in  
12 this State and in other parts of the country; and

14 D. Make and publish reports necessary to perform the duties  
15 described in this section, except that only the chief  
16 advocate may report any findings of the office to groups  
17 outside the department, such as legislative bodies, advisory  
18 committees to the Governor, boards of visitors, law  
19 enforcement agencies and the press. The chief advocate  
20 shall report annually to the joint standing committee of the  
21 Legislature having jurisdiction over human resource matters  
22 regarding the activities of the office. A copy of the  
23 report must be provided to the Office of the Executive  
24 Director of the Legislative Council.

26 4. Powers. The office, through the chief advocate and the  
27 other advocates, may take action only on complaints that it  
28 determines are not trivial or moot or for which there is clearly  
29 no other remedy available and may have access, limited only by  
30 law, to the files, records and personnel of the department, a  
31 correctional facility, a detention facility or a contract agency.

32 5. Confidentiality. Requests for action by the office must  
33 be treated confidentially as follows.

34 A. A request by a juvenile client for action by the office  
35 and all written records or accounts related to the request  
36 are confidential as to the identity of the requesting person.

37 B. The records and accounts may be released only as  
38 provided in section 9102.

40 6. Protection for advocates. An advocate may not be  
41 disciplined or sanctioned for any actions taken on behalf of a  
42 juvenile client if the advocate acts within the law and within  
43 the rules of the department.

44 7. Protection for employees. An employee of the  
45 department may not be disciplined or sanctioned for reporting  
46 abuse or suspected abuse to an advocate.

2 8. Budget. When submitting any budget request to the  
Legislature, the department and the Governor shall provide that  
all funds for the office be listed in a separate account.

4  
6 **Sec. M-2. 22 MRSA §4010-A, sub-§1,** as amended by PL 1989, c.  
819, §1, is further amended to read:

8 **1. Policy development.** Every public or private agency or  
program that is administered, licensed or funded by the  
10 ~~Department of Human Services, the Department of Mental Health and~~  
~~Mental Retardation or the Department of Corrections~~ department  
and hires staff or selects volunteers and provides care or  
12 services for children shall develop a written policy regarding  
child abuse and neglect.  
14

16 The policy shall must include:

18 A. A description of how the program and children shall must  
be managed to prevent abuse or neglect;

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

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

26 D. The agency's grievance procedures for staff, and for  
28 children and their parents or guardians regarding alleged  
abuse or neglect.  
30

**Sec. M-3. 22 MRSA c. 1071, sub-c. XIV** is enacted to read:

32 **SUBCHAPTER XIV**

34 **JUVENILE DELINQUENCY PREVENTION**

36 **§4096. Responsibilities of department**

38 The department is responsible for the following:

40 **1. Services.** Within the limits of available funding,  
42 ensuring the provision of all services necessary to prevent  
juveniles from coming into contact again with the Juvenile Court;

44 **2. Proposals.** Making proposals for meeting the prevention  
46 services needs that are not being addressed; and

48 **3. Coordination.** Coordinating its efforts in discharging  
the responsibilities given under this section with those of other  
50 state or local agencies in order to effectively use existing



resources to the maximum extent possible to achieve the purposes of this subchapter and Title 15, Part 6.

**§4097. Powers and duties of department**

The department has the following powers and duties with respect to the responsibilities defined in section 4096.

**1. Services.** The department shall provide, directly or through purchase or contract, services to juveniles and their families, including, but not limited to:

A. Providing technical assistance and additional financial resources to assist communities in establishing and providing necessary preventive services for juveniles;

B. Coordinating its efforts with those of other state and local agencies in order to effectively use all existing resources to the maximum extent possible;

C. Working with other public and voluntary agencies as resources for the purchase of care and services; and

D. Stimulating the creation of voluntary services.

**2. Planning.** The department shall carry out planning for identifying, evaluating and meeting the service needs for prevention of juvenile crime. To ensure that the department's efforts to plan for and deliver prevention programs avoid duplication of the efforts of other state departments that serve juveniles and promote access to services, the commissioner shall:

A. Convene an interdepartmental coordinating committee on primary prevention. The commissioner or the commissioner's designee shall chair the committee. The committee must include representation from the Department of Education, the Department of Human Services, the Department of Labor, the Department of Mental Health and Mental Retardation, the Department of Public Safety, the Juvenile Justice Advisory Group and any other public or private agencies as the commissioner chooses to nominate that have responsibilities associated with preventing not only delinquency, but also child abuse, substance abuse, running away from home, truancy, failing to complete school and other destructive behavior that affects juveniles. This interdepartmental coordinating committee shall:

(1) Develop a state primary prevention plan that provides for the use of state resources in order to strengthen the commitment of local communities to alter

2 conditions that contribute to delinquency and other  
3 destructive behaviors affecting juveniles, so that the  
4 burden of state-funded treatment and crisis-responsive  
5 service programs will be reduced. The plan must  
6 provide for the coordination and consolidation of the  
7 primary prevention planning efforts of each of the  
8 state agencies specified in this section. The plan  
9 must set forth quantifiable and time-limited goals,  
10 objectives and strategies and must include proposals to  
11 integrate and build upon successful primary prevention  
12 programs;

13 (2) Provide for the evaluation of policies and  
14 programs developed and implemented pursuant to the  
15 plan; and

16 (3) Prepare, annually by November 1st, an appraisal of  
17 the State's primary prevention activities during the  
18 previous year and its recommendations for programs and  
19 activities relating to primary prevention of juvenile  
20 delinquency.

21 **3. Evaluation.** The department shall evaluate prevention and  
22 rehabilitation services with regard to, among other things:

23 A. Compliance with all departmental or federal rules and  
24 regulations for the use of funds for those services; and

25 B. Quality and cost-effectiveness of those services.

26 **4. Appeals.** The department shall provide a structure for  
27 appeals, fair hearings and a review of grievances by juveniles  
28 and their parents, guardians or legal custodians regarding the  
29 provision of services for which the department has been given  
30 responsibility under this chapter, including, but not limited to,  
31 protecting the rights of an individual to appeal from denial of  
32 or exclusion from the services to which the individual is  
33 entitled, actions that preclude the individual's right of choice  
34 to specific programs or actions that force involuntary  
35 participation in a service program.

36 **5. Training.** The department shall train personnel to  
37 perform the functions necessary to implement this chapter,  
38 including, but not limited to:

39 A. Meeting the need for professional personnel for juvenile  
40 services through in-service training, institutes,  
41 conferences and educational leave grants;

2           B. Upgrading the education and competence of professional  
and other personnel and volunteers; and

4           C. Making training available to staff and volunteers in  
contracting agencies or facilities to ensure effective  
6           provision of purchased services.

8           6. Research and demonstration. The department may conduct  
research and demonstration projects, including, but not limited  
10           to, entering into contracts with other agencies and making grants  
for research, including basic research into the causes of  
12           juvenile crime, evaluation of methods of service delivery in use  
and development of new approaches.

14           7. Wards. With respect to individual juveniles for whom the  
department has accepted responsibility, it may take necessary  
16           action for the appointment of a guardian for a juvenile who does  
not have a parent to exercise effective guardianship, and it  
18           shall:

20           A. Ensure that appropriate services are made available to  
the juveniles;

24           B. Assume responsibility, to the extent that parents are  
unable to do so, for payment for the appropriate services;  
26           and

28           C. Assume legal custody or legal guardianship of a juvenile  
when vested by the court.

30           Sec. M-4. 22 MRSA sub-t. 7 is enacted to read:

32                                 SUBTITLE 7  
34                                 BUREAU OF JUVENILE CORRECTIONS  
36                                 CHAPTER 1701  
38                                 DEFINITIONS

40           §9001. Definitions

42                                 As used in this subtitle, unless the context otherwise  
44           indicates, the following terms have the following meanings.

46           1. Act. "Act" means the federal Juvenile Justice and  
Delinquency Prevention Act of 1974, Public Law 93-415.

48           2. Administration of juvenile criminal justice.  
50           "Administration of juvenile criminal justice" has the same

2 meaning as in Title 15, section 3308, subsection 7, paragraph A,  
subparagraph (2).

4 3. Bureau. "Bureau" means the Bureau of Juvenile  
Corrections.

6  
8 4. Director. "Director" means the Director of the Bureau  
of Juvenile Corrections.

10 5. Group. "Group" means the Juvenile Justice Advisory  
Group, as established by Executive Order 16 Fiscal Year 1981-82.

12  
14 6. Juvenile. "Juvenile" means a person under 18 years of  
age or a person who is alleged to have committed, while under 18  
16 years of age, any offense covered under Title 15, Part 6,  
regardless of whether at the time of the court proceeding the  
18 person is 18 years of age or older.

20 CHAPTER 1703

22 ADMINISTRATION

24 §9101. Establishment and duties

26 1. Establishment. There is established, within the  
Department of Health and Family Services, the Bureau of Juvenile  
Corrections.

28  
30 2. Policy. The bureau shall provide an efficient,  
coordinated, comprehensive system of services to juveniles and  
their families in order to promote the welfare, support and  
32 rehabilitation of juveniles and to protect the interests of  
society.

34  
36 3. Principles. In providing this system of services, the  
bureau shall adhere to the following principles.

38 A. Services must be responsive to both the treatment and  
control needs of juveniles.

40  
42 B. The bureau shall use the least restrictive alternative  
appropriate to the needs of the individual juvenile and the  
risk posed by that juvenile to society.

44  
46 C. There may be no depreciation of the seriousness of any  
offense a juvenile has committed.

48 D. Efforts must be made to increase a juvenile's respect  
for the law.

50

2 E. Procedures must be provided that ensure that the civil  
3 rights of juveniles are recognized and protected.

4 **4. Duties.** The duties of the bureau are to:

6 A. Strengthen the capacity of families, communities,  
7 self-help groups and other community resources to support  
8 and provide services to juveniles;

10 B. Facilitate the planning, promotion, coordination,  
11 delivery and evaluation of a comprehensive system of  
12 services to juveniles and their families that is organized  
13 on a regional basis throughout the State; and

14 C. Administer, supervise and ensure the provision of  
15 correctional programs for juveniles adjudicated as having  
16 committed juvenile crimes.

18 **§9102. Confidentiality of information**

20 **1. Limited disclosure.** All orders of commitment, medical  
22 and administrative records, applications and reports, and facts  
23 contained in those documents, pertaining to a person receiving  
24 services from the bureau are confidential and may not be  
25 disclosed by any person, except as provided in this section.  
26 Criminal history record information is confidential and may not  
27 be disclosed by any person except as provided in this section  
28 except that it may be disseminated in accordance with Title 16,  
29 chapter 3, subchapter VIII. Information controlled by this  
30 section and documents, other than those documents pertaining to  
31 information obtained by the department for the purpose of  
32 evaluating a client's ability to participate in a community-based  
33 program or from informants in a correctional or detention  
34 facility for the purpose of determining whether facility rules  
35 have been violated, or a victim's request for notice of release,  
36 may be disclosed:

38 A. To any person receiving services if that person and that  
39 person's legal guardian, if any, or parent, if that person  
40 is a minor, gives informed written consent to the disclosure  
41 of the documents referred to in this subsection after being  
42 given the opportunity to review the documents sought to be  
43 disclosed;

44 B. To any state agency if the disclosure is necessary to  
45 carry out the statutory functions of that agency;

48 C. If ordered by a court of record, subject to any  
49 limitation in the Maine Rules of Evidence, Rule 503, to the  
50 person named in the court order; and

2           D. To any criminal justice agency if the disclosure is  
4           necessary to carry out the administration of criminal  
              justice, the administration of juvenile criminal justice or  
              for criminal justice agency employment.

6  
7           Notwithstanding any other provision of law, the bureau may  
8           release to the Bureau of Medical Services and the Bureau of  
9           Income Maintenance the names, dates of birth and social security  
10           numbers of juveniles receiving services from the department and,  
11           if applicable, the Medicaid eligibility numbers and the dates on  
12           which those juveniles received Medicaid services for the sole  
13           purpose of determining eligibility and billing for Medicaid  
14           services provided by or through the department. The bureau may  
15           also release to other bureaus of the department information  
16           required for and to be used solely for audit purposes, consistent  
17           with federal law, for Medicaid services provided by or through  
18           the department. Department personnel shall treat this  
19           information as confidential in accordance with federal and state  
20           law and return the records when their purpose has been served.

22           **§9103. Allegations of child abuse or neglect in correctional and**  
23           **detention facilities**

24           The director shall investigate all reports of suspected  
25           child abuse or neglect in correctional and detention facilities.

26  
27           **1. Criminal conduct.** Investigations of allegations or  
28           indications of criminal conduct must be conducted with the  
29           Department of the Attorney General.

30  
31           **2. Joint working agreements.** The director shall negotiate  
32           joint working agreements with the Department of the Attorney  
33           General concerning procedures and respective responsibilities for  
34           conducting investigations of allegations of child abuse or  
35           neglect in correctional and detention facilities.

36  
37           **§9104. Transfer**

38  
39           **1. Approval.** The bureau may transfer a juvenile committed  
40           to its care from one facility or program to another, except that,  
41           before the juvenile is transferred, the juvenile must be examined  
42           and evaluated, and the evaluation must be reviewed and approved  
43           by the director.

44  
45           **2. Emergency exception.** When the director finds that the  
46           welfare and protection of a juvenile or of others requires the  
47           juvenile's immediate transfer to another facility, the director  
48           shall make the transfer prior to the examination and evaluation  
49           of the juvenile.

2           3. Restrictive placements. Restrictive placements are  
3 governed as follows.

4  
5           A. Notwithstanding subsections 1 and 2, the transfer of a  
6 juvenile from a less restrictive placement to a more  
7 restrictive placement must be reviewed by the Juvenile Court  
8 that originally ordered the juvenile's placement within 48  
9 hours of the transfer, excluding Saturdays, Sundays and  
10 legal holidays.

11           B. In order to continue the more restrictive placement, a  
12 court must find:

13                   (1) That it is necessary to protect the juvenile or  
14 the community; and

15                   (2) That no other available less restrictive placement  
16 will protect the juvenile or the community.

17           C. Notwithstanding paragraph A, the director may not place  
18 a juvenile committed to the bureau in an adult correctional  
19 facility.

20  
21           §9105. Agreements and contracts with public and private agencies

22           1. Director's power. The director may enter into agreements  
23 or contracts with any governmental unit or agency or private  
24 facility or program cooperating or willing to cooperate in a  
25 program to carry out the purposes of this subtitle and Title 15,  
26 Part 6.

27           2. Nature of agreements or contracts. Agreements or  
28 contracts entered into under subsection 1 may provide for the  
29 type of work to be performed, the rate of payment for that work  
30 and other matters relating to the care and treatment of juveniles.

31           3. Custody. Placement of a juvenile by the bureau in a  
32 public or private facility or program not under the jurisdiction  
33 of the bureau does not terminate the bureau's legal custody of  
34 that juvenile.

35           4. Inspection. The bureau may inspect all facilities used  
36 by it and may examine and consult with persons in its legal  
37 custody who have been placed in those facilities.

38           §9106. Administrators of facilities and programs

39           A chief administrative officer of a facility or program with  
40 which the bureau contracts for services shall:  
41

2           1. Report. Report to the director at such times and on such  
4 matters as the director may require;

6           2. Receipt of juveniles. Receive, subject to limitations on  
8 physical capacity and programs, all juveniles committed to the  
10 custody of the department and placed in the care of the facility  
12 or program under the provisions of Title 15, Part 6, and keep  
those juveniles for rehabilitation, education and training until  
discharged by law or under the rules of the department or  
released on probation; and

14           3. Evaluations. Secure a careful and thorough evaluation of  
16 every juvenile placed under the care of the facility or program  
18 at intervals no longer than 6 months. The evaluation must review  
whether the juvenile should be released, the program of the  
juvenile should be modified or transfer of the juvenile to  
another facility should be recommended.

20           **§9107. Rules**

22           By July 1996, the director shall develop and adopt rules, in  
24 accordance with the Maine Administrative Procedure Act, necessary  
to enable the bureau to carry out its responsibilities as  
26 prescribed in this chapter. When portions of the rules relate to  
staff or services administered by another state agency, those  
28 portions must be developed and approved jointly with that other  
agency.

30           **§9108. Expenses for transporting children long distances**

32           The bureau shall pay any expenses incurred by local agencies  
34 for transporting a juvenile more than 100 miles, pursuant to the  
provisions of Title 15, Part 6 or this subtitle, to an employee  
36 of the bureau, to a placement directed by an employee of the  
bureau or to a Juvenile Court.

38           **§9109. Funding sources**

40           The director may accept for the State any federal funds  
42 appropriated under federal law relating to juvenile offenders and  
may do whatever is necessary to carry out the federal law,  
44 subject to the approval of the Juvenile Justice Advisory Group as  
provided in chapter 1705.

46   **CHAPTER 1705**

48   **PLANNING**



2                   §9201. Funds not to lapse

4                   Funds appropriated to carry out the purpose of this chapter  
4                   may not lapse, but must be carried forward from year to year.

6                   §9202. Juvenile Justice Advisory Group

8                   1. Responsibilities. The Juvenile Justice Advisory Group  
8                   shall:

10                   A. Operate as the supervisory board for all planning,  
12                   administrative and funding functions of the Act;

14                   B. Make grants for planning or for the improvement of  
16                   juvenile justice consistent with the intent of applicable  
16                   state and federal legislation;

18                   C. Develop, oversee and evaluate a juvenile justice plan  
18                   for the State;

20                   D. Implement the 3-year comprehensive state plan required  
22                   by the Juvenile Justice and Delinquency Prevention Act of  
22                   1974, as amended, 42 United States Code, Section 5633.

24                   E. Monitor state compliance with the requirements of the  
26                   Act;

28                   F. Review and approve or disapprove juvenile justice and  
30                   delinquency prevention grant applications submitted to the  
30                   group;

32                   G. Develop more effective education, training, research,  
34                   prevention, diversion, treatment and rehabilitation programs  
34                   in the area of juvenile delinquency and programs to improve  
36                   the juvenile justice system;

38                   H. Submit to the Governor and the Legislature, at least  
38                   annually, recommendations with respect to matters related to  
40                   its functions, including recommendations on state compliance  
40                   with the requirements of the Act;

42                   I. Review the progress and accomplishments of juvenile  
44                   justice and delinquency projects funded under the state plan  
44                   described in paragraph D; and

46                   J. Regularly seek comments and opinions from juveniles  
48                   currently under the jurisdiction of the juvenile justice  
48                   system.

2           **2. Membership.** The membership of the group is determined as  
3 follows.

4           A. Regular membership of the group must be in accordance  
5 with the requirements of the Act.

6           B. Members are appointed by the Governor for a term of 4  
7 years, or until a successor is appointed, and are eligible  
8 for reappointment at the discretion of the Governor.

9           C. A member appointed to fill an unexpired term serves  
10 until the expiration date of that term or until a successor  
11 is appointed.

12           D. The Commissioner of Corrections, the Commissioner of  
13 Education, the Commissioner of Health and Family Services  
14 and the Commissioner of Public Safety are ex officio, voting  
15 members of the group.

16           E. Neither a majority of the members of the group nor the  
17 member serving as chair may be full-time employees of  
18 federal, state or local government.

19           **§9203. Division of Planning**

20           The Division of Planning, referred to in this section as the  
21 "division," is established within the bureau. The duties and  
22 powers of the division are as follows.

23           1. Supervision of plan. The division is the sole agency  
24 responsible for supervising the group in the preparation and  
25 administration of the federally required comprehensive state plan.

26           2. Fiscal agent. The division serves as the fiscal agent  
27 of the group.

28           3. Staff. The division may employ a full-time juvenile  
29 justice specialist, subject to the approval of the group, and  
30 such additional staff as necessary.

31           A. The professional staff must be unclassified.

32           B. Clerical staff must be employed subject to the Civil  
33 Service Law.

34           4. Grants. The division, at the direction of the group,  
35 may make grants to state departments or agencies, local  
36 governments and private nonprofit organizations for the  
37 development of more effective education, training, research,  
38 prevention, diversion, treatment and rehabilitation programs in  
39

2 the area of juvenile delinquency and programs to improve the  
3 juvenile justice system.

4 5. Copies. When the group directs that a grant be made to  
5 a department or agency of State Government, the division shall  
6 send the following information to the joint standing committee of  
7 the Legislature having jurisdiction over appropriations and  
8 financial affairs:

10 A. A copy of the approved grant application;

12 B. Information on the expected length of programs to be  
13 funded by the grant; and

14 C. Information on restrictions or limitations placed on the  
15 grant application.

18 6. Acceptance of funds. The division may accept funds for  
19 the purposes of this section from the Federal Government, any  
20 political subdivision of the State or any individual, foundation  
21 or corporation and may expend those funds for purposes consistent  
22 with this section, subject to the approval of the group.

24 7. Information. With regard to juveniles who have come  
25 into contact with the Juvenile Court, the division shall gather  
26 standardized information on the characteristics of the juveniles  
27 and their present and past services needs and shall gather  
28 standardized information on the extent to which those needs are  
29 being met.

30 **CHAPTER 1707**

32 **COMMUNITY CORRECTIONS**

34 **SUBCHAPTER I**

36 **PROBATION**

38 **§9301. Establishment**

40 The Division of Juvenile Probation is established within the  
41 bureau.

44 **§9302. Community conference committee**

46 In any district served by an employee of the bureau, the  
47 director may appoint a community conference committee composed of  
48 citizen volunteers.

2           1. Membership. A community conference committee consists  
of 10 to 15 members, 5 of whom constitute a quorum.

4           2. Compensation. Members may not be compensated for their  
services.

6           3. Alternative diversionary resource. A community  
8 conference committee serves as an alternative diversionary  
resource for juvenile offenders.

10           4. Guidelines. The bureau shall adopt guidelines for the  
12 functioning of community conference committees.

14           5. Additional committees. This section does not prohibit  
the appointment, with the approval of the bureau, of more than  
16 one community conference committee within a district served by an  
employee of the bureau.

18           **§9303. Interagency agreements**

20           The Division of Juvenile Probation may enter into agreements  
22 with state agencies, other public agencies and private nonprofit  
agencies to provide supervision or other services to juveniles  
24 placed on probation by the Juvenile Court.

26           1. Terms. The terms of the agreements, including any  
payments to be made by the Division of Juvenile Probation for the  
28 services provided, must be set forth in writing.

30           2. Termination. An agreement made under this section may be  
terminated upon 90 days' written notice by either party to the  
32 agreement.

34           **§9304. Juvenile caseworker**

36           1. Divisional employees. The Division of Juvenile  
Probation shall employ juvenile caseworkers.

38           2. Juvenile caseworker's functions. A juvenile  
40 caseworker's functions are:

42           A. To serve as a juvenile probation officer;

44           B. To carry out all functions of a juvenile caseworker  
delineated in the Maine Juvenile Code; and

46           C. To provide appropriate services to juveniles committed  
48 to the Maine Youth Center who are on leave or in the  
community on entrustment pursuant to section 9430.

50

2           3. Juvenile caseworker's duties. A juvenile caseworker shall:

4           A. When directed, provide information to the Maine Youth Center on juveniles committed to the Maine Youth Center;

6           B. Make such investigations as the Juvenile Court may direct and keep written records of the investigations as the Juvenile Court may direct;

8           C. Use all suitable means, including counseling, to aid each juvenile under the supervision of the caseworker and perform such duties in connection with the care and custody of juveniles as the Juvenile Court may direct;

10          D. Keep informed as to the condition and conduct of each juvenile placed under the supervision of the caseworker and report on the condition and conduct to the Juvenile Court and to the Division of Juvenile Probation as the court or division may direct;

12          E. When a juvenile is placed under the supervision of the caseworker, give the juvenile a written statement of the conditions of the juvenile's supervision and fully explain the conditions to the juvenile; and

14          F. Keep complete records of all work done pursuant to this subsection.

16           4. Juvenile caseworkers' arrest powers. Juvenile caseworkers have the same arrest powers as other law enforcement officers with respect to juveniles placed under their supervision.

18                                       SUBCHAPTER II

20                                       AFTERCARE

22           §9321. Division of Juvenile Aftercare

24           1. Establishment. The Division of Juvenile Aftercare is established within the bureau.

26           2. Duties. The Division of Juvenile Aftercare shall support and rehabilitate juveniles after their discharge from juvenile facilities.

28                                       CHAPTER 1709

30                                       FACILITIES

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SUBCHAPTER I

DIVISION OF JUVENILE CORRECTIONS FACILITIES

§9401. Establishment

The Division of Juvenile Corrections Facilities, referred to in this subchapter as the "division," is established within the bureau.

§9402. Receipt of United States adjudicated juveniles

1. Powers. The division's power to accept juveniles detained by the Federal Government or adjudicated for an offense against the United States is as follows.

A. The division may receive in any juvenile facility a juvenile detained by the Federal Government or adjudicated of an offense against the United States and committed for a term of institutionalization to the custody of the Attorney General of the United States if:

- (1) The Attorney General of the United States designates a juvenile facility in the State as the place of confinement for the juvenile; and
- (2) The division approves and agrees to accept and keep the juvenile in a juvenile facility in the State.

B. The division may contract with the Attorney General of the United States or an officer designated by the Congress of the United States for the care, custody, subsistence, education, treatment and training of any juvenile accepted under this section. All sums paid pursuant to contracts authorized by this section accrue to the General Fund.

2. Punishment. Punishment of a juvenile accepted under this section is limited to warnings, restitution, labor at any lawful wage and loss of privileges.

SUBCHAPTER II

MAINE YOUTH CENTER

§9421. Establishment

The State shall maintain the Maine Youth Center located at South Portland.

2           1. Coeducational. The Maine Youth Center must be  
coeducational.

4           2. Separate housing. The Maine Youth Center shall fully  
separate the housing facilities for boys and girls.

6           **§9422. Purposes**

8           1. Statement. The purposes of the Maine Youth Center are:

10           A. To detain juveniles prior to appearances in Juvenile  
12           Court on court orders that the juveniles be securely  
14           detained;

16           B. To administer court-ordered diagnostic evaluations  
18           pursuant to Title 15, section 3309-A and court-ordered  
20           examinations pursuant to Title 15, section 3318; and

22           C. To rehabilitate juveniles committed to it on being  
24           adjudicated as having committed juvenile crimes under Title  
26           15, section 3310, subsection 5.

28           2. Accomplishment. To accomplish the purposes set out in  
30           subsection 1, the disciplines of education, casework, group work,  
32           psychology, psychiatry, medicine, nursing, vocational training  
34           and religion as they are related to human relations and  
36           personality development must be employed. Security measures,  
38           whether in the form of physically restrictive construction or  
40           intensive staff supervision, when appropriate, may be taken to  
42           accomplish these purposes.

44           **§9423. Superintendent**

46           The chief administrative officer of the Maine Youth Center  
48           is the superintendent.

50           **§9424. Superintendent's appointment powers**

52           The superintendent may appoint 2 assistant superintendents  
54           subject to the Civil Service Law.

56           1. Assistant superintendent. An assistant superintendent  
58           designated by the superintendent has the powers, duties,  
60           obligations and liabilities of the superintendent when the  
62           superintendent is absent from the Maine Youth Center or unable to  
64           perform the duties of the office.

66           2. Designee. If there are no assistant superintendents,  
68           another employee designated by the superintendent has the powers,

2 duties, obligations and liabilities of the superintendent in the  
3 circumstances described in subsection 1.

4 **§9425. Commitment**

6 1. Eligibility. Only juveniles 11 years of age or older  
7 and under 18 years of age at the time of commitment may be  
8 committed to the Maine Youth Center pursuant to this subchapter  
9 and Title 15, Part 6.

10 2. Limitations. A person may not be detained at or  
11 committed to the center who is blind or who is a proper subject  
12 for any residential services provided by or through the Division  
13 of Mental Health or Division of Mental Retardation.

14 3. Certification. When a person is detained at or  
15 committed to the Maine Youth Center, the court making the  
16 detention or commitment shall certify on the mittimus the  
17 person's birthplace, parentage and legal residence.

18 **§9426. Federal juvenile offenders**

19 The director may contract with the Attorney General of the  
20 United States for the confinement and support in the Maine Youth  
21 Center of juvenile offenders against the laws of the United  
22 States in accordance with 18 United States Code, Sections 706 and  
23 707.

24 **§9427. Human services' custody**

25 1. Suspension. When the custody of a juvenile at the time  
26 of commitment is in another bureau of the department, that  
27 custody must be temporarily suspended while the juvenile is in  
28 the Maine Youth Center.

29 2. Reversion. Upon discharge or placement on aftercare  
30 status from the Maine Youth Center, the custody of the juvenile  
31 reverts to the appropriate bureau of the department, if the  
32 juvenile is still under 18 years of age.

33 **§9428. Observation**

34 1. Generally. When the behavior of a juvenile residing at  
35 the Maine Youth Center presents a high likelihood of imminent  
36 harm to that juvenile or to others, presents a substantial and  
37 imminent threat of destruction of property or demonstrates a  
38 proclivity of the juvenile to be absent from the facility without  
39 leave as evidenced by a stated intention to escape from the  
40 facility or by a recent attempted or actual escape from any  
41 detention or correctional facility, the juvenile may be placed  
42



2 under observation if the juvenile demonstrates that anything less  
3 restrictive would be ineffectual for the control of the  
4 juvenile's behavior.

6 2. Conditions. Placing a juvenile under observation is  
7 subject to the following conditions.

8 A. Placement under observation must first be approved by  
9 the superintendent.

10 B. The conditions under which a juvenile is placed under  
11 observation must conform with all applicable federal and  
12 state standards relating to the health and safety of clients  
13 in correctional facilities.

14 C. Placement under observation may not exceed the period of  
15 time necessary to alleviate and prevent the reoccurrence of  
16 the behavior described in subsection 1 and it may not be  
17 used as punishment.

18 D. When placement under observation exceeds 12 hours, the  
19 superintendent shall direct the facility physician or a  
20 member of the facility medical staff to visit the juvenile  
21 immediately and at least once in each succeeding 24-hour  
22 period the juvenile remains under observation to examine the  
23 juvenile's state of health.

24 (1) The superintendent shall give full consideration  
25 to recommendations of the physician or medical staff  
26 member concerning the juvenile's dietary needs and the  
27 conditions of the juvenile's confinement required to  
28 maintain the juvenile's health. If the recommendations  
29 of the physician or medical staff member are not  
30 carried out, the superintendent shall immediately  
31 convey the reasons and circumstances for this decision  
32 to the director of the bureau for review and final  
33 disposition.

34 (2) Placement under observation must be discontinued  
35 if the superintendent on the advice of the physician  
36 determines that placement under observation is harmful  
37 to the mental or physical health of the juvenile,  
38 except that placement under observation may be  
39 continued if the behavior of the juvenile presents a  
40 high likelihood of imminent physical harm to that  
41 juvenile or others and there is no less restrictive  
42 setting in which that juvenile's safety or that of  
43 others can be ensured. If placement under observation  
44 is continued, the physician or a member of the medical

2           staff shall visit the juvenile at least once every 12  
3           hours.

4           E. When placement under observation exceeds 24 hours, the  
5           superintendent shall direct appropriate facility staff to  
6           develop a plan for the further care of the juvenile. The  
7           plan must be revised as needed to meet the changing needs of  
8           the juvenile.

9           F. Placement under observation may not exceed 72 hours  
10           without the superintendent's approval, which must:

11                   (1) Be in writing;

12                   (2) State the reasons for that approval; and

13                   (3) Be kept on file.

14           G. If the recommendations of the physician or medical staff  
15           member regarding the juvenile's dietary or other health  
16           needs while under observation are not carried out, the  
17           superintendent shall send a written justification to the  
18           director of the bureau.

19           H. A juvenile held under observation must be under constant  
20           sight and sound supervision by facility staff.

21           **§9429. Director's guardianship powers**

22           In regard to a juvenile residing at the Maine Youth Center,  
23           the director has all the power that a guardian has over a ward  
24           and a parent has over a child as to person, allowable property  
25           that the juvenile has at the Maine Youth Center and earnings that  
26           the juvenile receives during a stay at the Maine Youth Center and  
27           any power necessary for the rehabilitation of the juvenile. If a  
28           juvenile is or becomes 18 years of age while still under  
29           commitment, the statutory guardianship of the director over the  
30           juvenile terminates, but the juvenile remains subject to the  
31           control of the superintendent, staff and rules of the Maine Youth  
32           Center until the expiration of the period of commitment or until  
33           discharge from the center.

34           **§9430. Entrustment**

35           **1. Director's powers.** During a juvenile's commitment to the  
36           Maine Youth Center, the superintendent may, at the director's  
37           discretion:

38                   A. Keep the juvenile at the center; or

39

2 B. Upon prior mutual agreement, entrust the juvenile, for a  
3 period not exceeding the term of the juvenile's commitment,  
4 to the care of:

5 (1) Any suitable person or persons;

6 (2) The Division of Juvenile Probation;

7 (3) Another bureau of the department;

8 (4) Another public or private child care agency; or

9 (5) The Division of Juvenile Aftercare.

10  
11 2. Reports. As often as the director requires, the person  
12 or agency to whom the juvenile is entrusted shall report to the  
13 director:

14  
15 A. The progress and behavior of the juvenile, whether or  
16 not the juvenile remains under the care of the person or  
17 agency; and

18  
19 B. If the juvenile is not under the care of the person or  
20 agency, where the juvenile is.

21  
22 3. Center services. The director shall provide aftercare  
23 and entrustment services to juveniles.

24  
25 4. Cancellation. If the director is satisfied at any time  
26 that the welfare of the juvenile will be promoted by return to  
27 the Maine Youth Center, the director may cancel the entrustment  
28 and resume charge of the juvenile with the same powers as before  
29 the entrustment was made.

#### 30 §9431. Return to center

31  
32 When a juvenile who has been placed on entrustment or who  
33 has been absent from the Maine Youth Center without leave is  
34 taken into custody by an officer or employee of the center at the  
35 direction of the director or by a law enforcement officer at the  
36 request of the director for the purpose of returning the juvenile  
37 to the center and the juvenile must be detained overnight because  
38 of the juvenile's distance from the center at the time of being  
39 taken into custody, the following requirements apply.

40  
41 1. Temporary detention. The juvenile may be temporarily  
42 detained in a county jail.

43  
44 2. Return. The juvenile must be returned to the Maine Youth  
45 Center on the day after being taken into custody, except that, if

2 traveling conditions are unsafe, the juvenile must be returned to  
3 the center at the earliest possible time.

4 **§9432. Discharge**

6 1. Duty. The superintendent shall cause a juvenile to be  
7 discharged from the Maine Youth Center:

8 A. When the juvenile becomes 21 years of age; or

10 B. When the superintendent determines that the juvenile has  
12 benefited optimally from the services and facilities of the  
14 center.

16 2. Power. The superintendent may discharge a juvenile from  
17 the Maine Youth Center when the superintendent determines that  
18 discharge is in the best interest of the juvenile.

20 **§9433. Power of center employees**

22 Employees of the Maine Youth Center have the same power as  
23 sheriffs in their respective counties to search for and apprehend  
24 escapees from the center, when authorized to do so by the  
25 superintendent.

26 **§9434. Transportation**

28 All court-ordered and court-related transportation of  
29 juvenile detainees to and from the Maine Youth Center is the  
30 responsibility of the sheriff of the county in which the court is  
31 located.

32 **§9435. Arthur R. Gould School**

34 1. Purpose. The Arthur R. Gould School, located at the  
35 Maine Youth Center, is devoted to the education and instruction  
36 of persons residing at the center.

38 2. Responsibility for maintaining school. The State,  
39 through the department, has the responsibility and expense of  
40 maintaining the Arthur R. Gould School in compliance with all  
41 elementary and secondary state education requirements for public  
42 schools and private schools approved for tuition purposes  
43 established in Title 20-A.

44 3. School privileges. A person residing at the Maine Youth  
45 Center is eligible to attend the Arthur R. Gould School and  
46 receive education, vocational education, special education and  
47 alternative education services in accordance with all state and  
48 federal requirements.

2           4. Policy review council. The commissioner and the  
3 Commissioner of Education shall appoint a 7-member policy review  
4 council, as authorized by Title 5, section 12004-I, subsection  
5 15-A, for 3-year terms. The council is the successor to the  
6 policy review council established pursuant to Title 34-A, former  
7 section 3815, subsection 4. Members of the former council serve  
8 on the successor council until the expiration of the time for  
9 their terms on the former council.

10           A. Replacements for council members who do not complete  
11 their term of office are for the remainder of the unexpired  
12 term.

13           B. A Legislator may not serve on the council while serving  
14 as a Legislator.

15           C. The council members must be representative of a broad  
16 range of professionals, parents and citizens interested in  
17 the education of students at the Arthur R. Gould School and  
18 include the parents of a current or former Arthur R. Gould  
19 School student. In addition, council members may include:

20                   (1) Professionals not employed by the Arthur R. Gould  
21 School who serve or have served students in a  
22 corrections setting;

23                   (2) Representatives of advocacy groups for children  
24 with special needs;

25                   (3) School administrative unit administrators or  
26 special education directors; and

27                   (4) Interested citizens.

28           D. The council must have access to the school, but may not  
29 participate in the administration of the day-to-day  
30 operations of the school.

31           E. The duties of the council include, but are not limited  
32 to:

33                   (1) Making annual recommendations to the  
34 superintendent and sending copies of the  
35 recommendations to the members of the joint standing  
36 committee of the Legislature having jurisdiction over  
37 education matters;

- 2                   (2) Making policy recommendations to the  
3                   superintendent, the Commissioner of Education and the  
4                   commissioner;
- 6                   (3) Reviewing policy development by the superintendent;
- 8                   (4) Reviewing the implementation of policy;
- 10                  (5) Reviewing staff recruitment, retention, promotion  
11                  and evaluation policies and procedures;
- 12                  (6) Holding hearings for staff, parents, students,  
13                  alumni, special education directors and the general  
14                  public and otherwise soliciting the opinions of  
15                  individuals in those groups concerning the operation  
16                  and role of the school; and
- 18                  (7) Conducting exit interviews with staff members  
19                  terminating employment with the school.

20                                   SUBCHAPTER III

22                                   NORTHERN MAINE REGIONAL JUVENILE DETENTION  
23                                   FACILITY

24                   §9451. Establishment

26                   There is established the Northern Maine Regional Juvenile  
27                   Detention Facility located in Penobscot County.

28                   §9452. Purposes

29                   The purposes of the Northern Maine Regional Juvenile  
30                   Detention Facility are:

31                   1. Detention. To detain juveniles prior to appearances in  
32                   Juvenile Court on court orders that the juveniles be securely  
33                   detained;

34                   2. Diagnostic evaluation. To administer court-ordered  
35                   diagnostic evaluations pursuant to Title 15, section 3309-A and  
36                   court-ordered examinations pursuant to Title 15, section 3318; and

37                   3. Confinement. To confine juveniles ordered detained  
38                   pursuant to Title 15, section 3314, subsection 1, paragraph H.

39                   §9453. Director

40                   1. Chief administrative officer. The chief administrative  
41                   officer of the Northern Maine Regional Juvenile Detention  
42                   Facility shall be appointed by the Board of Juvenile Justice.

2 Facility is the director and is responsible to the director of  
3 the bureau.

4 2. Duties. In addition to other duties set out in this  
5 subchapter, the Director of the Northern Maine Regional Juvenile  
6 Detention Facility has the following duties.

7 A. The director shall exercise supervision over the  
8 employees, grounds, buildings and equipment at the Northern  
9 Maine Regional Juvenile Detention Facility.

10 B. The director shall supervise and control the juvenile  
11 detainees at the Northern Maine Regional Juvenile Detention  
12 Facility in accordance with department rules.

13 3. Powers. In addition to the powers granted in this  
14 subchapter, the Director of the Northern Maine Regional Juvenile  
15 Detention Facility may appoint one assistant director, subject to  
16 the Civil Service Law. The assistant director has the powers,  
17 duties, obligations and liabilities of the director when the  
18 director is absent or unable to perform the director's duties.

#### 19 **§9454. Detention**

20 1. Eligibility. Only juveniles 11 years of age or older  
21 and under 18 years of age at the time of detention may be  
22 detained at the Northern Maine Regional Juvenile Detention  
23 Facility pursuant to this subchapter and Title 15, Part 6.

24 2. Limitations. A person may not be detained at the  
25 Northern Maine Regional Juvenile Detention Facility who is blind  
26 or who is a proper subject for any residential services provided  
27 by or through the Division of Mental Health or the Division of  
28 Mental Retardation.

29 3. Certification. When a person is detained at the  
30 Northern Maine Regional Juvenile Detention Facility, the court  
31 ordering the detention shall certify on the mittimus the person's  
32 birthplace, parentage and legal residence.

#### 33 **§9455. Juvenile detainees generally**

34 All juvenile detainees at the Northern Maine Regional  
35 Juvenile Detention Facility must be detained in accordance with  
36 the orders of the court and the rules of the bureau.

#### 37 **§9456. Powers of employees**

38 Employees of the Northern Maine Regional Juvenile Detention  
39 Facility have the same power as sheriffs in their respective  
40

2 counties to search for and apprehend escapees from the facility,  
3 when authorized to do so by the director of the facility.

4 **§9457. Transportation**

6 All court-ordered and court-related transportation of  
7 juvenile detainees to and from the Northern Maine Regional  
8 Juvenile Detention Facility is the responsibility of the sheriff  
9 of the county in which the court is located.

10 **§9458. Observation**

12  
13 **1. Generally.** When the behavior of a juvenile residing at  
14 the Northern Maine Regional Juvenile Detention Facility presents  
15 a high likelihood of imminent harm to that juvenile or to others,  
16 presents a substantial and imminent threat of destruction of  
17 property or demonstrates a proclivity of the juvenile to be  
18 absent from the facility without leave as evidenced by a stated  
19 intention to escape from the facility or by a recent attempted or  
20 actual escape from any detention or correctional facility, the  
21 juvenile may be placed under observation if the juvenile  
22 demonstrates that anything less restrictive would be ineffectual  
23 for the control of the juvenile's behavior.

24  
25 **2. Conditions.** Placing a juvenile under observation is  
26 subject to the following conditions.

27  
28 **A.** Placement under observation must first be approved by  
29 the Director of the Northern Maine Regional Juvenile  
30 Facility.

31  
32 **B.** The conditions under which a juvenile is placed under  
33 observation must conform with all applicable federal and  
34 state standards relating to the health and safety of clients  
35 in detention facilities.

36  
37 **C.** Placement under observation may not exceed the period of  
38 time necessary to alleviate and prevent the reoccurrence of  
39 the behavior described in subsection 1 and it may not be  
40 used as punishment.

41  
42 **D.** When placement under observation exceeds 12 hours, the  
43 Director of the Northern Maine Regional Juvenile Detention  
44 Facility shall direct the facility physician or a member of  
45 the facility medical staff to visit the juvenile immediately  
46 and at least once in each succeeding 24-hour period the  
47 juvenile remains under observation to examine the juvenile's  
48 state of health.



2           (1) The director shall give full consideration to  
4           recommendations of the physician or medical staff  
6           member concerning the juvenile's dietary needs and the  
8           conditions of the juvenile's confinement required to  
          maintain the juvenile's health. If the recommendations  
          of the physician or medical staff member are not  
          carried out, the director shall immediately convey the  
          reasons and circumstances for this decision to the  
          director of the bureau for review and final disposition.

10           (2) Placement under observation must be discontinued  
12           if the director, on the advice of the physician,  
14           determines that placement under observation is harmful  
16           to the mental or physical health of the juvenile,  
18           except that placement under observation may be  
20           continued if the behavior of the juvenile presents a  
22           high likelihood of imminent physical harm to that  
          juvenile or others and there is no less restrictive  
          setting in which that juvenile's safety or that of  
          others can be ensured. If placement under observation  
          is continued, the physician or a member of the medical  
          staff shall visit the juvenile at least once every 12  
          hours.

24           E. When placement under observation exceeds 24 hours, the  
26           Director of the Northern Maine Regional Juvenile Detention  
28           Facility shall direct appropriate facility staff to develop  
30           a plan for the further care of the juvenile. The plan must  
          be revised as needed to meet the changing needs of the  
          juvenile.

32           F. Placement under observation may not exceed 72 hours  
34           without the approval of the Director of the Northern Maine  
          Regional Juvenile Detention Facility, which must:

- 36           (1) Be in writing;  
38           (2) State the reasons for that approval; and  
40           (3) Be kept on file.

42           G. If the recommendations of the physician or medical staff  
44           member regarding the juvenile's dietary or other health  
46           needs while under observation are not carried out, the  
          Director of the Northern Maine Regional Juvenile Detention  
          Facility shall send a written justification to the director  
          of the bureau.

48           H. A juvenile held under observation must be under constant  
50           sight and sound supervision by facility staff.

2 **§9459. Limit on number of juveniles**

4 The population of the Northern Maine Regional Juvenile  
6 Detention Facility may not exceed 40 juveniles, unless there are  
8 no other appropriate beds available for housing juveniles.  
Exceeding 40 juveniles in such an emergency situation may be done  
only for the length of time necessary to resolve the emergency.

10 **§9460. State responsible for detention**

12 Notwithstanding any other provision of law, on the date that  
14 the Northern Maine Regional Juvenile Detention Facility begins  
16 operating, the State is responsible for all physically  
18 restrictive juvenile detention statewide, except that the  
detention provided under Title 15, section 3203-A, subsection 1  
remains the responsibility of the counties.

20 **SUBCHAPTER IV**

22 **YOUTH CORRECTIONS BOARD OF VISITORS**

24 **§9481. Board of visitors**

26 1. Appointment. There is established, pursuant to Title 5,  
28 section 12004-I, subsection 52-A, a board of visitors for each of  
30 the correctional facilities administered by the bureau. The  
32 board consists of 7 members, 4 appointed by the Governor and 3  
34 appointed jointly by the President of the Senate and the Speaker  
of the House of Representatives. Each appointing officer shall  
36 make appointments that provide representation to all areas of the  
State. The board of visitors is the successor to the board of  
visitors of the Maine Youth Center established pursuant to Title  
34-A, section 3002. Members of the former board of visitors  
serve on the successor board of visitors until the expiration of  
their terms on the former board of visitors.

38 A. The terms of the members of the board of visitors are  
40 for one calendar year. Appointing authorities shall  
42 complete their appointments by January 1st of the year for  
which the members are appointed.

44 B. A member of the board of visitors is eligible for  
46 reappointment at the expiration of the member's term, except  
48 that a member may not be reappointed who has failed to  
attend 1/2 or more of the board's meetings in the previous  
year. A member may not continue to serve after the member's  
term has expired unless reappointed.

50

2 C. A member of the Legislature may not serve on the board  
of visitors while serving as a Legislator.

4 D. Each member of the board of visitors is entitled to  
compensation according to Title 5, section 12004-I,  
6 subsection 52-A.

8 E. The Governor shall appoint an interim chair for the  
board. The board shall elect a permanent chair at the  
10 conclusion of the first meeting of the board.

12 F. The interim chair of the board shall call the first  
meeting of the board for no later than January 30th of each  
14 year. If the chair fails to call the meeting, the director  
shall call the meeting no later than February 15th. A  
16 quorum consists of a majority of members appointed at that  
18 time.

20 2. Powers. The board of visitors shall inspect the  
correctional facility to which it is assigned and make a report  
and recommendations on the management of the facility to the  
22 director by November 1st of each year.

24 3. Duties. The board of visitors has the following duties.

26 A. The board of visitors shall send copies of all reports  
and recommendations to the members of the joint standing  
28 committee of the Legislature having jurisdiction over  
corrections matters, the Executive Director of the  
30 Legislative Council and the Law and Legislative Reference  
32 Library.

34 B. The board of visitors shall appear before the joint  
standing committee of the Legislature having jurisdiction  
36 over corrections matters and answer any questions concerning  
its reports.

38 4. Director response. Within 30 days of receipt of the  
board's recommendations, the director shall respond in writing to  
40 the board concerning its recommendations and send a copy of this  
response to the joint standing committee of the Legislature  
42 having jurisdiction over corrections matters and the Executive  
44 Director of the Legislative Council.

46 5. Staffing. The board of visitors shall request staffing  
from the director. The board shall comment on the adequacy of  
48 this staffing in its annual report.

**Sec. M-5. Effective date.** This Part takes effect July 1, 1996.

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**PART N**

**Sec. N-1. 34-A MRSA §1001, sub-§1-A,** as enacted by PL 1991, c. 314, §2, is amended to read:

**1-A. Client.** "Client" means any person in the custody or under the supervision of the department, including, but not limited to, a prisoner, ~~juvenile--client,~~ contract client, probationer, or parolee, ~~--juvenile--detainee--and--an--informally adjusted--juvenile.~~

**Sec. N-2. 34-A MRSA §1001, sub-§8-A,** as enacted by PL 1991, c. 314, §6, is repealed.

**Sec. N-3. 34-A MRSA §1001, sub-§§10 and 11,** as enacted by PL 1983, c. 459, §6, are repealed.

**Sec. N-4. 34-A MRSA §1001, sub-§11-A,** as enacted by PL 1991, c. 314, §6, is repealed.

**Sec. N-5. 34-A MRSA §1001, sub-§21,** as enacted by PL 1987, c. 633, §1, is repealed.

**Sec. N-6. 34-A MRSA §1202, first ¶,** as enacted by PL 1983, c. 459, §6, is amended to read:

There is established a Department of Corrections to be responsible for the direction and general administrative supervision, guidance and planning of adult ~~and--juvenile~~ correctional facilities and programs within the State.

**Sec. N-7. 34-A MRSA §1203, sub-§1,** as amended by PL 1991, c. 314, §10, is further amended to read:

**1. Establishment.** The Office of Advocacy is established within the department to investigate the claims and grievances of clients, to investigate, in conjunction with the Department of Human Health and Family Services, as appropriate, allegations of adult ~~and--child~~ abuse or neglect in correctional facilities and detention facilities and to advocate for compliance by the department, any correctional facility, any detention facility or any contract agency with all laws, administrative rules and institutional and other policies relating to the rights and dignity of clients.

**Sec. N-8. 34-A MRSA §1206, sub-§1, ¶D,** as enacted by PL 1983, c. 459, §6, is amended to read:

2 D. "Human service" means any alcoholism, ~~children's~~  
3 ~~community~~ ~~action~~, corrections, criminal justice,  
4 developmental disability, donated food, education, elderly,  
5 food stamp, income maintenance, health, ~~juvenile~~, law  
6 enforcement, legal, medical care, mental health, mental  
7 retardation, poverty, public assistance, rehabilitation,  
8 social, substance abuse, transportation, or welfare ~~or~~-youth  
9 service operated by a community agency under an agreement  
10 financially supporting the service, wholly or in part, by  
11 funds authorized for expenditure for the department.

12 **Sec. N-9. 34-A MRSA §1209**, as amended by PL 1989, c. 700,  
13 Pt. A, §160, is repealed.

14 **Sec. N-10. 34-A MRSA §1402, sub-§8**, as amended by PL 1991, c.  
15 314, §20, is repealed.

16 **Sec. N-11. 34-A MRSA §1403, sub-§4, ¶A**, as enacted by PL 1983,  
17 c. 459, §6, is repealed.

18 **Sec. N-12. 34-A MRSA §1403, sub-§7**, as enacted by PL 1983, c.  
19 724, is amended to read:

20 **7. Establishment of farm programs at correctional**  
21 **facilities.** The commissioner may establish a farm program at  
22 each correctional facility for the purposes of producing  
23 agricultural and farm products and teaching prisoners and  
24 ~~juvenile-elients~~ cultivation and gardening techniques.

25 A. Products from those farm programs ~~shall~~ must be used by  
26 correctional facilities. If a surplus exists, it may be:

27 (1) Sold or distributed to other state, county or  
28 local governmental entities;

29 (2) Exchanged with other state, county or local  
30 governmental entities for services or other goods; or

31 (3) Sold to or exchanged with private Maine businesses  
32 in the State.

33 B. The revenue generated by the sale of those farm products  
34 ~~shall~~ must be deposited in a special account. This account  
35 ~~shall~~ may not lapse at the end of a fiscal year but ~~may~~ must  
36 be carried forward from year to year. If the amount in the  
37 fund exceeds \$100,000, the excess in the account ~~shall~~ must  
38 be transferred to the General Fund.

39 C. These funds in this special account may be expended to  
40 implement farm programs in correctional facilities. These  
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2 expenditures include, but are not limited to, the purchase  
of necessary materials and equipment, construction,  
4 administrative costs and employee salaries.

6 **Sec. N-13. 34-A MRSA §1403, sub-§8**, as repealed and replaced  
by PL 1989, c. 127, §3, is amended to read:

8 **8. Receipt of United States prisoners.** The commissioner's  
power to accept United States prisoners ~~or adjudicated juveniles~~  
10 is as follows.

12 A. The commissioner may receive in any correctional  
facility prisoners detained by the United States or  
14 convicted of an offense against the United States and  
committed for a term of imprisonment to the custody of the  
16 Attorney General of the United States if:

18 (1) The Attorney General of the United States  
designates a Maine correctional facility in the State  
20 as the place of confinement for the prisoner; and

22 (2) The commissioner approves and agrees to accept and  
keep the prisoner in a Maine correctional facility in  
24 the State.

26 ~~B. The commissioner may receive in any juvenile facility~~  
~~juveniles detained by the United States or adjudicated of an~~  
28 ~~offense against the United States and committed for a term~~  
~~of institutionalization to the custody of the Attorney~~  
30 ~~General of the United States if:~~

32 ~~(1) The Attorney General of the United States~~  
~~designates a Maine juvenile facility as the place of~~  
34 ~~confinement for the juvenile; and~~

36 ~~(2) The commissioner approves and agrees to accept and~~  
~~keep the juvenile in a Maine juvenile facility.~~

38 C. The commissioner may contract with the Attorney General  
of the United States or officer designated by the Congress  
40 for the care, custody, subsistence, education, treatment and  
42 training of any prisoner ~~or juvenile~~ accepted under this  
section. All sums paid pursuant to contracts authorized by  
44 this section shall accrue to the General Fund.

46 **Sec. N-14. 34-A MRSA §1403, sub-§10**, as enacted by PL 1993, c.  
682, §1, is amended to read:

48 **10. Inmate benefit welfare account.** The commissioner shall  
50 provide an accounting of all inmate benefit welfare accounts and

2 ~~of the student welfare fund at the Maine Youth Center~~ each fiscal  
year to the joint select standing committee of the Legislature  
4 having jurisdiction over corrections matters. The annual  
accounting must include total income for the year, total  
6 expenditures for the year, anticipated capital and operating  
expenditures from these accounts in the next fiscal year and  
8 balances in the accounts. Nothing in this subsection may change  
the nature of these accounts as internal management tools.

10 **Sec. N-15. 34-A MRSA §3003, sub-§1**, as amended by PL 1993, c.  
354, §14, is further amended to read:

12 **1. Limited disclosure.** All orders of commitment, medical  
14 and administrative records, applications and reports, and facts  
contained in them, pertaining to any person receiving services  
16 from the department, must be kept confidential and may not be  
disclosed by any person, except that criminal history record  
18 information may be disseminated in accordance with Title 16,  
chapter 3, subchapter VIII, and documents, other than those  
20 documents pertaining to information obtained by the department  
for the purpose of evaluating a client's ability to participate  
22 in a community-based program or from informants in a correctional  
or detention facility for the purpose of determining whether  
24 facility rules have been violated, or a victim's request for  
notice of release, may be disclosed:

26 A. To any person, if the person receiving services, that  
28 person's legal guardian, if any, and, if that person is a  
minor, that person's parent or legal guardian, gives  
30 informed written consent to the disclosure of the documents  
referred to in this subsection after being given the  
32 opportunity to review the documents sought to be disclosed;

34 B. To any state agency if the disclosure is necessary to  
carry out the statutory functions of that agency;

36 C. If ordered by a court of record, subject to any  
38 limitation in the Maine Rules of Evidence, Rule 503; and

40 D. To any criminal justice agency if the disclosure is  
42 necessary to carry out the administration of criminal  
justice, ~~the administration of juvenile criminal justice~~ or  
44 for criminal justice agency employment.

46 ~~Notwithstanding any other provision of law, the department may~~  
release the names, dates of birth and social security numbers of  
48 juveniles receiving services from the department and, if  
applicable, the Medicaid eligibility numbers and the dates on  
50 which these juveniles received Medicaid services to the Bureau of  
Medical Services and the Bureau of Income Maintenance within the

2 Department of Human Services for the sole purpose of determining  
3 eligibility and billing for Medicaid services provided by or  
4 through the department. The department may also release to the  
5 Department of Human Health and Family Services information  
6 required for, and to be used solely for, audit purposes,  
7 consistent with federal law, for Medicaid services provided by or  
8 through the department. Department of Human Health and Family  
9 Services personnel must treat this information as confidential in  
10 accordance with federal and state law and must return the records  
11 when their purpose has been served.

12 **Sec. N-16. 34-A MRSA §3032, sub-§5, ¶A,** as amended by PL 1985,  
13 c. 352, §3, is further amended to read:

14 A. Punishment at all correctional facilities, ~~except the~~  
15 ~~Maine Youth Center,~~ may consist of warnings, loss of  
16 privileges, restitution, labor at any lawful work,  
17 confinement to a cell, segregation or a combination of these.

18 **Sec. N-17. 34-A MRSA §3032, sub-§5, ¶B,** as amended by PL 1991,  
19 c. 314, §37, is further amended to read:

20 B. Punishment at ~~the Maine Youth Center and~~ any detention  
21 facility may consist of warnings, restitution, labor at any  
22 lawful work and loss of privileges.

23 **Sec. N-18. 34-A MRSA §3032, sub-§5-A, ¶B,** as amended by PL  
24 1991, c. 314, §38, is further amended to read:

25 B. A prisoner ~~or juvenile~~ who is transferred to another  
26 facility remains liable for any restitution authorized under  
27 this chapter. The facility receiving the prisoner ~~or~~  
28 ~~juvenile~~ must collect the restitution and transfer it to the  
29 facility where the damage occurred.

30 **Sec. N-19. 34-A MRSA §3035, sub-§§1 and 2,** as amended by PL  
31 1991, c. 314, §40, are further amended to read:

32 **1. Work release and restitution.** The chief administrative  
33 officer may permit any client under sentence to the department  
34 ~~and any juvenile client considered to be worthy of trust~~ to  
35 participate in activities outside the facility under the  
36 following conditions.

37 A. Activities may include training and employment.

38 B. Activities are subject to rules ~~promulgated~~ adopted by  
39 the commissioner.



2 C. Activities must, in the judgment of the chief  
administrative officer, contribute to the reformation of the  
client and assist in preparing the client for eventual  
4 release.

6 D. Transportation to work release job sites must be  
arranged by the commissioner.

8 (1) Clients participating in the work release program  
10 must be assessed an equitable share of the cost of the  
transportation.

12 (2) Funds received from clients for work release  
14 transportation must be placed in the General Fund.

16 E. Every client participating in the work release program  
is liable for the cost of board in the facility.

18 (1) The reasonable cost of board for a client in a  
20 facility is fixed by the commissioner. In fixing the  
reasonable cost of the board to be paid, the  
22 commissioner shall take into consideration other state  
laws or judicial determinations that affect the  
24 client's income.

26 (2) Funds received from clients for the board must be  
placed in the General Fund.

28 **2. Furlough.** Subject to subsection 5, the commissioner may  
30 grant to a client under sentence to the department ~~and a juvenile~~  
~~client~~ furlough from the facility in which the client is confined  
32 under the following conditions.

34 A. Furlough may only be granted subject to rules adopted by  
the commissioner.

36 B. Furlough may be granted for not more than 10 days at one  
38 time for a visit to a dying relative, for attendance at the  
funeral of a relative, for the contacting of prospective  
40 employers or for any other reason consistent with the  
rehabilitation of a client.

42 C. Furlough may be granted for the obtaining of medical  
44 services for a period longer than 10 days if medically  
required.

46 **Sec. N-20. 34-A MRSA c. 3, sub-c. V,** as amended, is repealed.

48

2                   **Sec. N-21. 34-A MRSA c. 3, sub-c. VIII**, as amended, is repealed.

4                   **Sec. N-22. 34-A MRSA §5401, sub-§2**, as enacted by PL 1983, c.  
459, §6, is amended to read:

6                   **2. Employees.** The division consists of field probation and  
parole officers, ~~---juvenile---caseworkers~~ and of such other  
8 administrative employees as may be necessary in carrying out its  
functions.

10                   **Sec. N-23. 34-A MRSA §5402, sub-§2, ¶A**, as amended by PL 1985,  
12 c. 821, §28, is further amended to read:

14                   A. ~~Prömulgate~~ Adopt and enforce rules for the field  
probation and parole service, ~~juvenile--caseworkers--and~~  
16 parole officers in correctional facilities and ~~for~~ Intensive  
Supervision Program officers;

18                   **Sec. N-24. 34-A MRSA §5402, sub-§2, ¶F**, as enacted by PL 1983,  
20 c. 459, §6, is amended to read:

22                   F. Cooperate closely with the board, the criminal and  
~~juvenile~~ courts, the chief administrative officers of  
24 correctional facilities and other correctional facility  
personnel;

26                   **Sec. N-25. 34-A MRSA §5402, sub-§2, ¶K**, as amended by PL 1989,  
28 c. 417, §1, is further amended to read:

30                   K. Provide instruction and training courses for probation  
and parole officers, and for Intensive Supervision Program  
32 officers ~~and--for--juvenile--caseworkers~~;

34                   **Sec. N-26. 34-A MRSA §5402, sub-§3, ¶A**, as enacted by PL 1983,  
36 c. 459, §6, is repealed.

38                   **Sec. N-27. 34-A MRSA c. 5, sub-c. IV**, as amended, is repealed.

40                   **Sec. N-28. 34-A MRSA c. 6**, as enacted by PL 1989, c. 591, §3,  
is repealed.

42                   **Sec. N-29. 34-A MRSA c. 7**, as amended, is repealed.

44                   **Sec. N-30. Effective date.** This Part takes effect July 1, 1996.

46                   **PART O**

2           **Sec. O-1. Funding level.** In the first 2 years for which the  
3 Department of Health and Family Services is responsible for  
4 juvenile corrections, the Governor shall submit a budget that  
5 reduces the appropriation for staffing to the Maine Youth Center  
6 by 25% in the first fiscal year and 25% more in the 2nd fiscal  
7 year from the level in fiscal year 1995-1996. The amount of the  
8 reduction must be appropriated for the Bureau of Juvenile  
9 Corrections to be used to contract with providers of community  
10 services for youths to increase efforts in delinquency  
11 prevention, probation and aftercare.

12           **Sec. O-2. Transition provisions.** The following provisions apply  
13 to the reassignment of the duties and responsibilities formerly  
14 held by the Department of Corrections and now assigned by this  
15 Act to the Department of Health and Family Services.

16           1. The Department of Health and Family Services is the  
17 successor in every way to the powers, duties and functions of the  
18 Department of Corrections relating to juveniles.

19           2. Notwithstanding the provisions of the Maine Revised  
20 Statutes, Title 5, all accrued expenditures, assets, liabilities,  
21 balances or appropriations, allocations, transfers, revenues or  
22 other available funds in an account or subdivision of an account  
23 of the Department of Corrections attributable to functions  
24 transferred in this Act to the Department of Health and Family  
25 Services must be transferred to the proper accounts of the  
26 Department of Health and Family Services by the State Controller  
27 upon the request of the State Budget Officer and with the  
28 approval of the Governor.

29           3. All rules of the Department of Corrections attributable  
30 to the functions transferred to the Department of Health and  
31 Family Services in this Act that are in effect on July 1, 1996  
32 remain in effect until rescinded, revised or amended.

33           4. All contracts, agreements and compacts of the Department  
34 of Corrections that are attributable to functions transferred to  
35 the Department of Health and Family Services that are in effect  
36 on July 1, 1996 remain in effect until they expire or are altered  
37 by the parties involved in the contracts, agreements or compacts.

38           5. All records of the Department of Corrections  
39 attributable to the functions transferred in this Act to the  
40 Department of Health and Family Services must be transferred to  
41 the Department of Health and Family Services.

42           6. All property and equipment of the Bureau of Juvenile  
43 Corrections and any division or program of the Department of  
44 Corrections attributable to the functions transferred in this Act  
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2 to the Department of Health and Family Services are transferred  
to the Department of Health and Family Services.

4 7. Any position dealing with juveniles that is authorized  
for the Department of Corrections may continue to be authorized  
6 within the Department of Health and Family Services. Employees  
of the Department of Corrections who are transferred to the  
8 Department of Health and Family Services pursuant to this Part  
retain all their employee rights, privileges and benefits,  
10 including sick leave, vacation and seniority, provided under the  
Civil Service Law or collective bargaining agreements. The  
12 Bureau of Human Resources within the Department of Administrative  
and Financial Services shall assist with the orderly  
14 implementation of this subsection.

16 **Sec. O-3. Report.** The Department of Human Services shall  
review the juvenile correctional laws and programs and report by  
18 December 1, 1995 to the joint standing committee of the  
Legislature having jurisdiction over human resource matters  
20 concerning any legislation necessary to correct references and  
accomplish the purposes of this Act.

22 **Sec. O-4. Effective date.** This Part takes effect July 1, 1996.

## 24 PART P

26 **Sec. P-1. Budget development.** The Bureau of the Budget shall  
28 work with the Department of Corrections and the Department of  
Human Services to estimate the funds necessary for the functions  
30 of the Department of Health and Family Services transferred by  
this Act from the Department of Corrections.

32 **Sec. P-2. Transitional activities.** With the approval of their  
34 respective commissioners, personnel from the Department of  
Corrections and the Department of Human Services may engage in  
36 any activities necessary to implement this Act in a timely  
manner. The Commissioner of Corrections and the Commissioner of  
38 Human Services shall cooperate to ensure that any federal  
approval required to implement any part of this Act is requested  
40 and received. If either commissioner determines that federal  
approval will not be obtained for any part of this Act, that  
42 commissioner shall immediately notify the joint standing  
committee of the Legislature having jurisdiction over human  
44 resource matters and the Executive Director of the Legislative  
Council.

46 **Sec. P-3. Committee bill.** By January 1, 1996, the Joint  
48 Standing Committee on Human Resources shall submit legislation to

2 correct errors, inconsistencies and unintended policy changes  
3 that result from this Act. The Legislative Council shall provide  
4 staff assistance to the committee for the preparation of the  
5 legislation.

6 **Sec. P-4. Effective date.** This Part takes effect November 1,  
7 1995.

8  
9  
10 **PART Q**

11 **Sec. Q-1. 5 MRSA §12004-L, sub-§11** is enacted to read:

12  
13 

<u>11. Regional</u>	<u>Not</u>	<u>5 MRSA §19121</u>
<u>Interdepartmental</u>	<u>Authorized</u>	
<u>Councils</u>		

14  
15  
16  
17 **Sec. Q-2. 5 MRSA §19114, sub-§2, ¶F** is enacted to read:

18  
19 F. The committee shall meet regularly with the regional  
20 interdepartmental councils established pursuant to section  
21 12004-L, subsection 11 to assist the committee in its work  
22 and to inform the councils of the work of the committee.

23  
24 **Sec. Q-3. 5 MRSA §19114, sub-§3,** as enacted by PL 1993, c.  
25 738, Pt. B, §3 and affected by §9, is amended to read:

26  
27 **3. Residential Treatment Centers Advisory Group.** The  
28 Residential Treatment Centers Advisory Group, as established by  
29 section 12004-I, subsection 65, consists of a representative from  
30 each residential treatment center in the State, 2 members who  
31 represent community mental health services and additional members  
32 at the discretion of the committee. All members must be selected  
33 annually by July 1st by the committee. The committee shall meet  
34 with the advisory group at least 4 times each year to review rate  
35 and placement policies and procedures and shall meet regularly  
36 with the regional interdepartmental councils established pursuant  
37 to section 12004-L, subsection 11 to assist the advisory group in  
38 its work and to inform the councils of the work of the advisory  
39 group.

40  
41 **Sec. Q-4. 5 MRSA c. 439** is enacted to read:

42  
43 **CHAPTER 439**

44  
45 **REGIONAL INTERDEPARTMENTAL COUNCILS**

46  
47 **§19121. Regional interdepartmental councils**

1           1. Establishment. The regional interdepartmental councils,  
2 as established by section 12004-L, subsection 11 are referred to  
3 in this chapter as the "councils." One regional  
4 interdepartmental council is established in each of the 5 regions  
5 of the State as designated by the Department of Health and Family  
6 Services.

7           2. Membership. Each regional council is composed of 6  
8 members. One member is appointed by the Commissioner of  
9 Corrections, one by the Commissioner of Education, 2 by the  
10 Commissioner of Health and Family Services, one by the Director  
11 of the Division of Substance Abuse and the chair, who is  
12 appointed by the Governor pursuant to subsection 3.

13           3. Chairs. For each regional council the Governor shall  
14 appoint a chair from among the staff within the Office of the  
15 Governor, who serves as chair at the pleasure of the Governor.

16 **§19122. Goals of the councils**

17           The goals of the councils are:

18           1. Encourage coordinated system. To encourage a statewide  
19 system of coordinated services that are responsive to the current  
20 needs of children and families and that are delivered by a  
21 partnership of public, private and nonprofit, state-level and  
22 community-based agencies and to promote access to services by all  
23 children and their families who are in need of these services;

24           2. Evaluate allocation of resources. To evaluate on a  
25 continuing basis the allocation of resources to ensure the  
26 availability of quality services delivered in a coordinated and  
27 efficient manner that is consistent with the needs of children  
28 and families; and

29           3. Plan and develop coordinated policy. To continue with  
30 the planning and the development of a comprehensive and  
31 coordinated approach to initiation and revision of policies  
32 affecting services to children and families.

33 **§19123. Powers and duties**

34           1. Duties. Each council shall:

35           A. Meet on a regular basis;

36           B. Meet on a regular basis with the Residential Treatment  
37 Centers Advisory Group established pursuant to section  
38 12004-I, subsection 65 and the Children's Residential

2 Treatment Committee, established pursuant to section  
3 12004-L, subsection 7; and

4 C. Report annually by January 15th to the Legislature on  
5 its progress in meeting the goals cited in section 19122 and  
6 its proposals for implementing those goals in the  
7 forthcoming year. A copy of the report must be submitted to  
8 the Executive Director of the Legislative Council.

10 **2. Powers. Each council may:**

12 A. Appoint subcommittees to carry out its work.  
13 Subcommittee membership may include representatives of  
14 public and private agencies that serve children and families  
15 and other persons with special knowledge of, responsibility  
16 for or interest in an area related to the goals of the  
17 council;

18 B. Seek and accept funds from the Federal Government, from  
19 any political subdivision of the State or from any  
20 individual, foundation or corporation and may expend these  
21 funds for purposes that are consistent with this section; and

22 C. Expend its funds to support the work of the council  
23 through the payment of all reasonable and necessary expenses  
24 of the council and to provide grants to public, private and  
25 nonprofit, state-level and community-based agencies and to  
26 provide services to children and their families who are in  
27 need of these services.

30 **§19124. Administration**

32 All funds received by the councils must be administered by  
33 the Office of the Governor. Any funds allocated or appropriated  
34 for the council must be allocated or appropriated to the Office  
35 of the Governor.

38 **§19125. Funding**

40 Funding for the councils must be provided by the Department  
41 of Corrections, Department of Education, Department of Health and  
42 Family Services and Division of Substance Abuse. Each entity  
43 shall provide funding for the councils in proportion to their  
44 appropriations from the General Fund so that the total annual  
45 funding for all 5 regional councils is \$5,000,000. Funding of  
46 \$1,000,000 per year must be allocated to each council.

48 **Sec. Q-5. Effective date.** This Part takes effect November 1,  
49 1995.

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**PART R**

**Sec. R-1. 22 MRSA c.1709** is enacted to read:

**CHAPTER 1709**

**REHABILITATION ACT**

**§9601. Short title**

This chapter may be known and cited as the "Rehabilitation Act."

**§9602. Definitions**

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

1. **Community rehabilitation program.** "Community rehabilitation program" means a facility operated for the primary purpose of providing rehabilitation services to or gainful employment for people with disabilities, or evaluation and vocational services for disadvantaged individuals, that provides one or more of the following services for people with disabilities:

- A. **Comprehensive rehabilitation services, which must include under one management medical, psychological, social and vocational services;**
- B. **Testing, fitting or training in the use of prosthetic or orthotic devices;**
- C. **Prevocational conditioning or recreational therapy;**
- D. **Physical and occupational therapy;**
- E. **Speech and hearing therapy;**
- F. **Psychological and social services;**
- G. **Vocational evaluation;**
- H. **Personal and work adjustment;**
- I. **Vocational training, in combination with other rehabilitation services;**
- J. **Placement;**



2           K. Transitional and supported employment; and

4           L. Extended employment for people with severe disabilities  
6           who can not be readily absorbed in the competitive labor  
              market.

8           2. Disadvantaged individuals. "Disadvantaged individuals"  
10          means:

12           A. Persons with disabilities as defined in this section;

14           B. Individuals disadvantaged by reason of youth or advanced  
16           age, low educational attainments, ethnic or cultural  
              factors, prison or delinquency records or other conditions;  
              and

18           C. Other members of their families when the provision of  
20           rehabilitation services to family members is necessary for  
              the rehabilitation of individuals described in paragraph A  
              or B.

22           3. Evaluation and vocational services. "Evaluation and  
24           vocational services" includes, as appropriate in each case, such  
26           services as:

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

32           B. A diagnostic study consisting of a comprehensive  
34           evaluation of pertinent medical, psychological, vocational,  
36           educational, cultural, social and environmental factors that  
38           bear on the individual's barrier to employment and  
40           rehabilitation potential, including, to the degree needed,  
              an evaluation of the individual's personality, intelligence  
              level, educational achievements, work experience, vocational  
              aptitudes and interests, personal and social adjustments,  
              employment opportunities and other pertinent data helpful in  
              determining the nature and scope of services needed;

42           C. Services to appraise the individual's patterns of work  
44           behavior and ability to acquire occupational skills and to  
46           develop work attitudes, work habits, work tolerances and  
48           social and behavior patterns suitable for successful job  
              performance, including the utilization of work, simulated or  
              real, to assess and develop the individual's capacities to  
              perform adequately in a work environment;

2 D. Any other goods or services provided to a disadvantaged  
3 individual that are determined in accordance with federal  
4 regulations to be necessary for, and are provided for the  
5 purpose of, ascertaining the nature of the barrier to  
6 employment and whether it may reasonably be expected that  
7 the individual can benefit from vocational rehabilitation  
8 services or other services available to disadvantaged  
9 individuals;

10 E. Outreach, referral and advocacy; and

12 F. The administration of these evaluation and vocational  
13 services.

14 **4. Gainful employment.** "Gainful employment" includes  
16 employment in the competitive labor market; practice of a  
17 profession; self-employment; homemaking; farm or family work,  
18 including work for which payment is in kind rather than in cash;  
19 supported employment; sheltered employment; and home industries  
20 or other gainful homebound work.

22 **5. Person with a disability.** "Person with a disability"  
23 means an individual who has a physical or mental disability that  
24 constitutes a substantial barrier to employment but is of such a  
25 nature that vocational rehabilitation services may reasonably be  
26 expected to render the individual fit to engage in gainful  
27 employment that is consistent with the individual's capacities  
28 and abilities. "Person with a disability" also means an  
29 individual who has a physical or mental disability that  
30 constitutes a substantial barrier to employment and for whom  
31 vocational rehabilitation services are necessary to determine  
32 rehabilitation potential. An individual who is under a physical  
33 or mental disability means an individual who has a physical or  
34 mental condition that materially limits, contributes to limiting  
35 or, if not corrected, results in limiting that individual's  
36 activities or functions.

38 **6. Rehabilitation services.** "Rehabilitation services,"  
39 which may be provided directly or through public or private  
40 resources, means goods and services necessary to assist a person  
41 with a disability to engage in a gainful occupation or to  
42 determine the individual's rehabilitation potential, including  
43 but not limited to vocational rehabilitation services.  
44 Vocational rehabilitation services to people with disabilities  
45 must include:

46 A. Evaluation, including diagnostic and related services,  
47 incidental to the determination of eligibility for and the  
48 nature and scope of services to be provided;  
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2 B. Counseling, guidance and placement services for people  
4 with disabilities, including follow-up services to assist  
6 those individuals to maintain employment;

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

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

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

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

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

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

(3) Prosthetic and orthotic devices; and

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

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

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

I. In the case of a small business operated by people with  
severe disabilities, the operation of which can be improved  
by management services and supervision provided by the  
department, the provision of those services and that

2 supervision, alone or together with the acquisition by the  
3 department of vending stands or other equipment and initial  
4 stocks and supplies;

6 J. The construction or establishment, in accordance with  
7 federal regulations, of public or other nonprofit community  
8 rehabilitation programs and the provision of other  
9 facilities and services that may contribute substantially to  
10 the rehabilitation of a group of individuals but are not  
11 related directly to the rehabilitation plan of any one  
12 person with a disability;

14 K. Transportation in connection with the rendering of any  
15 other rehabilitation service;

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

18 M. Services to the families of people with disabilities  
19 when the services will contribute substantially to the  
20 rehabilitation of the individuals.

22 **§9603. Rehabilitation services unit created**

24 There is created within the department a functional unit of  
25 rehabilitation services, which is equal in administrative level  
26 and status with the other major administrative units within the  
27 department.

30 **§9604. Authority**

32 The department is designated and established as the sole  
33 state agency to provide rehabilitation services, including but  
34 not limited to vocational rehabilitation services, and to provide  
35 evaluation and vocational services for purposes of the Federal  
36 Rehabilitation Act and acts amendatory and additional to the  
37 Federal Rehabilitation Act. The commissioner shall make those  
38 rules that the commissioner finds necessary and appropriate for  
39 the administration of a program of rehabilitation services and  
40 shall organize such a program within the department in a manner  
41 that is consistent with existing federal and state laws, rules  
42 and regulations.

44 **§9605. Powers and duties of commissioner**

46 In carrying out this chapter, the commissioner:

48 1. Cooperation with other departments. Shall cooperate  
49 with other departments, agencies and institutions, both public  
50 and private, in providing for the rehabilitation of people with

2 disabilities and the evaluation and vocational services of  
3 disadvantaged individuals, in studying the problems involved and  
4 in establishing, developing and providing, in conformity with the  
5 purposes of this chapter, programs, facilities and services  
6 necessary or desirable;

7 2. Reciprocal agreements with other states. May enter into  
8 reciprocal agreements with other states to provide for the  
9 rehabilitation of people with disabilities and disadvantaged  
10 individuals who are residents of the states concerned;

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

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

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

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

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

31 8. Eligibility and priority. Shall determine the  
32 eligibility of individuals for rehabilitation services or  
33 evaluation and vocational services and the priority for those  
34 services in accordance with rules established by the department;  
35 and

36 9. Transitional services coordination projects. Shall  
37 participate in the coordination of rehabilitation services with  
38 local transitional services coordination projects for youth with  
39 disabilities, as established in Title 20-A, chapter 308,  
40 assigning appropriate regional staff and resources as available  
41 and necessary in each region to be served by a project.

42 §9606. Acceptance of federal provisions

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

10           The department is authorized, subject to the approval of the  
11           Governor, to:

12           1. Apply for assistance. Apply for federal assistance  
13           under the Federal Rehabilitation Act, and acts amendatory and  
14           additional to the Federal Rehabilitation Act, and to comply with  
15           conditions that are not inconsistent with this chapter and that  
16           may be required for such assistance; and

17           2. Perform for Federal Government. Perform functions and  
18           services for the Federal Government in addition to those provided  
19           for in this section.

22           **§9607. Receipt and disbursement of funds**

23           The Treasurer of State is the appropriate officer of the  
24           State to receive and administer federal grants for rehabilitation  
25           programs, as contemplated by the Federal Rehabilitation Act and  
26           acts amendatory and in addition to the Federal Rehabilitation  
27           Act, and the State Controller shall authorize expenditures as  
28           approved by the department.

31           **§9608. Gifts**

32           The commissioner, with the approval of the Governor, may  
33           accept and use gifts made unconditionally by will or otherwise  
34           for carrying out the purposes of this chapter. Gifts made under  
35           conditions that in the judgment of the department are proper and  
36           consistent with this chapter may be accepted, with the approval  
37           of the Governor, and must be held, invested, reinvested and used  
38           in accordance with the conditions of the gift. All money  
39           received as gifts or donations must be deposited in the State  
40           Treasury and constitutes a permanent fund to be called the  
41           Special Fund for Rehabilitation of People with Disabilities, to  
42           be used by the department to defray the expenses of  
43           rehabilitation in special cases, as determined by the  
44           commissioner, including the payment of necessary expenses of  
45           persons undergoing training.

48           **§9609. Maintenance not assignable**

2       The right of a handicapped or disadvantaged individual to  
3       maintenance under this chapter is not transferable or assignable  
4       at law or in equity and none of the money paid or payable or  
5       rights existing under this chapter are subject to execution,  
6       levy, attachment, garnishment or other legal process or to the  
7       operation of bankruptcy or insolvency law.

8       **§9610. Hearings and judicial review**

10       An individual applying for or receiving rehabilitation under  
11       this chapter who is aggrieved by an action or inaction of the  
12       department is entitled to a fair hearing by the commissioner or  
13       the commissioner's designated representative. An individual  
14       aggrieved because of the decision made on the basis of the fair  
15       hearing may appeal to the Superior Court.

16       **§9611. Misuse of lists and records**

18       Except for purposes directly connected with the  
19       administration of the rehabilitation program and in accordance  
20       with its rules, it is unlawful for an individual to solicit,  
21       disclose, receive or make use of or authorize, knowingly permit,  
22       participate in or acquiesce in the use of a list of names of or  
23       information concerning individuals applying for or receiving  
24       rehabilitation when that list or information is directly or  
25       indirectly derived from the records, papers, files or  
26       communications of the State or subdivisions of the State or  
27       acquired in the course of the performance of official duties. A  
28       person who violates a provision of this section commits a Class E  
29       crime.

30       **§9612. Employees not to engage in political activities**

32       An employee of the department engaged in the administration  
33       of the rehabilitation program may not use that employee's  
34       official authority to influence or permit the use of the  
35       rehabilitation program for the purpose of interfering with an  
36       election or affecting the results of an election or for a  
37       partisan political purpose. An employee may not solicit or  
38       receive or be obliged to contribute or render a service,  
39       assistance, subscription, assessment or contribution for a  
40       political purpose. An employee violating this section is subject  
41       to appropriate disciplinary action.

42       **§9613. Continuing study of rehabilitation needs**

44       The department shall make a continuing study of the needs of  
45       people with disabilities and disadvantaged individuals in the  
46       State and how these needs may be met most effectively. The study  
47       and planning must include appraisal of community rehabilitation  
48       and planning must include appraisal of community rehabilitation  
49       and planning must include appraisal of community rehabilitation  
50       and planning must include appraisal of community rehabilitation

2 programs in the State and their effectiveness and adequacy in  
3 meeting the overall needs of people with disabilities and  
4 disadvantaged individuals. The continuing study and  
5 recommendations are to be reflected in the biennial reports of  
6 the commissioner.

8 **§9614. Office of Rehabilitation Services**

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

14 **§9615. Provision of rehabilitation services**

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

22 **§9616. Rules**

24 The department is authorized to establish rules required for  
25 the proper administration of a vocational rehabilitation program  
26 under the Federal Rehabilitation Act and acts amendatory and in  
27 addition to the Federal Rehabilitation Act. These rules must  
28 include procedures for ensuring access to records by the  
29 protection and advocacy agencies designated under Title 5, Part  
30 24 pursuant to an investigation of alleged rights violations.

32 **§9617. Advisory committee**

34 There is established within the department's Office of  
35 Rehabilitation Services, Division of Deafness, an advisory  
36 committee consisting of 23 members and 3 nonvoting  
37 members-at-large to be appointed by the Director of the Office of  
38 Rehabilitation Services in conjunction with the Director of the  
39 Division of Deafness and representing equally consumers,  
40 professionals and the public. Members are entitled to  
41 compensation in accordance with Title 5, chapter 379.

42 The Director of the Office of Rehabilitation Services, in  
43 conjunction with the Director of the Division of Deafness, shall  
44 appoint, from the advisory committee, a chair and vice-chair to  
45 serve 2-year terms. The committee shall meet at the call of the  
46 chair but not less than 4 times during a calendar year. The  
47 chair may delegate duties to members to carry out the functions  
48 of the committee.

50



2                   **Sec. R-2. 20-A MRSA c. 701**, as amended, is repealed.

4                   **Sec. R-3. 34-B MRSA §5609, sub-§1**, as amended by PL 1993, c.  
708, Pt. A, §12, is further amended to read:

6                   **1. Habilitation services.** The Department of Mental-Health  
and-Mental-Retardation Health and Family Services, through the  
8 Division of Mental Retardation, ~~and the Department of Education,~~  
through and the Office of Rehabilitation Services, shall provide,  
10 to the extent of the resources available, for those habilitation  
and vocational rehabilitation services, defined in Title 20-A 22,  
12 section ~~18002~~ 9602, subsection 6, and any other service,  
including, but not limited to, supported employment including  
14 work in rehabilitation facilities and work centers, as defined in  
Title 5, chapter 155, subchapter II; job coaching;  
16 transportation, recreational and leisure services; and respite or  
day programs designed in consultation with an interdisciplinary  
18 team in order to make available to persons receiving services  
those services that are otherwise not obtainable, in the  
20 following order of priority:

22                   A. Those persons receiving services who are living at home  
or in unsubsidized foster care who are between 20 and 26  
24 years of age and are not receiving any day program; and

26                   B. All other persons receiving services who are between 20  
and 26 years of age and are not receiving an appropriate day  
28 program.

30 All persons receiving services who are served under this program  
prior to their 26th birthday must be allowed to continue to  
32 receive services through the voucher system established by  
subsection 2.

34 For purposes of this section, an interdisciplinary team includes  
36 the person receiving services and a member of the person's family  
or the guardian of the person receiving services.

38                   **Sec. R-4. Effective date.** This Part takes effect July 1, 1996.  
40

42                   **PART S**

44                   **Sec. S-1. 5 MRSA §937, sub-§1, ¶¶G and H**, as amended by PL  
1993, c. 708, Pt. J, §2, are further amended to read:

46                   G. Federal and State Education Program Coordinator; and  
48

2 H. Executive Director, Interdepartmental Council, with the  
approval of the other commissioners of the Interdepartmental  
Council; ~~and~~.

4  
6 **Sec. S-2. 5 MRSA §937, sub-§1, ¶I**, as enacted by PL 1993, c.  
780, Pt. J, §2, is repealed.

8 **Sec. S-3. 5 MRSA §12004-I, sub-§15-A**, as enacted by PL 1991, c.  
764, §1, is amended to read:

10  
12 **15-A.** Policy Not 34-A-MRSA  
Education: Review Authorized §3815  
14 Arthur R. Council 22 MRSA  
Gould School §9435

16 **Sec. S-4. 5 MRSA §12004-I, sub-§40**, as amended  
by PL 1993, c. 708, Pt. J, §6, is repealed.

18 **Sec. S-5. 5 MRSA §12004-I, sub-§43-A** is enacted  
20 to read:

22 **43-A.** Advisory Expenses 22 MRSA  
Human Committee to Only §9617  
24 Services: Division of  
Rehabilita- Deafness  
26 tion Services

28 **Sec. S-6. 5 MRSA §12004-I, sub-§52-A** is enacted to read:

30 **52-A.** Board of Expenses 22 MRSA  
Juvenile Visitors Only §9481  
32 Corrections

34 **Sec. S-7. 20-A MRSA §203, sub-§1, ¶¶G and H**, as amended by PL  
1993, c. 708, Pt. J, §7, are further amended to read:

36 G. Federal and State Education Program Coordinator; and

38 H. Executive Director, Interdepartmental Council, with the  
40 approval of the other commissioners of the Interdepartmental  
Council; ~~and~~.

42 **Sec. S-8. 20-A MRSA §203, sub-§1, ¶I**, as enacted by PL 1993, c.  
44 708, Pt. J, §7, is repealed.

46 **Sec. S-9. 20-A MRSA §18024**, as enacted by PL 1993, c. 708,  
48 Pt. B, §1, is repealed.

2           **Sec. S-10. 35-A MRSA §7302, sub-§1**, as amended by PL 1993, c.  
589, §13 and c. 708, Pt. J, §10, is repealed and the following  
enacted in its place:

4  
6           **1. Rate reduction.** The commission shall establish a 70%  
rate reduction for intrastate toll calls made on lines, or via  
credit cards assigned to lines, used for making calls from  
8 certified deaf, hard-of-hearing or speech-impaired persons who  
must rely on teletypewriters for residential telephone  
10 communications. In addition, the 70% rate reduction must apply  
to all calls using the state telecommunications relay service.  
12 Upon request, this discount must be provided to any noncertified  
user making calls to a certified user, provided the noncertified  
14 user informs the local exchange carrier or toll provider of the  
relevant billed calls made during each billing period. This  
16 reduction must also apply to intrastate toll calls made by  
agencies, certified by the Division of Deafness in the Department  
18 of Health and Family Services as eligible to receive a discount,  
while providing vocal relay services to deaf, hard-of-hearing or  
20 speech-impaired persons, as well as to community service centers  
serving deaf, hard-of-hearing or speech-impaired persons,  
22 certified by the Division of Deafness of the Department of Health  
and Family Services as eligible to receive a discount. The costs  
24 incurred by a telephone company under this subsection are just  
and reasonable expenses for rate-making purposes.

26  
28           **Sec. S-11. 35-A MRSA §7505, sub-§§1 and 5**, as amended by PL  
1993, c. 708, Pt. J, §11, are further amended to read:

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

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

48           **Sec. S-12. 35-A MRSA §8704, sub-§1, ¶A**, as amended by PL 1993,  
c. 708, Pt. J, §12, is further amended to read:  
50

2 A. The Director of the Division of Deafness, Department of  
Education Health and Family Services, or a designee;

4 **Sec. S-13. 36 MRSA §654, sub-§1, ¶E**, as amended by PL 1993, c.  
708, Pt. J, §13, is further amended to read:

6 E. The residential real estate up to the just value of  
8 \$4,000 of inhabitants of Maine who are legally blind as  
determined by the Department of Education Health and Family  
10 Services, Division for the Blind and Visually Impaired; and

12 **Sec. S-14. Transition provisions.**

14 **1. Rules and procedures.** All rules and procedures that are  
in effect, in operation or adopted on the effective date of this  
16 Act in or by the former Department of Education, Office of  
Rehabilitation Services continue in effect until rescinded,  
18 revised or amended by the proper authority.

20 **2. Contracts and agreements.** All contracts, agreements and  
compacts of the former Department of Education, Office of  
22 Rehabilitation Services in effect on the effective date of this  
Act continue in effect.

24 **3. Funds transferred.** Notwithstanding the Maine Revised  
26 Statutes, Title 5, sections 1585 and 1586, all accrued  
expenditures, assets, liabilities, balances or allocations,  
28 transfers, revenues or other available funds in any account or  
subdivision of an account of the Department of Education and  
30 authorized for use by the Office of Rehabilitation Services on  
the effective date of this Act must be reallocated to the  
32 Department of Health and Family Services, Office of  
Rehabilitation Services.

34 **4. Equipment and property transferred.** All equipment and  
36 property of the former Department of Education, Office of  
Rehabilitation Services must be transferred to the Department of  
38 Health and Family Services, Office of Rehabilitation Services,  
unless the Commissioner of Education and the Commissioner of  
40 Health and Family Services jointly authorize a different policy.

42 **5. Personnel transferred.** Employees of the former  
Department of Education, Office of Rehabilitation Services whose  
44 positions are transferred to the Department of Health and Family  
Services, Office of Rehabilitation Services under this Act retain  
46 their positions within the Office of Rehabilitation Services and  
their employee rights, privileges and benefits, including sick  
48 leave and vacation. For a period of 18 months beginning on the  
effective date of this Act, all personnel transferred to the  
50 Office of Rehabilitation Services retain all applicable seniority

rights and privileges with regard to employment in the Department of Education subject to agreement by the parties in collective bargaining. The Bureau of Human Resources within the Department of Administrative and Financial Services shall assist with the orderly implementation of this subsection.

**Sec. S-15. Maine Revised Statutes amended; revision clause.**

Wherever in the Maine Revised Statutes the words "Department of Education, Office of Rehabilitation Services" appear or reference is made to those words, they are amended to read and mean "Department of Health and Family Services, Office of Rehabilitation Services," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. S-16. Effective date.** This Part takes effect July 1, 1996.

**STATEMENT OF FACT**

In Part A this bill establishes a Department of Health and Family Services. The department assumes fully the duties of the current Department of Human Services and Department of Mental Health and Mental Retardation. The department consists of 5 bureaus: the Bureau of Child and Family Services, the Bureau of Health, the Bureau of Income Maintenance, the Bureau of Juvenile Corrections and the Bureau of Long-term Services. The department includes a Division of Substance Abuse, bringing into the department the current Office of Substance Abuse.

In Part B this bill transfers from the Department of Human Services and the Department of Mental Health and Mental Retardation to the Department of Health and Family Services all of the expenditures, assets, liabilities, appropriations and allocations, rules, contracts and agreements, records, property and employees. It directs the Revisor of Statutes to make any statutory corrections necessary to consistency of the statutes.

In Part C this bill directs transitional activities concerning the budget and the functions of the Department of Human Services and the Department of Mental Health and Mental Retardation. It directs the joint standing committee of the Legislature having jurisdiction over human resource matters to submit legislation needed to correct errors and inconsistencies.

In Part D this bill amends the Maine Revised Statutes, Title 2 and Title 5 as required to establish the Department of Health and Family Services.

2 In Part E this bill amends Title 22 as required to transfer  
functions from the Department of Human Services to the Department  
of Health and Family Services.

4  
6 In Part F this bill amends Title 34-B as required to  
transfer functions from the Department of Mental Health and  
Mental Retardation to the Department of Health and Family  
8 Services.

10 In Part G this bill corrects cross-references in Title 5.

12 In Part H this bill corrects cross-references in Title 34-B.

14 In Part I this bill transfers the Office of Substance Abuse  
from the Executive Department to the Department of Health and  
16 Family Services.

18 In Parts J and K this bill transfers from the Office of  
Substance Abuse to the Department of Health and Family Services  
20 all of the expenditures, assets, liabilities, appropriations and  
allocations, rules, contracts and agreements, records, property  
22 and employees. It directs the Revisor of Statutes to make any  
statutory corrections necessary to consistency of the statutes.  
24 It directs transitional activities concerning the budget and the  
functions of the Office of Substance Abuse and the Department of  
26 Health and Family Services. It directs the joint standing  
committee of the Legislature having jurisdiction over human  
28 resource matters to submit legislation needed to correct errors  
and inconsistencies.

30  
32 In Parts L, M and N this bill transfers all juvenile  
corrections functions from the Department of Corrections to the  
Department of Health and Family Services.

34  
36 An Office of Advocacy is retained in the Department of  
Corrections and one for juvenile corrections is established in  
the Department of Health and Family Services. Juvenile  
38 delinquency prevention is limited to youths who have not been  
alleged to have committed a crime and is placed in the chapter  
40 dealing with child and family services. The remainder of the  
juvenile corrections functions are placed in a Bureau of Juvenile  
42 Corrections. Divisions are created for planning, probation,  
aftercare and facilities. The Juvenile Justice Advisory Group is  
44 given the total planning function for juvenile corrections and  
clarification is made that that group's implementation authority  
46 and the bureau's supervisory authority over planning is limited  
to the 3-year Comprehensive State Plan required by federal law  
48 and that the bureau's expenditure authority relative to outside  
funds is subject to group approval.  
50

2 In Parts O and P this bill requires that in the first 2  
years that the Department of Health and Family Services is  
4 responsible for juvenile corrections that the budget for staffing  
at the Maine Youth Center be reduced by 25% in the first year and  
6 25% more in the 2nd year from the funding level in fiscal year  
1995-1996. The amount of the reduction must be appropriated for  
8 the Bureau of Juvenile Corrections to contract with providers of  
community services to increase efforts in delinquency prevention,  
probation and aftercare.

10  
12 This bill transfers from the Department of Corrections to  
the Department of Health and Family Services all of the  
14 expenditures, assets, liabilities, appropriations and  
allocations, rules, contracts and agreements, records, property  
16 and employees attributable to functions transferred to the  
Department of Health and Family Services. It directs the Revisor  
18 of Statutes to make any statutory corrections necessary to  
consistency of the statutes. It directs transitional activities  
20 concerning the budget and the functions of the departments  
involved. It directs the joint standing committee of the  
22 Legislature having jurisdiction over human resource matters to  
submit legislation needed to correct errors and inconsistencies.

24 In Part Q this bill establishes regional interdepartmental  
councils, modeled on the Interdepartmental Council established  
26 pursuant to Title 5, section 12004-L, subsection 9. The councils  
are funded by the participating agencies in proportion to their  
28 appropriations from the General Fund to the extent of \$1,000,000  
per year per council. The effective date of the Part is November  
30 1, 1995.

32 In Part R this bill transfers the Office of Rehabilitation  
Services from the Department of Education to the Department of  
34 Health and Family Services. The effective date of the Part is  
July 1, 1996.

36  
38 In Part S this bill corrects cross-references and amends  
laws concerning the Office of of Rehabilitation Services and  
enacts transition provisions. The effective date of this Part is  
40 July 1, 1996.