

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1291

S.P. 422

In Senate, March 11, 2003

**An Act To Establish a System of Advocacy and Oversight To Benefit
Persons with Mental Retardation and Autism**

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MARTIN of Aroostook.

Cosponsored by Representatives: CHURCHILL of Washburn, FISCHER of Presque Isle.

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

4 **Sec. 1. 5 MRSA §12004-I, sub-§67-A** is enacted to read:

6 67-A. Consumer Expenses 34-B MRSA
Mental Advisory Only §1216-A
8 Retardation Board

10 **Sec. 2. 14 MRSA §8102, sub-§1**, as amended by PL 1995, c. 196, Pt. D, §1, is further amended to read:

12 **1. Employee.** "Employee" means a person acting on behalf
14 of a governmental entity in any official capacity, whether
temporarily or permanently, and whether with or without
16 compensation from local, state or federal funds, including
elected or appointed officials; volunteer firefighters as defined
18 in Title 30-A, section 3151; emergency medical service personnel;
members and staff of the Consumer Advisory Board pursuant to
20 Title 34-B, section ~~1216~~ 1216-A; members of the Maine National
Guard but only while performing state active service pursuant to
22 Title 37-B; and sheriffs' deputies as defined in Title 30-A,
section 381 when they are serving orders pursuant to section
24 3135, but the term "employee" does not mean a person or other
legal entity acting in the capacity of an independent contractor
26 under contract to the governmental entity.

28 **Sec. 3. 34-B MRSA §1205, sub-§1**, as amended by PL 1995, c. 560, Pt. K, §18, is further amended to read:

30 **1. Establishment.** The Office of Advocacy is established
32 within the Office of Advocacy and Consumer Affairs of the
department solely to investigate the claims and grievances of
34 clients of the department, to investigate with the Department of
Human Services, as appropriate, all allegations of adult--and
36 child abuse in state institutions and to advocate on behalf of
clients for compliance by any institution, other facility or
38 agency administered, licensed or funded by the department with
all laws, administrative rules and institutional and other
policies relating to the rights and dignity of clients.

40 **Sec. 4. 34-B MRSA §1205, sub-§3, ¶¶F and G**, as enacted by PL
42 1989, c. 7, Pt. N, §3, are amended to read:

44 **F.** Make and publish reports necessary to the performance of
46 the duties described in this section. The chief advocate may
report findings of the office to groups outside the
48 department, such as legislative bodies, advisory committees,
commissions, law enforcement agencies and the press, and may
50 authorize the advocates in the Office of Advocacy to so
communicate. At least annually, the chief advocate shall

2 report both in person and in writing to the joint standing
committee of the Legislature having jurisdiction over mental
health and mental retardation matters; and

4
6 G. Negotiate joint working agreements with the Department
of Human Services concerning procedures and respective
responsibilities for conducting investigations in state
8 institutions of allegations of abuse pursuant to the Child
and Family Services and Child Protection Act, Title 22,
10 chapter 1071.; and

12 **Sec. 5. 34-B MRSA §1205, sub-§3, ¶H** is enacted to read:

14 H. Work cooperatively with the Consumer Advisory Board
established pursuant to section 1216-A in the performance of
the duties of the Office of Advocacy and the Consumer
Advisory Board.

18 **Sec. 6. 34-B MRSA §1216**, as amended by PL 1995, c. 560, Pt.
20 K, §§22 and 23, is repealed.

22 **Sec. 7. 34-B MRSA §1216-A** is enacted to read:

24 **§1216-A. Consumer Advisory Board**

26 **1. Responsibilities.** The Consumer Advisory Board, referred
to in this section as "the board," as established by the
community consent decree, Consumer Advisory Board et al. v.
Glover, No. 91-321-P-C (D. Me., September 28, 1994), and former
section 1216, is established as an independent oversight board.
The board shall perform its functions for the benefit of members
of the class of plaintiffs in Consumer Advisory Board v. Glover,
and for persons with mental retardation or autism who are clients
of the department but who are not members of the class of
plaintiffs in Consumer Advisory Board v. Glover. The board shall
carry out and any consent decrees or orders of a court with
jurisdiction over clients of the department and the
responsibilities under this section.

40 A. The board may review alleged abuse, alleged exploitation
or neglect or an alleged dehumanizing practice committed
upon or violation of rights of any person with mental
retardation or autism who is a client of the department.

44 B. The board shall promote the normalization and
habilitation of persons with mental retardation or autism.

48 C. The board shall work cooperatively with the Office of
Advocacy established in section 1205 in the performance of
the duties of the board and the Office of Advocacy.

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