

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 2014

H.P. 1409

House of Representatives, March 23, 1999

An Act to Institutionalize Substance Abuse Treatment Courts in Maine.

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

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

JOSEPH W. MAYO, Clerk

Presented by Representative SAVAGE of Buxton.
Cosponsored by Senator AMERO of Cumberland and
Representatives: AHEARNE of Madawaska, BERRY of Livermore, BERRY of Belmont,
DUNLAP of Old Town, KANE of Saco, PIEH of Bremen, SAXL of Portland, Senator:
KONTOS of Cumberland.

2 **Emergency preamble. Whereas,** Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 **Whereas,** criminal activity by addicted offenders in Maine is
excessive; and

8 **Whereas,** parental alcohol and drug abuse in Maine is causing
a significant increase in the number of abused and neglected
10 children; and

12 **Whereas,** substance abuse treatment courts are urgently
needed to reduce the incidence of alcohol and drug abuse and the
14 incidence of crimes committed as a result of alcohol and drug
abuse; and

16 **Whereas,** federal funding for the only existing substance
18 abuse treatment court in Maine, the Cumberland County Superior
Court's "Project Exodus," will expire on June 30, 1999; and

20 **Whereas,** in the judgment of the Legislature, these facts
22 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
24 necessary for the preservation of the public peace, health and
safety; now, therefore,

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

28 **Sec. 1. 15 MRSA c. 16 is enacted to read:**

30 CHAPTER 16

32 SUBSTANCE ABUSE TREATMENT COURTS

34
36 §421. Definitions

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

40
42 1. Designated treatment provider. "Designated treatment
provider" means a treatment provider appointed by the substance
abuse treatment court.

44
46 2. Program. "Program" means the substance abuse treatment
court program administered by the substance abuse treatment court
48 consisting of substance abuse treatment and the elements listed
in section 422, subsection 3.

2 3. Substance abuse treatment court. "Substance abuse
3 treatment court" or "the court" means a court that follows a
4 specially designed docket, the purposes of which are to achieve a
5 reduction in recidivism and substance abuse among criminal
6 offenders and to increase the likelihood of the successful
7 rehabilitation of offenders through early, continuous and
8 judicially supervised treatment, mandatory periodic drug testing
9 and use of appropriate sanctions and other habilitation services.

10 4. Treatment program. "Treatment program" means a program
11 provided by a governmental agency, an individual or another
12 entity licensed by the State to provide substance abuse or
13 addiction treatment on a residential or outpatient basis.

14 **§422. Procedure**

15 1. Substance abuse treatment court. The Chief Justice of
16 the Superior Court or the Chief Judge of the District Court may
17 establish a substance abuse treatment court by establishing by
18 order the docket and by designating a special justice or judge to
19 manage the docket.

20 2. Eligibility. Participation in a substance abuse
21 treatment court program is subject to the following eligibility
22 criteria.

23 A. The district attorney for the jurisdiction in which the
24 substance abuse treatment court is situated may propose to
25 the court that an individual defendant be screened for
26 eligibility as a participant in the program. A defendant
27 may not be screened without the recommendation of the
28 district attorney. In making this decision, the district
29 attorney may consider any reasonable factor.

30 B. Upon receipt of the proposal in paragraph A, the court
31 shall advise the defendant that the defendant may be
32 eligible for enrollment in the program.

33 C. If the defendant elects to seek entry into the program,
34 the defendant must participate in an orientation and
35 screening period of up to one month, during which the
36 defendant must attend sessions of the program and must be
37 evaluated by a designated treatment provider.

38 D. The designated treatment provider shall examine the
39 defendant using standardized testing and evaluation
40 procedures and shall report to the court, to the district
41 attorney and to the defendant the results of the examination
42 along with the provider's recommendation as to whether the
43 defendant is eligible for enrollment in the program.

2 defendant is an appropriate candidate for the program. Only
3 addicted offenders who are considered amenable to treatment
4 may be recommended. The district attorney, after receipt of
5 the report, may withdraw the defendant from consideration
6 for the program.

7 E. In addition to the report submitted by the treatment
8 provider, the court shall consider the following in
9 determining whether the defendant's participation in the
10 program is in the interest of justice and of benefit to the
11 defendant and to the community:

12 (1) The nature of the crime charged and the
13 circumstances surrounding the crime;

14 (2) Any special characteristics or circumstances of
15 the defendant;

16 (3) Whether the defendant has previously participated
17 in this or a similar program and, if so, the degree of
18 success attained;

19 (4) Whether there is a probability that the defendant
20 will cooperate with and benefit from treatment through
21 the program;

22 (5) Whether the available program is appropriate to
23 meet the needs of the defendant;

24 (6) The impact upon the community of the defendant's
25 treatment;

26 (7) Recommendations of the law enforcement agency
27 involved in the case;

28 (8) Recommendations of the victim, if any;

29 (9) Provisions for and the likelihood of obtaining
30 restitution from the defendant over the course of
31 treatment;

32 (10) Mitigating circumstances;

33 (11) Information submitted by the district attorney;

34 (12) Information submitted by the defendant; and

35 (13) Any other information reasonably related to the
36 defendant's case.

2 F. The court shall make the final determination of
4 acceptance into the program. If the court elects not to
6 accept the defendant into the program, the court shall remit
8 the defendant's case to the regular criminal docket. If the
10 court elects to accept the defendant into the program, the
 court shall offer the defendant a written agreement, which
 the defendant may accept or reject. If the defendant
 rejects the written agreement, the court shall remit the
 defendant's case to the regular criminal docket.

12 3. Substance abuse treatment court program. The substance
14 abuse treatment court program consists of the following.

16 A. The defendant must agree to bail conditions that order
18 participation in a treatment program approved by the court.
20 The treatment program may include residential or outpatient
22 treatment or both. Participation in the treatment program
 must be for 9 to 18 months to provide the defendant with a
 reasonable opportunity to successfully address the
 defendant's addiction.

24 B. As a condition of bail, the court may also order that
26 the defendant participate in and attend other forms of
 treatment as appropriate.

28 C. The defendant must be tested for the presence of alcohol
30 and drugs on a frequent and regular basis. The giving of
 samples for testing must be supervised.

32 D. The defendant shall sign the necessary releases to
34 enable treatment providers to disclose to the program
 information regarding progress in treatment and the results
 of all drug testing.

36 E. The court may order reasonable conditions of bail
38 consistent with the bail code to facilitate the
 rehabilitation of the defendant.

40 F. The defendant shall make regular court appearances for
42 the purpose of judicial supervision. The purpose of the
44 court appearances is to ensure that the defendant is
46 complying with all conditions of participation. If the
48 defendant is not complying, the court may order sanctions
50 against the defendant, including, but not limited to,
 expulsion from the program and incarceration. Each court
 may determine the appropriate range and type of sanction for
 its program. If a defendant is expelled, the court shall
 handle the defendant's case in a manner consistent with
 local procedures.

2 G. Through probation services, the Department of
3 Corrections has jurisdiction over defendants in every
4 program, without regard for the procedural posture of any
5 particular case.

6
7 H. With the agreement of the district attorney, each court
8 shall establish the criteria for graduation from the program.

10 4. Evaluation. Each substance abuse treatment court shall
11 develop management information systems to collect data necessary
12 for program evaluation.

14 **Sec. 2. Funding and support for "Project Exodus."** The single
15 existing substance abuse treatment court in the Cumberland County
16 Superior Court, known as "Project Exodus," must be continued and
17 funded.

18 1. **Project Exodus.** Funding must be provided to Cumberland
19 County on behalf of Project Exodus to provide for the following:

22 A. One substance abuse treatment court coordinator to
23 provide coordination and support;

24 B. One assistant district attorney to manage cases;

26 C. One or more licensed treatment providers to provide
27 substance abuse treatment to current and future clients;

30 D. An independent evaluator to study and review Project
31 Exodus and provide appropriate reports and recommendations;
32 and

34 E. Materials to conduct appropriate drug and alcohol
35 testing of defendants.

36
37 2. **Department of Corrections.** Funding and authorization
38 for probation officer positions must be provided to the
39 Department of Corrections for those officers to provide dedicated
40 case management and supervision services to Project Exodus. One
41 probation officer may provide case management and supervision
42 services for no more than 30 defendants.

44 3. **Office of Substance Abuse.** Funding in the amount of
45 \$60,000 must be provided to the Department of Mental Health,
46 Mental Retardation and Substance Abuse Services, Office of
47 Substance Abuse for up to 3 planning grants to be awarded to
48 design up to 3 other substance abuse treatment courts in Maine.
49 Grant requests to the Office of Substance Abuse must be submitted
50 by district attorneys or by coalitions made up of judges,
 district attorneys, defense attorneys and community institutions.

2 **4. Administrative Office of the Courts.** Funding and
authorization for the position of assistant clerk must be
4 provided to the Administrative Office of the Courts for an
assistant clerk to provide clerical and data collection support
6 to Project Exodus.

8 **5. Report.** Project Exodus shall submit a report containing
data and recommendations regarding the effectiveness of the
10 substance abuse treatment court program and any recommendations
for change to the Legislature by January 31, 2000.

12 **Emergency clause.** In view of the emergency cited in the
14 preamble, this Act takes effect when approved.

16

SUMMARY

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The bill allows for the creation of substance abuse
20 treatment courts, also known as "drug courts," throughout the
State. The bill also provides continuing financial support for
22 Cumberland County's "Project Exodus," the one existing substance
abuse treatment court in the State. A report regarding the
24 effectiveness of "Project Exodus" and recommendations for any
changes in the substance abuse treatment court system must be
26 made to the Legislature by January 31, 2000.