

MAINE STATE LEGISLATURE

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L.D. 1623

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HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1138, L.D. 1623, Bill, "An Act to Provide Services for Children in Need of Supervision"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

'Sec. 1. 4 MRSA §152, sub-§4, as amended by PL 1989, c. 415, §1, is further amended to read:

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34, chapter 229, mental retardation certification hearings under Title 34, chapter 229, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted, youth in need of services actions under Title 22, chapter 1071, subchapter XIV and small claims actions under Title 14, chapter 738; and

Sec. 2. 22 MRSA c. 1071, sub-c. XIV is enacted to read:

SUBCHAPTER XIV

YOUTH IN NEED OF SERVICES PROGRAM

§4095. Definitions

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

2 1. Case manager. "Case manager" means an agent of the
3 department authorized by this subchapter to perform all case
4 management functions for a youth alleged or found to be in need
5 of services. "Case manager" may include community-based agencies
6 contracted by the department and persons employed by those
7 agencies to provide case management services.

8
9 2. Court. "Court" means the District Court.

10
11 3. Services. "Services" means housing, education, food,
12 medical care, mental health or substance abuse services or
13 treatment, supervision by a parent or legal guardian and support
14 services, including mediation services, that may assist a youth
15 in need of services or the youth's family or legal guardian.

16
17 4. Youth in need of services. "Youth in need of services"
18 means a child under 16 years of age who:

19 A. Is without proper care or subsistence, education, a home
20 or medical or other care necessary for the child's
21 well-being;

22
23 B. Is without or beyond the control of the child's parent
24 or legal guardian; or

25
26 C. Is in imminent danger of serious physical, mental or
27 emotional injury or at risk of prosecution for a juvenile
28 offense.

29
30 **§4096. Youth in Need of Services Program**

31
32 1. Youth in Need of Services Program established. The
33 Youth in Need of Services Program, referred to in this subchapter
34 as the "program," is established within the department to provide
35 preliminary assessments, safety plans and other services as
36 specified in this subchapter to youth and their families and
37 legal guardians.

38
39 **§4097. Preliminary assessment; safety plan; other services**

40
41 1. Preliminary assessment. When a case manager is informed
42 that a youth may be in need of services, the case manager shall
43 make a preliminary assessment within 48 hours, including weekends
44 and holidays, to determine whether the youth is in need of
45 services as defined in this subchapter and whether further action
46 should be taken under subsection 2 or 3.

47
48 2. Safety plan. When a case manager determines that a
49 youth is in need of services, the case manager shall immediately
50

2 develop a safety plan and arrange services for the youth and, if
appropriate, for the youth's family or legal guardian.

4 3. Imminent danger. If a youth is determined by a case
6 manager to be in need of services and is in imminent danger of
serious physical, mental or emotional injury or at risk of
8 prosecution for a juvenile offense, the case manager shall
attempt to contact the family or legal guardian to begin services
10 to the youth and family or legal guardian, if appropriate, and
shall promptly file a petition to commence court proceedings.

12 A. If the court finds that a youth is in need of services
and is in imminent danger of serious physical, mental or
14 emotional injury or at risk of prosecution for a juvenile
offense, the court shall order that a service provider offer
16 appropriate services to the youth and the youth's family or
legal guardian if appropriate.

18 B. In a proceeding brought under this subsection, if the
20 court orders a service provider to offer appropriate
services to a youth or the youth's family or legal guardian,
22 the court may not order secure residential placement or
inpatient treatment or order a youth to participate in
24 services or enter an order of enforcement or contempt,
except that such an order may be entered by a court once a
26 court-ordered service system is in operation pursuant to
subsection 6.

28 4. Treatment by spiritual means. A youth may not be
30 considered to be in need of services under this subchapter solely
because treatment is provided by spiritual means by an accredited
32 practitioner of a recognized religious organization. When
medical treatment is authorized under this subchapter, treatment
34 by spiritual means by an accredited practitioner of a recognized
religious organization may also be considered if requested by a
36 youth or the youth's parent or legal guardian.

38 5. Reporting. The department shall report annually by
40 January 15th to the Youth in Need of Services Oversight
Committee, established in section 4098, and the joint standing
42 committee of the Legislature having jurisdiction over health and
human services matters on the number and nature of preliminary
44 assessments, safety plans and court proceedings under this
section. The report must include safety plans and court
46 proceedings under this section. The report must include
recommendations for policy initiatives, rulemaking and
48 legislative action for youth in need of services.

50 6. Court-ordered service system. By July 1, 2001, the
department shall establish a court-ordered service system for

2 youth in need of services, which must be in operation statewide
3 by November 1, 2001. The department, the Department of
4 Education, the Department of Corrections, the Department of
5 Public Safety and the Department of Mental Health, Mental
6 Retardation and Substance Abuse Services shall jointly develop
7 rules for a court-ordered service system. By November 1, 2001,
8 rules must be adopted by each department named in this subsection
9 to enable the Department of Human Services to operate a statewide
10 court-ordered service system. Rules adopted pursuant to this
11 subsection are major substantive rules as defined in Title 5,
12 chapter 375, subchapter II-A.

13
14 7. Rulemaking. The department shall adopt rules to
15 implement this subchapter. Except as provided in subsection 6,
16 rules adopted pursuant to this subsection are routine technical
17 rules as defined in Title 5, chapter 375, subchapter II-A.

18 **§4098. Youth in Need of Services Oversight Committee**

19
20 The Youth in Need of Services Oversight Committee, referred
21 to in this section as the "committee," is established to provide
22 oversight of services provided to or offered for youth in need of
23 services and their families by the State, except that the
24 Children's Mental Health Oversight Committee established pursuant
25 to Title 34-B, section 15004 has responsibility for oversight of
26 youths' mental health.

27
28 1. Membership. The committee consists of the following 25
29 members. The appointing authorities must make the initial
30 appointments by August 1, 2000. Except as provided in this
31 subsection, all members serve 3-year terms. When a vacancy
32 occurs the appointing authority shall promptly appoint a person
33 to fill the vacancy. The membership consists of the following:

34
35 A. Three members of the joint standing committee of the
36 Legislature having jurisdiction over health and human
37 services matters who serve on that legislative committee at
38 the time of their appointments and who may continue to serve
39 while they are Legislators until they are replaced by a new
40 appointment. One member is appointed by the President of
41 the Senate. Two members are appointed by the Speaker of the
42 House, representing each major political party;

43
44 B. One member of the joint standing committee of the
45 Legislature having jurisdiction over criminal justice
46 matters, who serve on that legislative committee at the time
47 of their appointments and who may continue to serve while
48 they are Legislators until they are replaced by a new
appointment appointed by the Speaker of the House;

2 C. One member of the joint standing committee of the
4 Legislature having jurisdiction over education and cultural
6 affairs, who serve on that legislative committee at the time
8 of their appointments and who may continue to serve while
10 they are Legislators until they are replaced by a new
12 appointment appointed by the President of the Senate;

14 D. One member of the joint standing committee of the
16 Legislature having jurisdiction over appropriations and
18 financial affairs, who serve on that legislative committee
20 at the time of their appointments and who may continue to
22 serve while they are Legislators until they are replaced by
24 a new appointment appointed by the Speaker of the House;

26 E. The commissioner, the Commissioner of Corrections, the
28 Commissioner of Education, the Commissioner of Public Safety
30 and the Commissioner of Mental Health, Mental Retardation
32 and Substance Abuse Services, or the commissioners'
34 designees, who have authority to participate in full and to
36 make decisions as required of committee members;

38 F. Three representatives of families whose children receive
40 services from a state agency or reimbursed through a state
42 agency or from an entity under contract with a state agency,
44 2 of whom are appointed by the President of the Senate and
46 one of whom is appointed by the Speaker of the House. One
48 of the appointments of the President of the Senate to the
50 initial committee must be for 2 years;

G. Three representatives of providers of youth services
provided by an entity under contract with a state agency or
reimbursed through a state agency, one of whom is appointed
by the President of the Senate and 2 of whom are appointed
by the Speaker of the House. One of the appointments of the
Speaker of the House to the initial committee must be for 2
years;

H. One representative of a statewide organization that
advocates for youth, appointed by the President of the
Senate;

I. Two representatives of statewide or regional
organizations that provide funding and support for services
for youth and families, one of whom is appointed by the
Speaker of the House and one of whom, representing the
Juvenile Justice Advisory Group, established in Title 34-A,
section 1209, is appointed by the President of the Senate;

J. One representative of the Maine State Housing Authority

designated by the director of the Maine State Housing Authority and one representative of the court designated by the Chief Judge of the court; and

K. Three youths, one appointed by the President of the Senate and 2 appointed by the Speaker of the House, one from each of the 3 regions of the State designated by the department.

2. Duties. The committee shall undertake the following responsibilities with regard to youth in need of services who are receiving or are eligible to receive services from the State or services funded by the State:

A. Oversight, monitoring and review, including:

(1) Receiving reports and advising the Governor and the Executive Department regarding youth health and youth services, including, but not limited to, services for youth in need of services, the Medicaid and Cub Care programs, child welfare services and adoption, foster care and juvenile justice services;

(2) Reviewing and commenting on rules proposed by state agencies that pertain to youth;

(3) Receiving reports from the departments named in this section on the program, including its strengths and weaknesses and its administration, and reports on other initiatives with regard to youth in need of services;

(4) Receiving reports on demonstration programs and pilot projects regarding youth and families and youth health; and

(5) Gathering facts regarding the needs of youth, youth services that are being provided in the State, unmet needs and services needed but not provided, preliminary assessments, safety plans and court action provided under this subchapter and developing and reporting any recommendations to improve the delivery of services to youth and families to the Legislature by October 1st of each year beginning in 2001 and as frequently as the committee determines to be appropriate; and

B. Meeting every 2 months or more often, as the committee determines to be necessary. The committee shall elect a secretary from among its members who shall work with staff to keep and to distribute minutes to members and to the

joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over education matters, the joint standing committee of the Legislature having jurisdiction over criminal justice matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters; and

C. Reporting to the Legislature at least twice annually on the number of youth in need of services and the status of programs and services for youth and families, service needs and the capacity of state departments, state agencies and community and nonprofit organizations to meet those service needs.

3. Cochairs; meetings. The first-named Senator shall serve as Senate chair and the first-named Representative shall serve as House chair. The cochairs shall call and convene the first meeting of the committee by September 15, 2000.

4. Confidentiality. Notwithstanding any other provision of state law or rule, committee members and staff to the committee may review in executive session information that is confidential under state law or rule. Information reviewed under this subsection retains its confidentiality and is not public information.

5. Reimbursement. Legislative members are entitled to receive the legislative per diem as defined in Title 3, section 2 and reimbursement of necessary expenses for their attendance at authorized meetings of the committee. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and a per diem equal to the legislative per diem for their attendance at authorized meetings of the committee.

6. Staff; resources. The department shall provide staffing assistance to the committee and resources necessary to the effective operation of the committee.

7. Public meetings and information. With the exception of information designated as confidential by state or federal law, rule or regulation, the committee is subject to the freedom of access laws under Title 1, chapter 13, subchapter I.

Sec. 3. Homeless Youth Demonstration Project. The Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services shall provide financial and staffing support to extend the operation of the

2 Homeless Youth Demonstration Project, created in Resolve 1999,
chapter 55, to the Department of Human Services Region II and to
4 operate the stakeholders' groups in conjunction with and on the
same timetable as the stakeholders' groups operating in Regions I
6 and III. Demonstration projects in Region II must include a
rural component. The stakeholders' groups must consider and make
8 recommendations regarding preliminary assessments, safety plans,
determinations of imminent danger and court-ordered services for
10 youths and their families and legal guardians. The demonstration
projects shall work closely with the Youth in Need of Services
12 Oversight Committee, providing information, considering
recommendations, reporting on their experiences and working
14 toward coordination of services for youths and their families and
legal guardians. By February 1, 2001, the departments named in
16 this section shall report on their evaluation of the
demonstration projects and the recommendations of the projects to
18 the Youth in Need of Services Oversight Committee established in
the Maine Revised Statutes, Title 22, section 4098.

20 **Sec. 4. Report on court-ordered services for youth in need of**
services. By January 15, 2001, the Youth in Need of Services
22 Oversight Committee, established in the Maine Revised Statutes,
Title 22, section 4098 and referred to in this section as the
24 "committee," shall report to the Legislature its recommendations
regarding court-ordered services for youth in need of services.
26 The report must include in one category youth under 16 years of
age and in another category youth 16 years of age and older.

28 In preparing its report, the committee must hold public
30 hearings in the southern, central and northern regions of the
State to learn the opinions of youth, families, providers of
32 services and other interested persons in both urban and rural
areas.

34 The committee must address the following issues in its
36 report:

38 1. Constitutional and civil rights, due process and
protection of rights;

40 2. The relationship of a court-ordered services system to
42 other laws regarding court-ordered commitment, child abuse
protection and the criminal justice system; the standard for
44 court-ordered service eligibility and termination of eligibility;
and enforcement mechanisms;

46 3. The use of court-ordered commitment as a means of
48 behavior control;

50 4. The need for facilities and organizations to provide
court-ordered services;

2 5. The administrative and judicial requirements for a
4 court-ordered service system, including costs;

6 6. The cost of prevention services and voluntary services;

8 7. Equitable distribution of services to meet the needs of
youth, statewide; and

10 8. Strategies for improving access to services and options
12 in rural areas.

The committee must consider in its deliberations the
14 following: the reports of the Homeless Youth Demonstration
16 Project; the recommendations of the Interagency Task Force on
Homelessness and Housing Opportunities; any recommendations
18 provided by the Department of Corrections, the Department of
Education, the Department of Public Safety, the Department of
20 Human Services, the Department of Mental Health, Mental
Retardation and Substance Abuse Services and the Judicial
22 Department; and any information provided by youth and interested
parties to the committee.

24 **Sec. 5. Cooperative effort.** The Department of Corrections, the
Department of Education, the Department of Human Services, the
26 Department of Public Safety and the Department of Mental Health,
Mental Retardation and Substance Abuse Services shall work
28 together on the needs of youth in need of services with the
intent of signing memoranda of understanding to provide necessary
30 services to youth 12 to 20 years of age. By March 1, 2001, the
departments named in this section shall report to the joint
32 standing committee of the Legislature having jurisdiction over
health and human services matters and to the Youth in Need of
34 Services Oversight Committee on their progress in meeting the
needs of youth in need of services and in signing memoranda of
36 understanding.

38 **Sec. 6. Court-ordered service system for youth in need of services.**
By July 1, 2001, the Department of Human Services shall establish
40 a court-ordered service system for youth in need of services,
with statewide operation by November 1, 2001. The system must
42 include inpatient, outpatient, residential and nonresidential
service options. The system must meet the needs of youth and
44 families and provide services identified in the report and
recommendations of the Homeless Youth Demonstration Project and
46 the report on court-ordered services for youth in need of
services in section 4. The Department of Education, the
48 Department of Corrections, the Department of Public Safety and
the Department of Mental Health, Mental Retardation and Substance
50 Abuse Services shall work with the Department of Human Services

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to ensure that the court-ordered service system provides the services that youth and their families and legal guardians need and to ensure coordination of programs and funding.

Sec. 7. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

8		2000-01
10	HUMAN SERVICES, DEPARTMENT OF	
12	Purchased Social Services	
14	All Other	\$853,150
16	Provides for the appropriation of funds to contract with nonprofit agencies for case management and other services associated with the Youth in Need of Services Program.	
20		
22	DEPARTMENT OF HUMAN SERVICES	
	TOTAL	<hr/> \$853,150
24	LEGISLATURE	
26	Legislature	
28	Personal Services	\$660
	All Other	600
30		
32	Provides funds for the per diem and expenses of legislative members of the Youth in Need Oversight Committee.	
34		
36	LEGISLATURE	
	TOTAL	<hr/> \$1,260
38	TOTAL APPROPRIATIONS	<hr/> \$854,410'
40	Further amend the bill by inserting at the end before the summary the following:	
42		
44	FISCAL NOTE	
46		2000-01
48	APPROPRIATIONS/ALLOCATIONS	

General Fund

\$854,410

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This bill includes a General Fund appropriation of \$853,150 in fiscal year 2000-01 for the Department of Human Services to establish the Youth in Need of Services Program and to contract with nonprofit agencies to provide needed services for runaway and homeless youth who voluntarily agree to participate in the program.

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The Department of Human Services will require additional General Fund appropriations beginning in fiscal year 2001-02 to establish and operate a court-ordered service system for youth in need of services. The estimated future costs associated with providing these services to youths on both a voluntary and involuntary basis can not be determined at this time. The amounts will depend on the number of cases and the types of services provided and could be significant.

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If the caseload in this program is minimal, the Judicial Department and the Department of the Attorney General can absorb the additional costs associated with the additional court proceedings. If the caseload in this program represents a significant increase in the workload of these 2 departments, additional General Fund appropriations will be required beginning in fiscal year 2001-02.

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This bill also includes a General Fund appropriation of \$1,260 for the Legislature for the per diem and expenses of legislative members of the Youth in Need Oversight Committee. The estimated future costs in fiscal years 2001-02 and 2002-03 will be approximately \$2,520 and \$1,260, respectively.

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The Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services will incur minor additional costs: to participate as members of the committee; to report on their evaluation of the Homeless Youth Demonstration Project; and to identify and address the needs of youth in need of services. These costs can be absorbed within each department's existing budgeted resources. The additional costs associated with providing staffing assistance to the committee and the payment of per diem and expenses for nonlegislative members can be absorbed with the existing budgeted resources of the Department of Human Services.

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The Department of Corrections, the Department of Education, the Department of Public Safety, the Judicial Department and the Maine State Housing Authority will incur minor additional costs to participate as members of the committee. These costs can be absorbed within each department's existing budgeted resources.'

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SUMMARY

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This amendment establishes the Youth in Need of Services Program. The program provides for a preliminary assessment and safety plan consisting of housing, medical care, food, education, mental health and substance abuse services and treatment and support services for youth under 16 years of age who have been determined to be in need of services. The amendment provides for a proceeding in the District Court to obtain services for youth determined to be in imminent danger of serious physical, mental or emotional injury or at risk of prosecution for a juvenile offense. If a court finds that a youth is in need of services and is in imminent danger or at risk of prosecution for a juvenile offense, the amendment requires the court to order that those services be offered. The amendment requires the establishment of a four-tiered service system for youth in need of services by July 1, 2001, with statewide operation by November 1, 2001. The amendment clarifies that youth may receive treatment through religious means and that receiving treatment through religious means does not in itself qualify a youth as being in need of services.

24

The amendment establishes the Youth in Need of Services Oversight Committee for children's issues when services are provided or funded by the State or when a youth would be eligible for state services or state-funded services, with the exception of mental health issues. The amendment requires the Youth in Need of Services Oversight Committee to report to the Legislature by January 15, 2001 on court-ordered services for youth in need of services.

32

The amendment provides for the expansion to Region II of the Homeless Youth Demonstration Project created in Resolve 1999, chapter 55 and requires the Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services to report on their evaluation of the project and the recommendations of the stakeholders to the Youth in Need of Services Oversight Committee by February 1, 2001.

40

The amendment requires the Department of Corrections, the Department of Education, the Department of Human Services, the Department of Public Safety and the Department of Mental Health, Mental Retardation and Substance Abuse Services to work together to identify and develop plans to address the needs of youth in need of services, requires them to begin discussions to sign memoranda of understanding to provide necessary services to youths 12 to 20 years of age and requires them to report the results of their work to the joint standing committee of the Legislature having jurisdiction over health and human services

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2 matters and to the Youth in Need of Services Oversight Committee by March 1, 2001. The amendment also adds an appropriation section and a fiscal note to the bill.

COMMITTEE AMENDMENT