

# MAINE STATE LEGISLATURE

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L.D. 2131

DATE: April 1, 2002

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BUSINESS AND ECONOMIC DEVELOPMENT

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "B" to S.P. 786, L.D. 2131, Bill, "An Act to Develop a Controlled Substances Prescription Monitoring and Intervention Program"

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

Sec. 1. 34-B MRSA c. 2 is enacted to read:

CHAPTER 2

CONTROLLED SUBSTANCES PRESCRIPTION MONITORING

§2001. Controlled Substances Prescription Monitoring and Intervention Program Fund

The Controlled Substances Prescription Monitoring and Intervention Program Fund, referred to in this chapter as the "fund," is established within the department as a nonlapsing fund to be used by the commissioner to fund or assist in funding the implementation and operation of a controlled substances prescription monitoring and intervention program pursuant to section 2002. The fund must be deposited with and maintained and administered by the department.

§2002. Controlled substances prescription monitoring and intervention program

1. Controlled substances prescription monitoring and intervention program. By January 1, 2004, the Office of Substance Abuse and the Department of Professional and Financial Regulation, Maine Board of Pharmacy shall cooperatively develop a computerized program, referred to in this section as the "program," for the Maine Board of Pharmacy to track each prescription for a controlled substance listed in schedule II, III or IV under 21 United States Code, Section 812 that is filled by a pharmacy that is registered under Title 32, chapter 117. The program must:

A. Be designed to provide information regarding:

(1) The use by a patient of controlled substances listed in schedule II, III or IV to pharmacies, practitioners and appropriate state agencies in order to prevent the improper or illegal use of such controlled substances; and

(2) Statistical data relating to the use of such controlled substances that are not specified to a particular patient; and

B. Be administered by the Maine Board of Pharmacy or representatives of professional associations for practitioners or representatives of occupational licensing boards selected by the Maine Board of Pharmacy and the Office of Substance Abuse.

The program may not infringe on the legal use of a controlled substance.

2. Access. The Office of Substance Abuse and the Department of Professional and Financial Regulation, Maine Board of Pharmacy must have access to the program and data collected pursuant to this section for the purpose of identifying any improper, fraudulent or illegal activity related to the dispensing of controlled substances.

3. Report of fraudulent or illegal activity. The Office of Substance Abuse and the Department of Professional and Financial Regulation, Maine Board of Pharmacy may report any activity they reasonably suspect may be fraudulent or illegal to the appropriate law enforcement agency or occupational licensing board and provide the law enforcement agency or occupational licensing board with relevant information obtained from the program for further investigation.

2 4. Disclosure of information. Notwithstanding any other  
3 provision of law and except as provided in this section,  
4 information obtained from the program relating to a practitioner  
5 or a patient may not be disclosed to any person. The Office of  
6 Substance Abuse or the Department of Professional and Financial  
7 Regulation, Maine Board of Pharmacy shall disclose such  
8 information:

9 A. Upon the request of a person whom the information  
10 requested concerns or upon the request of that person's  
11 legal representative; or

12 B. Upon a lawful order of a court.

13 5. Gifts, grants and donations. The Office of Substance  
14 Abuse and the Department of Professional and Financial  
15 Regulation, Maine Board of Pharmacy may apply for any available  
16 grants and accept any gifts, grants or donations to assist in  
17 developing and maintaining the program. Any funds received by  
18 the department or the board to assist, develop or maintain the  
19 program must be deposited in the fund.

20 **Sec. 2. Start-up and operation funding; report.** The Commissioner  
21 of Behavioral and Developmental Services shall report back to the  
22 joint standing committee of the Legislature having jurisdiction  
23 over business and economic development matters by January 2, 2003  
24 with recommendations for funding the start-up and ongoing  
25 operational costs of the controlled substances prescription  
26 monitoring and intervention program pursuant to the Maine Revised  
27 Statutes, Title 34-B, section 2002. The report must include any  
28 proposed fee assessments and the amount of the proposed fees.  
29 Additionally, the report must include draft legislation necessary  
30 to implement the program. The committee may report out  
31 legislation on the subject matter of this report to the First  
32 Regular Session of the 121st Legislature.

33 **Sec. 3. Appropriations and allocations.** The following  
34 appropriations and allocations are made.

35 **PROFESSIONAL AND FINANCIAL**  
36 **REGULATION, DEPARTMENT OF**

37 **Licensing and Enforcement**

38 Initiative: Allocates funds for one Clerk Typist III position  
39 and one Planning and Research Associate I position and  
40 associated administrative costs to develop and maintain the  
41 prescription database.

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50	<b>Other Special Revenue Funds</b>	<b>2001-02</b>	<b>2002-03</b>

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2	Positions - Legislative Count	(0.000)	(2.000)
	Personal Services	\$0	\$82,655
4	All Other	0	163,785
6	Total	\$0	\$246,440

8	<b>PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2001-02</b>	<b>2002-03</b>
10	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$246,440</b>
12	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$246,440</b>

14 **BEHAVIORAL AND DEVELOPMENTAL  
SERVICES, DEPARTMENT OF**

18 **Office of Substance Abuse 0679**

20 Initiative: Appropriates funds to develop and operate the  
22 controlled substances prescription monitoring and intervention  
program.

24	<b>GENERAL FUND</b>	<b>2001-02</b>	<b>2002-03</b>
26	All Other	\$0	\$150,000

28	<b>BEHAVIORAL AND DEVELOPMENTAL SERVICES, DEPARTMENT OF DEPARTMENT TOTALS</b>	<b>2001-02</b>	<b>2002-03</b>
30	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$150,000</b>
32	<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$150,000</b>

36	<b>SECTION TOTALS</b>	<b>2001-02</b>	<b>2002-03</b>
38	<b>GENERAL FUND</b>	<b>\$0</b>	<b>\$150,000</b>
40	<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$246,440</b>
42	<b>SECTION TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$396,440'</b>

44 Further amend the bill by inserting at the end before the  
summary the following:

46 **FISCAL NOTE**

48 **2002-03**

50 **APPROPRIATIONS/ALLOCATIONS**

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2	General Fund	\$150,000
	Other Funds	246,440

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6         This bill establishes the Controlled Substances Prescription  
 8 Monitoring and Intervention Program within the Department of  
 Behavioral and Developmental Services as a computerized program  
 10 developed by the department and the Maine Board of Pharmacy by  
 January 1, 2004 to track prescriptions for controlled substances  
 that are filled by a pharmacy that is registered with the board.

12         The bill includes a General Fund appropriation of \$150,000  
 14 in fiscal year 2002-03 for the Office of Substance Abuse in the  
 Department of Behavioral and Developmental Services to develop  
 and operate its part of the program. The bill also establishes  
 16 the Controlled Substances Prescription Monitoring and  
 Intervention Program Fund to be administered by the department.

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20         The Maine Board of Pharmacy within the Office of Licensing  
 and Registration, Department of Professional and Financial  
 22 Regulation will require an Other Special Revenue fund allocation  
 of \$246,440 in fiscal year 2002-03 for one Planning and Research  
 Associate I position and one Clerk Typist III position and  
 24 associated administrative costs to develop and maintain the  
 database. This bill does not specify a funding source to cover  
 26 the cost to the board for this purpose.

28         The Department of Behavioral and Developmental Services will  
 30 also incur some minor additional costs to report by January 2,  
 2003 on recommendations for funding the start-up and ongoing  
 operational costs of the program, including proposed fee  
 32 assessments and the amount of the proposed fees.'

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**SUMMARY**

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38         This bill is a minority report and removes the controlled  
 substances prescription monitoring and intervention program from  
 the Department of Professional and Financial Regulation and  
 40 places it with the Department of Behavioral and Developmental  
 Services, Office of Substance Abuse. This amendment also  
 42 requires the Office of Substance Abuse and the Department of  
 Professional and Financial Regulation, Maine Board of Pharmacy to  
 44 develop the program by January 1, 2004. This amendment also adds  
 a fiscal note to the bill.

**COMMITTEE AMENDMENT**