

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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No. 1581

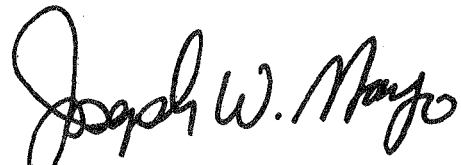
H.P. 1125

House of Representatives, March 18, 1997

**An Act to Improve the Child Development Services System and  
Encourage Collaboration in Early Childhood Programs with School  
Administrative Units.**

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Submitted by the Department of Education pursuant to Joint Rule 204.  
Reference to the Committee on Education and Cultural Affairs suggested and ordered  
printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative KERR of Old Orchard Beach.  
Cosponsored by Representatives: DESMOND of Mapleton, McALEVEY of Waterboro,  
McELROY of Unity, Senators: HARRIMAN of Cumberland, PARADIS of Aroostook.

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

2  
4       **Sec. 1. 20-A MRSA §4253**, as amended by PL 1989, c. 548, §6,  
is further amended to read:

6       **§4253. Local early childhood programs**

8       School administrative units wishing to develop early  
10 childhood programs shall submit plan proposals for approval to  
the department. The department shall encourage broad  
12 participation and participation with regional Child Development  
Services System sites in the grant program under ~~section 4253-A~~  
14 and shall provide technical assistance to local school  
administrative units in submitting proposals. ~~The department~~  
16 ~~shall monitor the implementation of the plans and evaluate their~~  
~~effectiveness before the excess costs may be included as~~  
18 ~~allowable costs under section 4254, subsection 3. There shall be~~  
~~a grant maximum of \$50,000 under this section.~~

20       **Sec. 2. 20-A MRSA §4253-A**, as enacted by PL 1989, c. 548,  
§7, is repealed.

22       **Sec. 3. 20-A MRSA §4254**, as amended by PL 1989, c. 548, §8,  
24 is further amended to read:

26       **§4254. Funding**

28       **1. Allowable costs.** Allowable costs shall ~~be~~ are the  
30 excess cost of implementing approved plans; these costs may be  
added to the school unit's subsidizable costs under chapter 606.

32       ~~2. First and 2nd years. Allowable costs in the first and~~  
~~2nd years shall be funded through a grant made from funds~~  
34 ~~appropriated for that purpose.~~

36       ~~3. Third and subsequent years. For plans which have been~~  
~~evaluated as effective by the department, allowable costs may be~~  
38 ~~added to the school units subsidized cost under chapter 606.~~

40       **Sec. 4. 20-A MRSA §7724, sub-§1**, as amended by PL 1993, c.  
42 625, §2, is further amended to read:

44       **1. Establishment.** The Child Development Services System is  
established for the purpose of maintaining a coordinated service  
46 delivery system for the provision of childfind activities for  
children, from birth to under age 3 6, early intervention  
48 services for eligible children, from birth to under age 3, and  
free, appropriate and public education services for eligible  
50 children, from age 3 to under age 6, who have a disability. The  
Child Development Services System consists of regional sites

2 organized as intermediate educational units or as private  
3 nonprofit corporations, one state-level intermediate educational  
4 unit and the Interdepartmental Coordinating Council for Early  
5 Intervention advisory board. The Child Development Services  
6 System shall ensure application of the provisions of this chapter  
7 statewide through a contractual or grant relationship between the  
8 Department of Education and each regional site.

9  
10 **Sec. 5. 20-A MRS §7725, sub-§3,** as enacted by PL 1991, c.  
11 843, §3 and amended by PL 1995, c. 560, Pt. K, §82 and affected  
12 by §83, is further amended to read:

13  
14 **3. Department.** ~~"Departments"~~ "Department" means ~~2-or-more~~  
15 ~~of-the-participating-state-agencies,~~ the Department of Education,  
16 ~~the-Department-of-Human-Services-and-the-Department-of-Mental~~  
17 ~~Health,-Mental-Retardation-and-Substance-Abuse-Services.~~

18 **Sec. 6. 20-A MRS §7725, sub-§4,** as amended by PL 1993, c.  
19 625, §3, is further amended to read:

20 **4. Disability.** "Disability" means:

21  
22 ~~A.--A condition of children, from birth to under age 6, who~~  
23 ~~are in need of early intervention or special education~~  
24 ~~services due to a delay in one or more of the following~~  
25 ~~areas: cognitive development; physical development,~~  
26 ~~including vision and hearing; communication development;~~  
27 ~~social or emotional development; and adaptive development; or~~

28  
29 ~~B.--For children, from birth to under age 3, a diagnosed,~~  
30 ~~established condition or biological factors that have a high~~  
31 ~~probability of resulting in developmental delay.~~

32  
33 C. For children from birth to under age 3, developmental  
34 delays, as measured by appropriate diagnostic instruments  
35 and procedures, in one or more of the following areas:  
36 cognitive development; physical development, including  
37 vision and hearing; communication development; social or  
38 emotional development; or adaptive development, with the  
39 delay being such that the child needs early intervention  
40 services; or a diagnosed physical or mental condition that  
41 has a high probability of resulting in developmental delay,  
42 with the condition being such that the child needs early  
43 intervention services; or

44  
45 D. For children age 3 to under age 6, evaluated in  
46 accordance with 34 Code of Federal Regulations, 300.530-534,  
47 developmental delays as measured by appropriate diagnostic  
48 instruments and procedures, in one or more of the following  
49 areas: cognitive development; physical development,  
50

2 including vision and hearing; communication development;  
3 social or emotional development; adaptive development;  
4 mental retardation; hearing impairments, including deafness;  
5 speech or language impairments; visual impairments,  
6 including blindness; serious emotional disturbance;  
7 orthopedic impairments; autism; traumatic brain injury;  
8 other health impairments; specific learning disabilities;  
9 deaf-blindness; or multiple disabilities, with the delay or  
10 impairment being such that the child needs special education  
11 and related services.

12 **Sec. 7. 20-A MRSA §7727, sub-§5, ¶¶C and D,** as amended by PL  
13 1993, c. 625, §3, are further amended to read:

14 C. That rules are developed, adopted and implemented  
15 describing minimum standards for the following:

- 16 (1) Least restrictive environment;
- 17 (2) Nondiscrimination;
- 18 (3) Rights of parents;
- 19 (4) Free and appropriate public services;
- 20 (5) Eligibility criteria;
- 21 (6) The federal "childfind" program;
- 22 (7) Program development, service descriptors and  
23 service delivery;
- 24 (8) Early childhood team;
- 25 (9) Individualized family service plan;
- 26 (10) Statements of assurances;
- 27 (11) Procedural safeguards and appeals processes;
- 28 (12) Due process hearings;
- 29 (13) Confidentiality of information;
- 30 (14) Data collection, reporting and utilization;
- 31 (15) Surrogate parents; and

2                   (16) Payment Standardized procedures and rates of  
3 payment for and-provision-of early intervention and  
4 free appropriate public education services; and

5                   D. That infants and toddlers, from birth to under age 3,  
6 have early intervention services available to them by July  
7 1, 1994 through 3rd-party payment or through a system of  
8 payments by families, including a schedule of sliding fees  
9 ; and

10                   **Sec. 8. 20-A MRSA §7727, sub-§5, ¶E** is enacted to read:

11                   E. That the nonsupplanting requirement under the federal  
12 Individuals with Disabilities Education Act and its  
13 implementing regulations is addressed with the  
14 Interdepartmental Coordinating Council for Early  
15 Intervention for purposes of reporting under section 7734-C.

16                   **Sec. 9. 20-A MRSA §7728, sub-§1**, as amended by PL 1993, c.  
17 625, §4, is further amended to read:

18                   **1. Federal obligations.** Develop and adopt statewide  
19 policies and rules for carrying out the provisions of this  
20 chapter to meet federal obligations under the federal Individuals  
21 with Disabilities Education Act, Part B, Section 619 and Part H,  
22 20 United States Code, Section 1400 et seq. These obligations  
23 must include but are not limited to:

24                   A. Personnel standards;

25                   B. Comprehensive system of personnel development;

26                   C. Program monitoring;

27                   D. Data collection and data warehousing, consistent with  
28 department policies;

29                   E. Interagency agreements at the state level; and

30                   F. Public awareness; and

31                   G. Payment for early intervention and free appropriate  
32 public education services;

33                   **Sec. 10. 20-A MRSA 7730**, as amended by PL 1995, c. 560, Pt.  
34 K, §82 and affected by §83 and amended by c. 662, §2, is further  
35 amended to read:

36                   **§7730. Regional site board of directors**

2 Each board of directors of a regional intermediate education  
3 unit or a private nonprofit corporation is responsible for  
4 governance of its activities, including the management and  
5 oversight of its general operations as established in section  
6 7728 7729. Membership must include representatives of the  
7 regional offices of the Department of Human Services and the  
8 Department of Mental Health, Mental Retardation and Substance  
9 Abuse Services, representatives of participating school  
10 administrative units, parents of infants and children with  
11 disabilities and other community members as determined  
12 appropriate. A regional site board member or a board member's  
13 employer may not, during the term for which the member serves on  
14 the board, derive any revenue from work performed for the Child  
15 Development Services System. A representative of a participating  
16 school administrative unit whose participation in the system is  
17 limited to work performed for the school administrative unit is  
18 exempt from the requirements of this section. Terms of  
19 membership and methods of appointment or election must be  
20 determined by board of directors bylaws, subject to approval of  
21 the department.

22 **Sec. 11. 20-A MRSA §7731, sub-§6,** as enacted by PL 1991, c.  
23 843, §3, is amended to read:

24 **6. Contracts.** Subject to the approval of the department,  
25 enter into contracts, leases and agreements and any other  
26 instruments and arrangements that are necessary, incidental or  
27 convenient to the performance of its duties and the execution of  
28 its powers under this chapter. Regional site boards of  
29 directors shall consider collaboration with school administrative  
30 units that are operating or that wish to develop, pursuant to  
31 section 4253, early childhood programs in the regional board's  
32 catchment area in order to:

33 A. Maximize the benefit of state interdepartmental  
34 agreements and efforts;

35 B. Maximize the effective use of qualified personnel,  
36 facilities and other resources;

37 C. Ensure consistent quality of early childhood  
38 programming; and

39 D. Facilitate the transition process, for children and  
40 families, from the Child Development Services System to the  
41 public school system;

42 **Sec. 12. 20-A MRSA §7732-A, first ¶,** as enacted by PL 1993, c.  
43 625, §10, is amended to read:

2 The board of directors of a private nonprofit corporation or  
a regional local intermediate educational unit shall:

4 **Sec. 13. 20-A MRSA §7732-A, sub-§5**, as enacted by PL 1993, c.  
625, §10, is amended to read:

6  
8 **5. Free, appropriate public education.** Ensure that eligible  
children, from age 3 to under age 6, receive free, appropriate  
10 public education services, in collaboration with school  
administrative units when possible;

12 **Sec. 14. 20-A MRSA §7733, first ¶**, as amended by PL 1995, c.  
662, §7, is further amended to read:

14  
16 The Interdepartmental Coordinating Council for Early  
Intervention, as established in Title 5, section 12004-G,  
18 subsection 8-A, is established as an advisory body to the  
commissioner ~~and the joint standing committee of the Legislature  
having jurisdiction over education and cultural affairs matters~~  
20 regarding the coordination of policies and programs aimed at  
implementing the federal Individuals with Disabilities Education  
22 Act, 20 United States Code, Section 1400 et seq. and 34 Code of  
Federal Regulations, 303.650 to 303.654, July 1993.

24  
26 **Sec. 15. 20-A MRSA §7733**, as amended by PL 1995, c. 662, §7,  
is further amended by adding a new 2nd paragraph to read:

28 The obligations of the Interdepartmental Coordinating  
30 Council for Early Intervention, as set forth in this section, may  
32 be met at the commissioner's discretion by any other advisory  
34 body to the commissioner required under the federal Individuals  
with Disabilities Education Act for school-aged children with  
disabilities, provided that the federal membership requirements  
of the Interdepartmental Coordinating Council for Early  
Intervention are met.

36  
38 **Sec. 16. 20-A MRSA §7734-A, first ¶**, as enacted by PL 1993, c.  
625, §16, is amended to read:

40 In addition to the programs authorized in this chapter, the  
42 commissioner may authorize expenditures to school administrative  
units for services for infants and children, from birth to under  
44 age 6, who are disabled, in a manner consistent with sections  
4251 to 4254 and section 15603, subsection 22, paragraph D.

46 **Sec. 17. 20-A MRSA §7734-A, sub-§3**, as enacted by PL 1993, c.  
625, §16, is amended to read:

48  
50 **3. Coordination of services and resource development  
activities.** School administrative units shall coordinate their



2 program and service activities for infants and children, from  
3 birth to under age 6, who are disabled, with ~~their--local~~ the  
4 regional Child Development Services System sites to avoid  
5 duplication and maximize the use of resources in accordance with  
6 the rules as adopted by the department.

7 **Sec. 18. 20-A MRSA §7734-A, sub-§4** is enacted to read:

8  
9 **4. Program day and program year.** For purposes of  
10 compliance with this chapter, the appropriate program day for any  
11 child eligible for special instruction as a free, appropriate  
12 public education service in a program operated by a school  
13 administrative unit, or by any other entity, is presumed to be  
14 the number of hours per day offered at the comparable program  
15 nearest to the child's home and offered by a school  
16 administrative unit; and the appropriate program year is presumed  
17 to be the number of days per year offered at the comparable  
18 program nearest to the child's home and offered by a school  
19 administrative unit. The presumption of the appropriate length  
20 of time of the program day or the presumption of the appropriate  
21 length of time of the program year may be rebutted, in the case  
22 of any individual child, by an early childhood team decision  
23 based on the following:

24  
25 **A.** An evaluation by a qualified provider who is independent  
26 of the program being recommended, that includes a  
27 recommendation for a program day or a program year of a  
28 different duration; and

29  
30 **B.** Documentation, in the child's individualized family  
31 service plan, of the modifications and supports to the  
32 program that have been tried prior to a recommendation for a  
33 program of longer or shorter duration, or that have been  
34 considered and rejected as inappropriate, and why.

35 **Sec. 19. 20-A MRSA §7734-B**, as enacted by PL 1993, c. 625,  
36 §16, is repealed.

37  
38 **Sec. 20. 20-A MRSA §7734-C**, as enacted by PL 1993, c. 625,  
39 §16, is amended to read:

40  
41 **§7734-C. Annual report**

42  
43 The council shall provide the ~~joint-standing-committee-on~~  
44 educational-matters Commissioner of Education a yearly report on  
45 the ~~Child-Development-Services-System~~ early intervention system  
46 in the State. This report must include a demonstration that:  
47 the funds provided under the federal Individuals with  
48 Disabilities Education Act, Part B, Section 619 and Part H were  
49 used to supplement and increase, and not to supplant, the level  
50

2 of other federal, state and local funds that are available for  
4 children with disabilities; and the federal funds generated under  
6 the federal Individuals with Disabilities Education Act, Part B,  
8 Section 619 and Part H were not used to satisfy a financial  
commitment for services that would have been paid for by a health  
agency or another agency pursuant to policy or practice, but for  
the fact that these services are now listed on the individualized  
family service plans of children with disabilities.

10  
12 **SUMMARY**

14 This bill makes the following changes to the laws governing  
the Child Development Services System.

16 1. It clarifies the definition of "disability" for children  
18 age 3 to under age 6.

20 2. It ensures a demonstration of nonsupplanting with  
22 federal funds in the annual report by the Interdepartmental  
Coordinating Council for Early Intervention, now to be provided  
to the Commissioner of Education.

24 3. It standardizes procedures and rates of payment for  
26 services delivered by Child Development Services System sites  
across the State.

28 4. It permits flexibility in the establishment of advisory  
30 bodies required under the federal Individuals with Disabilities  
Education Act.

32 5. It establishes parameters for the program day and the  
34 program year for special instruction services for children served  
by the Child Development Services System.

36 6. It encourages collaboration between Child Development  
38 Services System regional boards and school administrative units  
whenever possible, to maximize efforts and the effective use of  
40 resources, to ensure consistent quality of programming and to  
facilitate the transition process for children and families from  
the Child Development Services System to the public school system.