

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 975

H.P. 708

House of Representatives, February 4, 1999

**An Act to Establish a Mental Health, Human Services and Corrections  
Ombudsman.**

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Reference to the Committee on Health and Human Services suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative TOWNSEND of Portland.  
Cosponsored by Senator PENDLETON of Cumberland and  
Representatives: BRENNAN of Portland, FULLER of Manchester, McALEVEY of  
Waterboro, O'BRIEN of Augusta, PEAVEY of Woolwich, POVICH of Ellsworth, QUINT of  
Portland.

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

Sec. 1. 22 MRSA, subtitle 7 is enacted to read:

SUBTITLE 7

MENTAL HEALTH, HUMAN SERVICES AND CORRECTIONS OMBUDSMAN

CHAPTER 1701

MENTAL HEALTH, HUMAN SERVICES AND CORRECTIONS OMBUDSMAN

§9001. Mental Health, Human Services and Corrections Ombudsman

1. Office established. The Office of Mental Health, Human Services and Corrections Ombudsman is established within the Executive Department, autonomous from any other state agency, to represent the best interests of individuals involved in the State's mental health, human services and corrections systems as a class and to provide independent clinical oversight over cases in the State's mental health, human services and corrections systems.

2. Appointment. The Governor shall appoint the mental health, human services and corrections ombudsman, referred to in this subtitle as the "ombudsman." Appointment of the ombudsman is subject to review by the joint standing committee of the Legislature having jurisdiction over mental health matters and the joint standing committee of the Legislature having jurisdiction over human resource matters, sitting jointly, and to confirmation by the Legislature. The ombudsman serves at the pleasure of the Governor. Any vacancy must be filled by similar appointment.

3. Duties. The ombudsman shall:

A. Employ such personnel as the ombudsman considers necessary to carry out the purposes of this chapter, subject to the Civil Service Law;

B. Provide ombudsman services to individual citizens relating to those mental health, human services and corrections matters that are under the jurisdiction of the State;

C. Provide independent clinical oversight for cases in the State's mental health, human services and corrections systems; and

D. At the request of a judge, a clinician or a staff member of the Department of Human Services, the Department of Mental Health, Mental Retardation and Substance Abuse Services or the Department of Corrections, review and render

2 an opinion on a case currently being handled within the  
3 State's mental health, human services and corrections  
4 systems.

4  
6 4. Confidentiality of records. Notwithstanding Title 1,  
7 section 401, information or records maintained by the ombudsman  
8 relating to a complaint or request for independent clinical  
9 analysis may not be disclosed unless the ombudsman authorizes the  
10 disclosure and the disclosure is otherwise permitted pursuant to  
11 law. The ombudsman may not disclose the identity of any  
12 requestor or complainant unless:

14 A. The requestor or complainant or a legal representative  
15 consents in writing to the disclosure; or

16 B. A court orders the disclosure.

18 A requestor or complainant or a legal representative, in  
19 providing the consent, may specify to whom the identity of the  
20 requestor or complainant may be disclosed and for what purposes,  
21 in which event any other disclosure is not authorized.

22 5. Administration. The ombudsman shall:

24 A. Administer, in accordance with current fiscal and  
25 accounting rules of the State and in accordance with the  
26 philosophy, objectives and authority of this chapter, any  
27 funds appropriated for expenditure by the ombudsman or any  
28 grants or gifts accepted and received by the ombudsman;

30 B. Make an annual report, which must be submitted directly  
31 to the Commissioner of Mental Health, Mental Retardation and  
32 Substance Abuse Services, the Commissioner of Corrections,  
33 the Governor, the joint standing committee of the  
34 Legislature having jurisdiction over mental health matters  
35 and the joint standing committee of the Legislature having  
36 jurisdiction over human resource matters not later than  
37 March 1st of each year, concerning work and interests of the  
38 previous fiscal year and future plans and recommendations;  
39 and

40 C. Make interim reports the ombudsman considers advisable.

42 Copies of reports under this subsection must be made available to  
43 all Legislators and other state agencies upon request.

44 6. Expenses of ombudsman. The ombudsman, within  
45 established budgetary limits and as allowed by law, shall  
46 authorize and approve travel, subsistence and related necessary  
47 expenses.

2 expenses of the ombudsman or members of the office incurred while  
3 traveling on official business.

4 7. Information from state agencies. State agencies shall  
5 provide to the ombudsman copies of all reports and other  
6 information required to carry out the purpose of this chapter.

8 8. Legal services. The Department of the Attorney General  
9 shall provide legal services as necessary to carry out the  
10 purposes of this chapter.

12 9. Location. Office space must be made available for the  
13 ombudsman within the capitol complex.

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## SUMMARY

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19 This bill creates the Office of Mental Health, Human  
20 Services and Corrections Ombudsman, an autonomous agency designed  
21 to represent the best interests of individuals involved in the  
22 State's mental health, human services and corrections systems and  
23 to provide independent clinical oversight for cases in the  
24 State's mental health, human services and corrections systems.