

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1137

H.P. 865

House of Representatives, February 22, 2001

An Act to Clarify the Relationship between State Agencies and Faith-based Organizations Regarding Charitable Choice Options.

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

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MacDOUGALL of North Berwick.
Cosponsored by Senator McALEVEY of York and
Representatives: BOWLES of Sanford, CRESSEY of Baldwin, DAVIS of Falmouth,
DUPREY of Hampden, FOSTER of Gray, GLYNN of South Portland, SNOWE-MELLO of
Poland, TREADWELL of Carmel.

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

4 **Sec. 1. 5 MRSA c. 155, sub-c. III is enacted to read:**

6 **SUBCHAPTER III**

8 **CONTRACTING WITH FAITH-BASED ORGANIZAITONS**

10 **§1827. Definitions**

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

14 1. Faith-based organization. "Faith-based organization" means an organization with a religious character that may be
16 affiliated with a church, synagogue, mosque or temple or
18 unaffiliated, but inspired by religious beliefs and is
20 established to carry out a religious mission of care to those
needing public assistance as defined in Title 22, section 9-A.

22 2. Forms of disbursement. "Forms of disbursement" means
24 certificates or vouchers or any other means of distributing
public assistance benefits to eligible recipients.

26 3. Program. "Program" has the same meaning as defined in
Title 22, section 21, subsection 10.

28 **§1828. Contracts for goods and services; religious**
30 **organizations**

32 Notwithstanding the provisions of Title 22, chapter 1 or any
34 other provisions of law, a state agency, board or commission may
not discriminate against religious organizations in contracting
36 for goods and services and shall provide recipients under the
38 programs established by law with forms of disbursement that are
redeemable with religious organizations that are awarded a
contract. A state agency, board or commission may use any state,
federal, local or other funds available for these purposes.

40 State agencies, boards or commissions shall allow contracts
42 with religious organizations to provide goods and services and to
accept forms of disbursement under any program established on the
44 same basis as any other nongovernmental provider without
46 impairing the religious character of these organizations and
without diminishing the religious freedom of recipients funded
48 under these programs. The programs must be implemented
consistent with the First Amendment of the United States
Constitution. A state agency, board or commission may not
discriminate against an organization that is or applies to be a

2 contractor to provide assistance or that accepts forms of
3 disbursement on the basis that the organization has a religious
4 character.

5 Contracts between state agencies, boards or commissions and
6 religious organizations for the provision of goods or services
7 must ensure that:

8
9 **1. Independence of religious organization.** A religious
10 organization with a contract described in this subchapter retains
11 its independence from federal, state and municipal governments,
12 including the religious organization's control over the
13 definition, development, practice and expression of its religious
14 beliefs. State agencies, boards or commissions may not require a
15 religious organization to alter its form of internal governance
16 or to remove religious art, icons, scripture or other symbols in
17 order to be eligible to contract to provide assistance or to
18 accept forms of disbursement funded under any program or public
19 contract.

20
21 **2. Alternative providers.** If a person who applies for or
22 receives goods, services or disbursements objects to the
23 religious character of the organization or institution from which
24 the person receives or would receive assistance funded under any
25 program, the state agency, board or commission shall provide the
26 person, within a reasonable period of time after the date of the
27 objection, with assistance from an alternative provider that is
28 accessible to the person, if an alternative provider is
29 available, and the value of which is not less than the value of
30 assistance that the person would have received from the religious
31 organization. Organizations shall provide notice to people
32 receiving assistance of the right to object under this subsection.

33
34 **3. Employment practices.** A religious organization's
35 exemption provided under Section 702 of the Civil Rights Act of
36 1964 Public Law 88-352; 78 STAT. 255; 42 United States Code,
37 Section 2000 e-1(a), regarding employment practices is not
38 affected by its participation in or receipt of funds from
39 programs described in this subchapter. Nothing in this
40 subchapter allows religious organizations to discriminate in
41 employment practices on the basis of race, age, color, sex or
42 national origin.

43
44 **4. Prohibition against discrimination in rendering**
45 **assistance.** Except as otherwise provided by law, a religious
46 organization may not discriminate against a person with respect
47 to rendering assistance funded under any program on the basis of
48 religion, a religious belief or refusal to participate in a
49 religious practice or on the basis of race, age, color, sex or
50 national origin.

2 **5. Accounting for funds.** Except as provided for in
3 subsection 6, any religious organization that contracts to
4 provide goods, services or assistance funded under any program is
5 subject to the same rules as other contractors to account in
6 accordance with generally accepted accounting principles for the
7 use of the funds provided under the program.

8
9 **6. Limitation on audits.** If a religious organization
10 segregates into separate accounts public funds provided under the
11 programs contracted for pursuant to this subchapter, only the
12 programs funded by financial assistance provided with these funds
13 are subject to financial and performance audits.

14
15 **7. Appeals.** Appeals of the decisions of the commissioner
16 or director of a state agency, board or commission may be made to
17 the Commissioner of Administrative and Financial Services in
18 accordance with section 1825-E that governs bid appeal procedures
19 or the rules established pursuant to section 1831.

20
21 **8. Limitation on expenditures.** No funds provided directly
22 to institutions or organizations to provide services and to
23 administer programs may be spent for sectarian worship,
24 instruction or proselytization. This subsection does not apply
25 to the contracting for the services of chaplains by a public body.

26 **Sec. 2. 22 MRSA §6-D** is enacted to read:

27
28 **§6-D. Liaisons to faith-based organizations**

29
30 The commissioner shall designate one department employee in
31 each of the department's service delivery regions established
32 under this chapter to serve as a liaison to faith-based
33 organizations in the region that may have the ability to provide
34 community services for persons in need of public assistance
35 pursuant to Title 5, chapter 155, subchapter III. The
36 commissioner shall ensure that the primary functions of each
37 employee designated as a liaison are to:

38
39 **1. Communicate need for services.** Communicate with
40 faith-based organizations regarding the need for private
41 community services to benefit persons in need of assistance under
42 public programs administered by the department;

43 **2. Promote involvement.** Promote the involvement of
44 faith-based organizations working to meet community needs for
45 assistance; and

46
47 **3. Coordinate with other agencies.** Coordinate the
48 department's efforts to promote involvement of faith-based
49

2 organizations in providing community services with similar
3 efforts of other state agencies.

4

6 SUMMARY

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8 This bill clarifies the relationship between state agencies
9 and faith-based organizations in the provision of contracted
10 goods or services, particularly goods or services provided under
11 the Maine Revised Statutes, Title 22. The bill also specifies
12 the limitations on such contracts and requires the Commissioner
of Human Services to designate a liaison to faith-based
organizations in each service delivery region.