

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2153

S.P. 822

January 15, 2008

**An Act To Improve the Organizational Structure of the Department
of Health and Human Services**

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
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 RAYE of Washington.
Cosponsored by Representative MILLER of Somerville and Representative: CRAVEN of
Lewiston.

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

2 **PART A**

3 **Sec. A-1. 22 MRSA §104, sub-§9, ¶A**, as amended by PL 2007, c. 441, §1, is
4 further amended to read:

5 A. The following organizations shall forward data that documents key public health
6 needs, organized by region of the State, to the council annually:

7 (1) The Department of Health and Human Services, Maine Center for Disease
8 Control and Prevention; and

9 ~~(2) The Maine Center for Public Health Practice established pursuant to Title 22,~~
10 ~~section 3-D; and~~

11 (3) A statewide public health association.

12 **Sec. A-2. 22 MRSA §1**, as amended by PL 1995, c. 560, Pt. J, §2 and PL 2003, c.
13 689, Pt. B, §§6 and 7, is repealed.

14 **Sec. A-3. 22 MRSA §1-A** is enacted to read:

15 **§1-A. Definitions**

16 As used in this Title, unless the context otherwise indicates, the following terms have
17 the following meanings.

18 **1. Commissioner.** "Commissioner" means the Commissioner of Health and Human
19 Services.

20 **2. Department.** "Department" means the Department of Health and Human
21 Services.

22 **Sec. A-4. 22 MRSA §2**, as amended by PL 1973, c. 567, §20, is repealed.

23 **Sec. A-5. 22 MRSA §3**, as amended by PL 1989, c. 167, §1 and PL 2003, c. 689,
24 Pt. B, §6, is repealed.

25 **Sec. A-6. 22 MRSA §3-A**, as amended by PL 2003, c. 708, §1, is repealed.

26 **Sec. A-7. 22 MRSA §3-B**, as enacted by PL 1977, c. 454, §1, is repealed.

27 **Sec. A-8. 22 MRSA §3-C**, as enacted by PL 1987, c. 730, §2, is repealed.

28 **Sec. A-9. 22 MRSA §3-D**, as enacted by PL 1995, c. 598, Pt. A, §1, is repealed.

29 **Sec. A-10. 22 MRSA §4** is repealed.

30 **Sec. A-11. 22 MRSA §6** is repealed.

1 **Sec. A-12. 22 MRSA §6-A**, as amended by PL 2005, c. 397, Pt. A, §18, is
2 repealed.

3 **Sec. A-13. 22 MRSA §6-B**, as enacted by PL 1993, c. 738, Pt. F, §1 and amended
4 by PL 1995, c. 560, Pt. K, §82 and affected by §83 and amended by PL 2001, c. 354, §3,
5 is repealed.

6 **Sec. A-14. 22 MRSA §6-C**, as repealed and replaced by PL 2005, c. 397, Pt. A,
7 §19, is repealed.

8 **Sec. A-15. 22 MRSA §7**, as amended by PL 1985, c. 785, Pt. B, §83 and Pt. C, §3,
9 is repealed.

10 **Sec. A-16. 22 MRSA §8**, as enacted by PL 1965, c. 132, is repealed.

11 **Sec. A-17. 22 MRSA §9**, as amended by PL 1989, c. 400, §§4 and 14 and PL
12 2003, c. 689, Pt. B, §6, is repealed.

13 **Sec. A-18. 22 MRSA §9-A**, as amended by PL 2001, c. 439, Pt. UU, §1, is
14 repealed.

15 **Sec. A-19. 22 MRSA §10**, as amended by PL 1975, c. 771, §210, is repealed.

16 **Sec. A-20. 22 MRSA §10-A**, as enacted by PL 2005, c. 634, §10, is repealed.

17 **Sec. A-21. 22 MRSA §11**, as enacted by PL 1967, c. 544, §56, is repealed.

18 **Sec. A-22. 22 MRSA §12**, as amended by PL 1995, c. 694, Pt. D, §27 and
19 affected by Pt. E, §2, is repealed.

20 **Sec. A-23. 22 MRSA §12-A**, as amended by PL 1995, c. 691, §2, is repealed.

21 **Sec. A-24. 22 MRSA §12-B**, as enacted by PL 1995, c. 368, Pt. TT, §1, is
22 repealed.

23 **Sec. A-25. 22 MRSA §13**, as amended by PL 2005, c. 12, Pt. QQ, §1, is repealed.

24 **Sec. A-26. 22 MRSA §4088, sub-§1, ¶D-1**, as amended by PL 2003, c. 399, §2,
25 is repealed.

26 **Sec. A-27. 22 MRSA §4088, sub-§3, ¶B**, as amended by PL 2003, c. 399, §3, is
27 further amended to read:

28 B. Shall investigate all reports received by the department ~~or services center~~
29 regarding alleged out-of-home abuse and neglect occurring in facilities or by persons
30 subject to licensure pursuant to this Title;

31 **Sec. A-28. 22 MRSA §4088, sub-§3, ¶D**, as amended by PL 2003, c. 399, §3, is
32 further amended to read:

1 D. Shall coordinate and consult with the ~~bureau or services center staff~~ department
2 performing general licensing functions to eliminate duplicative or redundant
3 investigations to the extent possible and to prevent, correct or eliminate the abuse or
4 neglect or threat of abuse or neglect in out-of-home settings;

5 **Sec. A-29. 22 MRSA §4088, sub-§3, ¶E**, as amended by PL 2003, c. 399, §3, is
6 further amended to read:

7 E. Shall provide the results of the investigation to the ~~bureau, services center~~
8 department or another department for appropriate action. The team shall complete
9 the investigation within a time frame not to exceed 6 months from the date of the
10 initiation of the investigation, except in circumstances when the information
11 necessary to complete the investigation is unavailable to the team;

12 **Sec. A-30. 22 MRSA §4088, sub-§3, ¶G**, as amended by PL 2003, c. 399, §3, is
13 further amended to read:

14 G. When a report alleges out-of-home abuse and neglect in facilities or by persons
15 not subject to licensure by the department ~~or services center~~, shall immediately refer
16 the report to the ~~services center~~ or agency or department charged with the
17 responsibility to investigate such a report or, if applicable, to the state department
18 operating the facility;

19 **Sec. A-31. 22 MRSA §4088, sub-§6**, as enacted by PL 1989, c. 400, §9, is
20 amended to read:

21 **6. Assistance.** Staff performing general licensing functions may assist the team in
22 conducting out-of-home investigations upon the request of the ~~Director of the Bureau of~~
23 ~~Child and Family Services~~ department, ~~provided that as long as~~ the licensing staff
24 member has neither currently licensed nor monitored for compliance the subject of the
25 investigation.

26 **Sec. A-32. 22-A MRSA §201, sub-§2**, as amended by PL 2005, c. 412, §5, is
27 repealed.

28 **Sec. A-33. 22-A MRSA §205, first ¶**, as enacted by PL 2003, c. 689, Pt. A, §1,
29 is amended to read:

30 The commissioner has all of the powers and duties necessary to carry out the mission
31 and responsibilities of the department. The commissioner has the power to distribute the
32 functions and duties given to the commissioner under this Title, Title 5, Title 19-A, Title
33 22 and Title 34-B among the various offices of the department so as to integrate the work
34 properly and to promote the most economical and efficient administration of the
35 department. Wherever in this Title, Title 5, Title 19-A, Title 22 or Title 34-B powers and
36 duties are given to the commissioner or the department, these must be assumed and
37 carried out by such of the offices that the commissioner designates and these powers and
38 duties may in turn be delegated to subordinates by those office directors with the approval
39 of the commissioner.

1 **Sec. A-34. 22-A MRSA §205, sub-§4**, as amended by PL 2005, c. 236, §3 and
2 amended by c. 412, §6, is further amended to read:

3 **4. Appointments.** The following positions are appointed by the commissioner and
4 serve at the pleasure of the commissioner: all deputy commissioners; all office directors;
5 the regional systems integration directors; and the superintendents of any state
6 institutions.

7 ~~A. The Deputy Commissioner of Integrated Services;~~

8 ~~B. The Deputy Commissioner of Health, Integrated Access and Strategy;~~

9 ~~C. The Deputy Commissioner of Finance;~~

10 ~~D. The Deputy Commissioner of Operations and Support;~~

11 ~~E. The Director of the Office of MaineCare Services;~~

12 ~~F. The Director of the Maine Center for Disease Control and Prevention;~~

13 ~~G. The Director of the Office of Integrated Access and Support;~~

14 ~~H. The Director of the Office of Adult Mental Health Services;~~

15 ~~I. The Director of the Office of Adults with Cognitive and Physical Disability~~
16 ~~Services;~~

17 ~~J. The Director of the Office of Child and Family Services;~~

18 ~~K. The Director of the Office of Elder Services;~~

19 ~~L. The Director of the Office of Substance Abuse Services;~~

20 ~~M. The regional system integration directors;~~

21 ~~N. The Director of Dorothea Dix Psychiatric Center; and~~

22 ~~O. The Director of Riverview Psychiatric Center.~~

23 Deputy commissioners and office directors appointed pursuant to this subsection must
24 have educational qualifications and professional experience directly related to the
25 functions of and services provided by the relevant unit or office.

26 **Sec. A-35. 22-A MRSA §206** is enacted to read:

27 **§206. Additional duties of the commissioner**

28 In addition to other duties set out in this Title, the commissioner has the following
29 duties.

30 **1. General.** The commissioner has general supervision, management and control of
31 the research and planning, grounds, buildings, property, officers, employees and clients of
32 all state institutions.

33 **2. Enforcement of laws.** The commissioner shall enforce all laws concerning the
34 institutions within the department, unless specific law enforcement duties are given by
35 law to other persons.

1 **3. Rules.** Rules must be established as set out in this subsection.

2 A. The commissioner shall establish such rules, regulations, procedures and practices
3 as the commissioner may determine appropriate or necessary for the care and
4 management of the property of all state institutions, for the production and
5 distribution of the products of the institutions, for guiding the institutions in
6 determining whether to approve admissions and for the execution of the statutory
7 purposes and functions of the institutions.

8 B. The central principle underlying all rules relating to residents of the institutions
9 within the department is that the residents retain all rights of an ordinary citizen,
10 except those expressly or by necessary implication taken from them by law.

11 **4. Grievance procedures.** The commissioner shall establish procedures for hearing
12 grievances of clients who receive mental health services or mental retardation services or
13 of children who receive behavioral health services. The procedures must include the
14 opportunity for a timely hearing before a state hearing examiner or an independent fair
15 hearing examiner. The commissioner may contract for the services of the hearing
16 examiner or examiners, who shall conduct all adjudicatory proceedings pursuant to the
17 Maine Administrative Procedure Act.

18 **5. Residential child care facilities.** The commissioner shall approve all programs
19 for the provision of mental health services to residential child care facilities, as defined in
20 Title 22, section 8101, subsection 4, and shall participate in licensure of these programs
21 in accordance with Title 22, section 8104.

22 **6. Abuse allegations in state institutions.** The commissioner shall ensure
23 appropriate intervention and remediation in cases of substantiated abuse and neglect in
24 state institutions. The commissioner shall ensure, through inspection on a periodic basis,
25 that all state institutions meet appropriate federal and state standards relating to the
26 health, safety and welfare of clients of these institutions.

27 **7. Establish standards of care.** The commissioner shall establish standards of care
28 for patients at the Riverview Psychiatric Center and the Dorothea Dix Psychiatric Center.

29 **8. Substance abuse prevention and treatment.** The commissioner shall administer
30 and carry out the purposes of the Maine Substance Abuse Prevention and Treatment Act.

31 **Sec. A-36. 22-A MRSA §207** is enacted to read:

32 **§207. Additional powers of the commissioner**

33 In addition to other powers granted in this Title, the commissioner has the powers set
34 out in this section.

35 **1. General powers.** The commissioner may perform any legal act relating to the
36 care, custody, treatment, relief and improvement of the residents of state institutions or
37 may purchase residential services when the department does not provide the appropriate
38 institutional services for the client.

1 **2. Appointments of deputy commissioner and other employees.** The
2 commissioner's powers to appoint any deputy commissioner and other employees are as
3 set out in this section.

4 A. The commissioner may appoint, subject to the Civil Service Law and except as
5 otherwise provided, any employees who may be necessary.

6 B. The commissioner may appoint and set the salaries for one or more deputy
7 commissioners to assist in carrying out the responsibilities of the department. Each
8 appointment must be for an indeterminate term and until a successor is appointed and
9 qualified or during the pleasure of the commissioner.

10 C. The commissioner may appoint the following officials to serve at the
11 commissioner's pleasure:

12 (1) Superintendent, Riverview Psychiatric Center;

13 (2) Superintendent, Dorothea Dix Psychiatric Center;

14 (3) Director, Elizabeth Levinson Center;

15 (4) Assistant to the Commissioner;

16 (5) Regional Systems Integration Directors; and

17 (6) Directors of office units.

18 D. The commissioner, with the approval of the Governor, may employ and set the
19 salaries up to the maximum adjusted pay grade for clinical director positions. Clinical
20 director positions are excluded from the definition of state employee under Title 26,
21 section 979-A, subsection 6 and are not subject to the Civil Service Law. Employees
22 in that classification hired after July 1, 1989 serve at the pleasure of the commissioner
23 and must, as a condition of continued employment, maintain clinical privileges to
24 practice medicine as determined by the respective medical staff and the
25 superintendent of the facility.

26 E. Employees in the classification of clinical director may elect to retain current
27 bargaining unit and civil service status. Employees so grandfathered retain salary and
28 benefit entitlements provided for in current pay schedules and collective bargaining
29 agreements.

30 **3. Delegation.** The commissioner's delegation powers are as set out in this
31 subsection.

32 A. The commissioner may delegate powers and duties given under this Title to any
33 deputy commissioner and chief administrative officers of state institutions.

34 B. The commissioner may empower any deputy commissioner and chief
35 administrative officers of state institutions to delegate further powers and duties
36 delegated to them by the commissioner.

37 **4. Funding sources.** In carrying out this Title the commissioner may apply for and
38 accept from any other agency of government, person, group or corporation any funds that
39 may be available.

1 **5. Lease of unused buildings.** The commissioner may, with the approval of the
2 **Director of the Bureau of General Services, lease unused buildings at the state institutions**
3 **for the purposes of providing services to departmental clients.**

4 **A. The leases must be for a period not to exceed one year.**

5 **B. The commissioner shall submit a plan of the proposed leases and their impact on**
6 **the institutions and departmental clients to the joint standing committee of the**
7 **Legislature having jurisdiction over health and institutional services no later than**
8 **January 31st of each year.**

9 **6. Nurse training.** The commissioner may provide for the training of nurses.

10 **7. Appearance of designated employees in Probate Court.** The commissioner
11 **may designate employees of the department to represent the department in Probate Court**
12 **only in:**

13 **A. Matters relating to the performance of duties in uncontested guardianship,**
14 **conservatorship or termination of guardianship or conservatorship proceedings; and**

15 **B. Requests for emergency guardianships arising from the need for emergency**
16 **medical treatment or placement in adult foster homes, boarding homes or nursing**
17 **homes or for orders necessary to apply for or preserve an estate in emergency**
18 **situations.**

19 **8. Physicians.** Department employees in the classifications of physician I, II and III
20 **are unclassified state employees, as defined by Title 26, section 979-A, subsection 6, and**
21 **are members of bargaining units, subject to Title 26, chapter 9-B. An employee in any of**
22 **these classifications must, as a condition of continued employment, maintain necessary**
23 **clinical privileges to practice medicine in that employee's position as determined by the**
24 **respective medical staff and the superintendent of the facility. Any termination of**
25 **employment due to a loss of clinical privileges to practice medicine under this subsection**
26 **is not subject to the grievance procedure under any collective bargaining agreement.**

27 **9. Contracts with health care servicing entities.** The commissioner may enter into
28 **contracts with health care servicing entities for the financing, management and oversight**
29 **of the delivery of mental health, mental retardation and substance abuse services to**
30 **clients pursuant to a state or federally sponsored health program in which the department**
31 **participates or that the department administers. For the purposes of this subsection,**
32 **"health care servicing entity" means a partnership, association, corporation, limited**
33 **liability company or other legal entity that enters into a contract with the State to provide**
34 **or arrange for the provision of a defined set of health care services; to assume**
35 **responsibility for some aspects of quality assurance, utilization review, provider**
36 **credentialing and provider relations or other related network management functions; and**
37 **to assume financial risk for provision of such services to clients through capitation**
38 **reimbursement or other risk-sharing arrangements. "Health care servicing entity" does**
39 **not include insurers or health maintenance organizations. In contracting with health care**
40 **servicing entities, the commissioner:**

41 **A. Shall include in all contracts with the health care servicing entities standards,**
42 **developed in consultation with the Superintendent of Insurance, to be met by the**

1 contracting entity in the areas of financial solvency, quality assurance, utilization
2 review, network sufficiency, access to services, network performance, complaint and
3 grievance procedures and records maintenance;

4 B. Prior to contracting with any health care servicing entity, must have in place a
5 memorandum of understanding with the Superintendent of Insurance for the
6 provision of technical assistance, which must provide for the sharing of information
7 between the department and the superintendent and the analysis of that information
8 by the superintendent as it relates to the fiscal integrity of the contracting entity;

9 C. May require periodic reporting by the health care servicing entity as to activities
10 and operations of the entity, including the entity's activities undertaken pursuant to
11 commercial contracts with licensed insurers and health maintenance organizations;

12 D. May share with the Superintendent of Insurance all documents filed by the health
13 care servicing entity, including documents subject to confidential treatment if the
14 information is treated with the same degree of confidentiality as is required of the
15 department; and

16 E. May make all necessary rules for the administration of contracts with health care
17 servicing entities. All rules adopted pursuant to this paragraph are routine technical
18 rules as defined in Title 5, chapter 375, subchapter 2-A.

19 **10. Ad hoc committee compensation.** The commissioner is authorized to provide
20 compensation to persons who are consumers or family members of consumers of
21 departmental services who are members of ad hoc committees. The compensation may
22 not exceed \$25 per day and payment of expenses. Total compensation expenses of the
23 department under this subsection in any fiscal year may not exceed \$7,500.

24 **Sec. A-37. 22-A MRSA §208** is enacted to read:

25 **§208. Maintenance**

26 The commissioner shall maintain 2 state mental health institutes for the mentally ill,
27 one at Bangor called the Dorothea Dix Psychiatric Center and the other at Augusta called
28 the Riverview Psychiatric Center.

29 **Sec. A-38. 22-A MRSA §209** is enacted to read:

30 **§209. Maintenance of facilities**

31 The department shall maintain and is responsible for the supervision of services in the
32 Elizabeth Levinson Center for children in need of treatment.

33 **Sec. A-39. 22-A MRSA §210** is enacted to read:

34 **§210. Elizabeth Levinson Center**

35 **1. Establishment.** There is established the Elizabeth Levinson Center at Bangor,
36 referred to in this section as "the center," which must be maintained for the training,
37 education, treatment and care of persons who are mentally retarded and children in need
38 of treatment.

1 **2. Director.** The chief administrative officer of the Elizabeth Levinson Center is the
2 director of the center.

3 **A.** The commissioner shall appoint and set the salary for the director.

4 **B.** The director is appointed for an indefinite term and serves at the pleasure of the
5 commissioner until a successor is appointed and qualified.

6 **C.** In order to qualify for appointment as the director, a person must have sufficient
7 education and experience to administer a facility providing services to children in
8 need of treatment.

9 **3. Duties of the director.** The director:

10 **A.** Is responsible for the training, education, treatment and care of all persons
11 received into or receiving services from the center;

12 **B.** Is responsible for the discharge of all persons received into the center; and

13 **C.** Shall maintain direct supervision, management and control of the grounds,
14 buildings, property, officers and employees of the center, subject to the approval of
15 the commissioner.

16 **4. Admission to the center.** Persons or children with mental retardation in need of
17 treatment may be admitted to the center in any of the ways described in this subsection.

18 **A.** When considered necessary by a planning team and with the consent of the
19 director, persons may be admitted to the center's short-term evaluation program for a
20 period of 40 program days, excluding weekends, without certification.

21 **B.** Respite care may be provided to any person by the center without full compliance
22 with the procedures for admission by judicial certification under Title 34-B, section
23 5475 if the purpose of the respite care is for evaluation, diagnosis or other clearly
24 stated and broadly defined therapeutic purposes of the person or the person's family.

25 **(1)** Respite care may be provided, upon application to the department by the
26 person, the person's guardian or the person's parent, for not more than 21 days at
27 a time and not more than 60 days during any 12-month period.

28 **(2)** Continuing placement in the center beyond the time periods stated in
29 subparagraph 1, if indicated, is permitted only upon full compliance with Title
30 34-B, section 5475.

31 **C.** Admission to the center by judicial certification may be accomplished according
32 to the procedures in Title 34-B, section 5475.

33 **5. Applicability of laws.** If a child with mental retardation in need of treatment is
34 admitted to the center, all provisions in Title 34-B, chapter 5 that are applicable to state
35 institutions apply to the center with respect to that child.

36 **Sec. A-40. 22-A MRSA §211** is enacted to read:

1 **§211. Municipal grants**

2 The department is authorized to make grants to cities and towns within the State, or
3 to nonprofit corporations organized for purposes related to public health or welfare, out of
4 federal funds when such grants are permitted by the terms under which the federal funds
5 are available. Such grants must be made in conformity with applicable federal
6 requirements and standards and with appropriate state accounting requirements and in
7 accordance with regulations of the department.

8 **Sec. A-41. 22-A MRSA §212** is enacted to read:

9 **§212. Service delivery regions**

10 The commissioner shall organize regional service delivery in accordance with the
11 regional boundaries set out in this section.

12 **1. Region I.** Region I is all of York County and Cumberland County.

13 **2. Region II.** Region II is all of Franklin County, Oxford County, Androscoggin
14 County, Somerset County, Kennebec County, Waldo County, Knox County, Lincoln
15 County and Sagadahoc County.

16 **3. Region III.** Region III is all of Piscataquis County, Penobscot County, Hancock
17 County, Washington County and Aroostook County.

18 **Sec. A-42. 22-A MRSA §213** is enacted to read:

19 **§213. Fees for service**

20 **1. Reasonable fees authorized.** The department may charge reasonable fees for any
21 services provided under this Title, Title 5, Title 22 or Title 34-B, whether directly or
22 indirectly provided by the department. Any fees thus received constitute a permanent
23 fund for use by the department as special revenue income and do not become part of the
24 General Fund. Fees so generated must be used in accordance with federal regulations.

25 **2. Sliding fee scale.** The department may establish a sliding fee scale for the
26 provision of community-based purchased services administered by the department.

27 **A.** The sliding fee scale must be based on gross family income and family size.

28 **B.** Any fees charged as a result of implementing this subsection must be paid to the
29 provider of the service and be used by the provider for additional services of the same
30 or related type for which the fees were paid.

31 **Sec. A-43. 22-A MRSA §214** is enacted to read:

32 **§214. Federal funds and commodities**

33 The commissioner, with the consent and approval of the Governor, is authorized and
34 empowered to accept any allotments of federal funds and commodities, to manage and
35 dispose of the same in whatever manner required by federal law and put into effect the

1 United States Social Security Act and any amendments of that act and of other federal
2 acts relating to public welfare.

3 **Sec. A-44. 22-A MRSA §215** is enacted to read:

4 **§215. Coordination and reporting on expenditure of funds pertaining to homeland**
5 **security and bioterrorism prevention**

6 The commissioner shall coordinate in a mutually agreed upon manner with the
7 Director of the Maine Emergency Management Agency within the Department of
8 Defense, Veterans and Emergency Management on the planning and expenditure of all
9 federal funds received by the department for homeland security emergency preparedness
10 purposes or for the prevention of bioterrorism and provide a report annually, beginning
11 December 15, 2006, to the Homeland Security Advisory Council established in Title 37-
12 B, section 708. The advisor for the Homeland Security Advisory Council shall report by
13 January 15th of each year, beginning in 2007, on the expenditure of such funds to the
14 joint standing committee of the Legislature having jurisdiction over health and human
15 services matters and the joint standing committee of the Legislature having jurisdiction
16 over criminal justice and public safety matters. The report must include, but is not
17 limited to, the amount of funds expended in the prior year, the purpose of those
18 expenditures, the effect of those expenditures on homeland security and bioterrorism
19 prevention and the plans for coordination with the Maine Emergency Management
20 Agency for the expenditure of the funds received or anticipated for such purposes in the 2
21 years following submission of the report.

22 **Sec. A-45. 22-A MRSA §216** is enacted to read:

23 **§216. Funds for social services**

24 The department shall administer any funds that may be available from private, local,
25 state or federal sources for the provision of social services as defined by the department.
26 Within any limitation that may apply from the sources of such funds, the department may
27 provide said social services itself, or assure itself of the provision of such services by
28 purchase of services, by contracts or by grants, or by joint provision of services, by
29 contracts or by grants, or by joint provision of services with other agencies through
30 matching agreements.

31 The department shall adopt rules as necessary to define eligibility for social services,
32 contractual terms, conditions for grants, matching ratios and quality of performance
33 standards and such others as are necessary for the administration of this section. These
34 rules must be published and subject to a 30-day public review prior to taking final effect.

35 The department may expend any unidentified child support payments and any interest
36 earned on those funds that the department has received when the department cannot
37 identify the child for which payment was made. The department may expend these funds
38 only in its efforts to enforce child support laws in accordance with Title 19-A, chapters
39 53, 63, 65 and 67. Before making any expenditure, the department must wait at least 12
40 months from the date the unidentified funds were received.

1 **Sec. A-46. 22-A MRSA §217** is enacted to read:

2 **§217. Performance-based contracts**

3 In addition to other applicable requirements and unless precluded by other restrictions
4 on the use of funds, the commissioner shall manage all funds available for the provision
5 of social services in accordance with the provisions of this section.

6 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
7 following terms have the following meanings.

8 A. "Agreement" means a legally binding written document between 2 or more
9 parties, including such documents as are commonly referred to as accepted
10 application, proposal, prospectus, contract, grant, joint or cooperative agreement,
11 purchase of service or state aid.

12 B. "Performance-based contract" means an agreement for the purchase of direct
13 client services employing a client-centered, outcome-oriented process that is based on
14 measurable performance indicators and desired outcomes and includes the regular
15 assessment of the quality of services provided.

16 **2. Performance-based contract.** The commissioner shall ensure that all agreements
17 to purchase social services are performance-based contracts.

18 **3. Rules.** The commissioner shall adopt rules to implement this section, including,
19 but not limited to, the establishment of program goals, outcome measures, an information
20 management system to collect and manage contract data, a system of ongoing assessment
21 of program effectiveness and hold-harmless guidelines for provider agencies during the
22 first contract period or 12 months, whichever is greater.

23 **4. Procedures.** The procedures in this subsection apply whenever the commissioner
24 commences a request-for-proposal procedure.

25 A. The commissioner shall hold at least one informational meeting at least 30 days
26 before the due date for submission of the notice of intent to bid. Any informational
27 meeting must be advertised in newspapers of general circulation stating the location,
28 date, time and purpose of the meeting. At the meeting the commissioner shall provide
29 detailed information to any interested party about the contract to be bid or rebid,
30 provide notice of anticipated major changes from any previous contract and respond
31 to questions.

32 B. The commissioner shall require any interested party to submit a notice of intent to
33 bid at least 30 days before the date bids will be accepted as a precondition to
34 submitting a formal bid. The notice of intent must contain minimal requirements that
35 demonstrate a prospective bidder's competence and ability to comply with the
36 requirements of the contract.

37 C. If only one community service provider submits a notice of intent to bid, the
38 commissioner may enter into negotiations concerning a contract with that provider in
39 accordance with the procedures established for performance-based contracts.

1 D. For purposes of this section, the commissioner retains the right to reject any bids
2 submitted and any proposals made during negotiations pursuant to paragraph C.

3 **Sec. A-47. 22-A MRSA §218** is enacted to read:

4 **§218. State wards**

5 When a state ward becomes 18 years of age and the state ward and the department
6 agree that need for care and support for educational, social or physical reasons exists, the
7 department is authorized to continue care and support of this person up to 21 years of age.

8 When a state ward who is enrolled in a postsecondary education program becomes 21
9 years of age prior to the completion of the postsecondary education program, the
10 department is authorized, at its discretion and by agreement with that state ward, to
11 continue providing support for room, board and related education expenses until the state
12 ward becomes 23 years of age. Funds allocated under this section must come from an
13 identified education and training account specifically established for the postsecondary
14 education-related costs of state wards after they become 21 years of age and before they
15 become 23 years of age.

16 **Sec. A-48. 34-B MRSA §1201**, as amended by PL 2001, c. 354, §§1 and 3, is
17 repealed.

18 **Sec. A-49. 34-B MRSA §1201-A**, as amended by PL 2005, c. 397, Pt. A, §42, is
19 repealed.

20 **Sec. A-50. 34-B MRSA §1201-B**, as enacted by PL 1993, c. 738, Pt. F, §2, is
21 repealed.

22 **Sec. A-51. 34-B MRSA §1202**, as amended by PL 2001, c. 439, Pt. J, §§4 and 5
23 and PL 2003, c. 689, Pt. B, §7, is repealed.

24 **Sec. A-52. 34-B MRSA §1203**, as amended by PL 2007, c. 80, §1, is repealed.

25 **Sec. A-53. 34-B MRSA §1204**, as amended by PL 2007, c. 286, §1, is repealed.

26 **Sec. A-54. 34-B MRSA §1401**, as amended by PL 1995, c. 560, Pt. K, §§25 and
27 26 and PL 2005, c. 236, §§3 and 4, is repealed.

28 **Sec. A-55. 34-B MRSA §3201**, as amended by PL 2005, c. 236, §2, is repealed.

29 **Sec. A-56. 34-B MRSA §3202**, as amended by PL 1995, c. 560, Pt. K, §35 and
30 PL 2005, c. 236, §§3 and 4, is repealed.

31 **Sec. A-57. 34-B MRSA §6251**, as amended by PL 1995, c. 560, Pt. K, §75, is
32 repealed.

33 **Sec. A-58. 34-B MRSA §6252**, as amended by PL 2003, c. 389, §25, is repealed.

1 **PART B**

2 **Sec. B-1. 4 MRSA §807, sub-§3, ¶H**, as corrected by RR 2003, c. 2, §1, is
3 amended to read:

4 H. A person who is not an attorney but has been designated to represent the
5 Department of Health and Human Services under Title 22, section 3473, subsection 3
6 or under ~~Title 34-B, section 1204, subsection 7~~ Title 22-A, section 207, subsection 7
7 in Probate Court proceedings;

8 **Sec. B-2. 5 MRSA §19203, sub-§8**, as amended by PL 1989, c. 487, §1, is
9 further amended to read:

10 **8. Department of Health and Human Services.** To the ~~Bureau of Health~~
11 Department of Health and Human Services, which may disclose results to other persons
12 only if that disclosure is necessary to carry out its duties as provided in Title 22, ~~sections~~
13 ~~3, 7 and section~~ section 42 and chapters 250 and 251;

14 **Sec. B-3. 5 MRSA §20006-A, sub-§3**, as enacted by PL 1995, c. 560, Pt. L, §8
15 and affected by §16, is amended to read:

16 **3. Other duties and powers.** Carry out other duties and exercise other powers
17 granted to the director under this Act and delegated to the director by the commissioner
18 under ~~Title 34-B~~ Title 22-A, section 1204 207, subsection 3.

19 **Sec. B-4. 22 MRSA §2804**, as amended by PL 1987, c. 259, §1, is further
20 amended to read:

21 **§2804. Index**

22 The Registrar of Vital Statistics shall prepare and keep an alphabetical index, by the
23 names of both parties, of all annulments and divorces reported. When requested, the
24 registrar shall cause a search to be made of ~~his~~ the files for the record of any divorce or
25 annulment and shall furnish a copy thereof. The fee for such search and copy ~~shall~~ must
26 reasonably reflect the cost of the service, as specified in ~~section 9~~ Title 22-A, section 213,
27 subsection 1.

28 **Sec. B-5. 22 MRSA §3731, sub-§4**, as enacted by PL 1993, c. 158, §2, is
29 amended to read:

30 **4. Region.** "Region" means a service delivery region established pursuant to ~~section~~
31 ~~6-A~~ Title 22-A, section 212.

32 **Sec. B-6. 22 MRSA §5105, 3rd ¶**, as repealed and replaced by PL 1975, c. 771,
33 §231, is amended to read:

34 The bureau ~~shall be~~ is administered by a director ~~who shall be appointed as provided~~
35 ~~in section 1~~.

1 **Sec. B-7. 22 MRSA §5309, first ¶**, as repealed and replaced by PL 1975, c. 771,
2 §233, is amended to read:

3 The bureau ~~shall be~~ is administered by a director ~~who shall be appointed as provided~~
4 ~~in section 1.~~

5 **Sec. B-8. 24-A MRSA §10, sub-§6**, as enacted by PL 1997, c. 676, §4 and
6 amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to
7 read:

8 **6.** The government contracting activities of a health care servicing entity, as defined
9 in ~~Title 34-B, section 1204~~ Title 22-A, section 207, subsection 9, contracting, whether
10 directly or as a subcontractor, with the Department of Health and Human Services, unless
11 otherwise expressly provided by this Title. This Title may apply to any other insurance
12 or managed care activities of a health care servicing entity.

13 **Sec. B-9. 26 MRSA §1403, sub-§1**, as enacted by PL 1997, c. 443, §1, is
14 amended to read:

15 **1. Nondisplacement of existing employees; nonavailability for layoff**
16 **replacement; noninfringement on promotional opportunities or collective**
17 **bargaining agreements; labor disputes.** A participant who is required to work as a
18 condition of receiving public assistance, ~~as defined in Title 22, section 9-A, subsection 1,~~
19 ~~paragraph A,~~ may not be employed in or assigned to:

20 A. A position that was previously filled by a regular employee when that employee
21 is on layoff from the same or an equivalent position or when the vacancy was created
22 by terminating an employee or otherwise reducing the workforce;

23 B. An established position that is vacant;

24 C. A worksite where there is a labor dispute, including a strike or lockout; or

25 D. A worksite in a manner that violates an existing contract or collective bargaining
26 agreement or infringes on the promotional opportunities for any employees.

27 **Sec. B-10. 34-B MRSA §5475, sub-§1, ¶B**, as enacted by PL 1983, c. 459, §7,
28 is amended to read:

29 B. The petition may not be filed by the chief administrative officer of a regional
30 office until ~~he~~ the chief administrative officer of the regional office has obtained
31 approval for the admission by the chief administrative officer of the facility under
32 rules ~~promulgated~~ adopted by the commissioner ~~under section 1203, subsection 3.~~

33 **Sec. B-11. 37-B MRSA §505, sub-§5**, as enacted by PL 2001, c. 439, Pt. UU,
34 §2, is amended to read:

35 **5. Public assistance designation.** Assistance granted to veterans or their dependents
36 pursuant to this section is designated public assistance ~~for the purposes of providing~~
37 ~~public assistance within the meaning of Title 22, section 9-A.~~ The department retains
38 administrative responsibility for assistance granted under this section.

1 **SUMMARY**

2 Part A of this bill consolidates provisions in the Maine Revised Statutes, Titles 22
3 and 34-B with existing provisions in Title 22-A to the extent that Titles 22 and 34-B
4 described the Department of Health and Human Services' organizational structure and the
5 Commissioner of Health and Human Services' powers and duties. Some provisions are
6 repealed because redundant; some are repealed or rewritten to give the commissioner
7 more flexibility in organizing the department, appointing staff and delegating the various
8 duties of the department among staff.

9 1. It repeals redundant text in Title 22, section 1 concerning the establishment of the
10 department and appointment of the commissioner. The bill also repeals language about
11 the qualifications required of certain bureau directors.

12 2. It repeals Title 22, section 2, which referred to legal services obtained from the
13 Attorney General or the district attorneys.

14 3. It repeals Title 22, section 3, which referred to the jurisdiction of the department
15 and the requirement to report annually about services contracted with community
16 providers.

17 4. It repeals Title 22, section 3-A, which referred to support for certain state wards.
18 This text is moved to Title 22-A, section 218.

19 5. It repeals Title 22, section 3-B, which referred to the ability of a licensed
20 children's home to consent to a state ward's medical treatment.

21 6. It repeals Title 22, section 3-C, which established a clearinghouse of information
22 about handicapped housing accessibility.

23 7. It repeals Title 22, section 3-D, which permitted the department to establish a
24 center for public health practice.

25 8. It repeals Title 22, section 4, which required the department to render opinions
26 about the organization of certain institutions subject to the department's inspection.

27 9. It repeals Title 22, section 6, which described the commissioner's authority to
28 distribute the functions of the department among the various offices. This text is moved
29 to Title 22-A, section 205.

30 10. It repeals Title 22, section 6-A, which described the 3 service delivery regions.
31 This text is moved to Title 22-A, section 212.

32 11. It repeals Title 22, section 6-B, which described the requirement of joint location
33 of services offered by the former Department of Behavioral and Developmental Services
34 and the former Department of Human Services.

35 12. It repeals Title 22, section 6-C, which described the Community Services Center,
36 its purposes and its functions.

1 13. It repeals Title 22, section 7, which described the department's additional duties
2 to provide services to sick, dependent, defective and delinquent persons.

3 14. It repeals Title 22, section 8, which described the department's authority to
4 provide complementary services to persons unable to provide for themselves.

5 15. It repeals Title 22, section 9, which authorized the department to charge fees for
6 services. This text is moved to Title 22-A, section 213.

7 16. It repeals Title 22, section 9-A, which described public assistance eligibility by
8 cross-reference to other statutory provisions.

9 17. It repeals Title 22, section 10, which empowered the commissioner to accept
10 federal funds and commodities. This text is moved to Title 22-A, section 214.

11 18. It repeals Title 22, section 10-A, which required the Director of the Maine Center
12 for Disease Control and Prevention to work with other state agencies on homeland
13 security preparedness. This text is moved to Title 22-A, section 215 substituting the
14 commissioner for the director as the responsible party.

15 19. It repeals Title 22, section 11, which authorized the department to make grants to
16 municipalities for purposes related to public health or welfare. This text is moved to Title
17 22-A, section 211.

18 20. It repeals Title 22, section 12, which required the department to administer social
19 services funds from any source and to adopt rules regarding eligibility and standards.
20 This text is moved to Title 22-A, section 216.

21 21. It repeals Title 22, section 12-A, which established requirements for
22 performance-based contracts. This text is moved to Title 22-A, section 217.

23 22. It repeals Title 22, section 12-B, which required the commissioner to distribute
24 funds available within the aid to charitable institutions program to certain named
25 agencies.

26 23. It repeals Title 22, section 13, which authorized the commissioner to create a
27 human services fraud investigation unit.

28 24. It amends Title 22-A, section 201, which established the department. It
29 eliminates the detailed list of 4 units of the department, as well as the offices to be located
30 within each unit, in order to give the commissioner more flexibility to establish and
31 change the structural organization of the department from time to time.

32 25. It amends Title 22-A, section 205 by moving text in from Title 22 to explain the
33 commissioner's authority to delegate and reassign functions of the department to different
34 offices from time to time. It describes the commissioner's authority to appoint senior
35 staff without listing detailed titles for each.

36 26. It repeals Title 34-B, section 1201, which described the establishment of the
37 department.

1 27. It repeals Title 34-B, section 1201-A, which described the 3 service delivery
2 regions.

3 28. It repeals Title 34-B, section 1201-B, which required the joint location of
4 services with the former Department of Behavioral and Developmental Services and the
5 former Department of Human Services.

6 29. It repeals Title 34-B, section 1202, which described the appointment of the
7 commissioner.

8 30. It repeals Title 34-B, section 1203, which described additional duties of the
9 commissioner, and moves the text to Title 22-A, section 206. It amends the text by
10 eliminating the prohibition against using department employees as hearing officers for
11 grievances and by amending the commissioner's duty to establish grievance procedures
12 for clients to include clients receiving mental health services or mental retardation
13 services and children who receive behavioral health services.

14 31. It repeals Title 34-B, section 1204, which described additional powers of the
15 commissioner relating to state institutions, clinical directors, lease of buildings, nurse
16 training, appearances by employees in Probate Court, physicians, contracts with health
17 care servicing entities and ad hoc committee compensation, and moves the text, with
18 minor amendments, to Title 22-A, section 207.

19 32. It repeals Title 34-B, section 1401, which described the appointment of officers
20 to operate state institutions.

21 33. It repeals Title 34-B, section 3201, relating to the maintenance of 2 state mental
22 health institutes, and moves the text to Title 22-A, section 208.

23 34. It repeals Title 34-B, section 3202, which described the position of
24 superintendent at both state mental health institutions.

25 35. It repeals Title 34-B, section 6251, which required the department to maintain 2
26 facilities for children in need of treatment, and moves the text to Title 22-A, section 209.
27 The text is updated to include only the one remaining institution for children, the
28 Elizabeth Levinson Center.

29 36. It repeals Title 34-B, section 6252, which described the establishment of the
30 Elizabeth Levinson Center, the qualifications and duties of the director and the standards
31 for admission to the center. This text is moved to Title 22-A, section 210, with minor and
32 technical amendments.

33 Part B of this bill corrects statutory cross-references to reflect changes made in Part
34 A.