

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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**Legislative Document**

**No. 1419**

H.P. 995

House of Representatives, April 7, 2009

### **An Act To Implement Respectful Language Amendments**

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Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WEBSTER of Freeport.

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

2 **PART A**

3 **Sec. A-1. 5 MRSA §20051, sub-§1**, as enacted by PL 1989, c. 934, Pt. A, §3, is  
4 amended to read:

5 **1. Laws.** A county, municipality or other political subdivision may not adopt or  
6 enforce a local law, ordinance, regulation or rule having the force of law that includes  
7 drinking, being a ~~common drunkard~~ person with alcoholism or being found in an  
8 intoxicated condition as one of the elements of an offense giving rise to a criminal or civil  
9 penalty or sanction.

10 **Sec. A-2. 14 MRSA §5956, first ¶** is amended to read:

11 Any person interested as or through an executor, administrator, trustee, guardian or  
12 other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the  
13 administration of a trust, or of the estate of a decedent, an infant, ~~lunatic~~ a person who is  
14 legally incompetent or a person who is insolvent may have a declaration of rights or legal  
15 relations in respect thereto:

16 **Sec. A-3. 22 MRSA §822**, as amended by PL 2005, c. 383, §18, is further  
17 amended to read:

18 **§822. Reporting**

19 Whenever any physician knows or has reason to believe that any person whom the  
20 physician examines or cares for has ~~or is afflicted with any~~ a disease or condition  
21 designated as notifiable, that physician shall notify the department and make such a report  
22 as may be required by the rules of the department. Reports must be in the form and  
23 content prescribed by the department and the department shall provide forms for making  
24 required reports.

25 **Sec. A-4. 22 MRSA §1781, first ¶**, as enacted by PL 1983, c. 459, §2 and  
26 amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

27 The Department of Health and Human Services may license any suitable person to  
28 establish and keep a private hospital or private house for the reception and treatment of  
29 patients who are ~~mentally deranged~~ have mental health diagnoses. The hospital or private  
30 house ~~shall be~~ is subject to visitation by the department or any member thereof.

31 **Sec. A-5. 22 MRSA §5107-J, sub-§2, ¶C**, as enacted by PL 2003, c. 465, §4, is  
32 amended to read:

33 C. The Governor shall appoint 3 members as follows:

34 (1) One person who represents the area agencies on aging;

35 (2) One person who represents persons and families ~~afflicted~~ with Alzheimer's  
36 disease or dementia; and

1 (3) One person who represents a statewide organization representing persons  
2 with disabilities.

3 **Sec. A-6. 22 MRSA §8552, sub-§2, ¶A**, as enacted by PL 1995, c. 205, §1, is  
4 amended to read:

5 A. The program's written statement of its philosophy and mission that reflect the  
6 needs of individuals ~~affiliated~~ with dementia;

7 **Sec. A-7. 34-B MRSA §1402, sub-§2, ¶B**, as amended by PL 1995, c. 560, Pt.  
8 K, §27, is further amended to read:

9 B. Provide for informing and advising any indigent person, that person's relatives or  
10 friends and the representatives of any charitable agency as to:

- 11 (1) The mental condition of the indigent person;
- 12 (2) The prevention and treatment of the condition;
- 13 (3) The available institutions or other means of caring for the ~~affiliated~~ person;  
14 and
- 15 (4) Any other matter relative to the welfare of the person; and

16 **Sec. A-8. 34-B MRSA §9002, sub-§3**, as enacted by PL 1983, c. 459, §7, is  
17 amended to read:

18 **3. Mental deficiency.** "Mental deficiency" means mental deficiency as defined by  
19 appropriate clinical authorities to such extent that a person ~~se-affiliated~~ is incapable of  
20 managing ~~himself and his~~ that person's affairs, but ~~shall~~ may not include mental illness.

21 **Sec. A-9. 34-B MRSA §9002, sub-§4**, as enacted by PL 1983, c. 459, §7, is  
22 amended to read:

23 **4. Mental illness.** "Mental illness" means mental disease to such extent that a  
24 person ~~se-affiliated~~ requires care and treatment for ~~his~~ that person's own welfare or the  
25 welfare of others or of the community.

26 **Sec. A-10. 37-B MRSA §601**, as amended by PL 2007, c. 167, §9, is further  
27 amended to read:

28 **§601. Home established; purpose**

29 There must be public homes for veterans in Maine known as "Maine Veterans'  
30 Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home  
31 located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located  
32 in Bangor not to exceed 120 beds, of which 40 beds are dedicated to ~~senile-dementia~~  
33 patients with dementia, and a home located in South Paris not to exceed 90 beds, of  
34 which 30 beds are dedicated to ~~senile-dementia~~ patients with dementia, may be  
35 constructed if federal Veterans' Administration funds are available to meet part of the  
36 costs of each facility for construction or operation. In addition, a home located in  
37 Machias not to exceed 60 beds may be constructed if federal Veterans' Administration

1 funds or funds from any other state, federal or private source are available to meet part of  
2 the costs of the facility for construction or operation, except that the Machias home may  
3 not begin operation prior to July 1, 1995 and the construction and funding of the Machias  
4 home may not in any way jeopardize the construction, funding or financial viability of  
5 any other home. The Maine Veterans' Homes also are authorized to provide nonnursing  
6 facility care and services to Maine veterans if approved by appropriate state and federal  
7 authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop  
8 the Machias home and any nonnursing facility care and services using any funds  
9 available for that purpose, except for the Augusta facility's funded depreciation account.  
10 The Maine Veterans' Homes are authorized to construct community-based outpatient  
11 clinics for Maine veterans in cooperation with the United States Department of Veterans  
12 Affairs and may construct and operate veterans hospice facilities, veterans housing  
13 facilities and other facilities authorized by the Board of Trustees of the Maine Veterans'  
14 Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for  
15 operating purposes from the funded depreciation accounts of the Maine Veterans' Homes  
16 must be reimbursed from any funds received by the Maine Veterans' Homes and available  
17 for that purpose. The primary purpose of the Maine Veterans' Homes is to provide  
18 support and care for honorably discharged veterans who served on active duty in the  
19 United States Armed Forces or who served in the Reserves of the United States Armed  
20 Forces on active duty for other than training purposes or are entitled to retired pay under  
21 10 United States Code, Chapter 1223 regardless of the age of such persons.

22

## PART B

23 **Sec. B-1. 3 MRSA §959, sub-§1, ¶F**, as amended by PL 2005, c. 397, Pt. C, §3  
24 is further amended to read:

25 F. The joint standing committee of the Legislature having jurisdiction over health  
26 and human services matters shall use the following list as a guideline for scheduling  
27 reviews:

28 (2) Office of Substance Abuse in 2005;

29 (3) Maine Advisory Committee on ~~Mental Retardation~~ Developmental Disability  
30 in 2007;

31 (6) Department of Health and Human Services in 2009;

32 (7) Board of the Maine Children's Trust Incorporated in 2011;

33 (9) Maine Developmental Disabilities Council in 2011.

34 **Sec. B-2. 4 MRSA §152, sub-§4**, as corrected by RR 2001, c. 2, Pt. A, §2, is  
35 amended to read:

36 **4. Exclusive jurisdiction.** Original jurisdiction, not concurrent with that of the  
37 Superior Court, of mental health commitment hearings under Title 34-B, chapter 3,  
38 subchapter 4, ~~mental retardation~~ developmental disability certification hearings under  
39 Title 34-B, chapter 5, habitual truancy actions under Title 20-A, chapters 119 and 211  
40 under which equitable relief may be granted and small claims actions under Title 14,  
41 chapter 738;



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Mental Health and	Maine	Per diem for	34-B MRSA §1223
<u>Mental</u>	Developmental	noncompensated	
<u>Retardation</u>	Services Oversight	members, as	
<u>Developmental</u>	and Advisory Board	specified by board	
<u>Disabilities</u>		rule or policy, and	
		expenses for all	
		members of the	
		board	

**Sec. B-8. 5 MRSA §20005, sub-§6**, as amended by PL 2007, c. 116, §§3 and 4, is further amended to read:

**6. Contracts and licensing.** Through the director:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services;

A-1. Administer all contracts with community service providers for the delivery of gambling addiction counseling services; and

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, community-based service providers and facilities that are private nonmedical institutions pursuant to section 20024 and subchapter 5.

The commissioner may delegate contract and licensing duties under this subsection to the Department of Health and Human Services, the Department of Corrections or other divisions of the department as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings are consolidated within the Department of Health and Human Services, that contracting for alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health and ~~mental-retardation~~ developmental disabilities facilities are consolidated within the department.

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

The commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

1           **Sec. B-9. 12 MRSA §10853, sub-§7, ¶A**, as repealed and replaced by PL 2005,  
2 c. 397, Pt. C, §10, is amended to read:

3           A. Clients of the Department of Health and Human Services who reside in licensed  
4 facilities for persons with ~~mental retardation~~ developmental disabilities or licensed  
5 facilities for the treatment of mental illness;

6           **Sec. B-10. 12 MRSA §10853, sub-§10**, as enacted by PL 2003, c. 414, Pt. A, §2  
7 and affected by c. 614, §9, is amended to read:

8           **10. Persons with developmental disabilities.** A complimentary license to fish must  
9 be issued to any person with ~~mental retardation~~ a developmental disability, as defined in  
10 Title 34-B, section 5001, subsection 3, upon application to the commissioner. The  
11 application must be accompanied by certified evidence that the applicant meets the  
12 defined condition. This complimentary license remains effective for the life of the  
13 license holder, if the license is not revoked or suspended.

14           **Sec. B-11. 15 MRSA §101-B, sub-§3**, as corrected by RR 1995, c. 2, §25 and  
15 amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §7, is further amended to  
16 read:

17           **3. Availability of reports.** The court may order that observations, interviews and  
18 investigative reports regarding the behavior of the defendant made by law enforcement  
19 officials be made available to the designated psychiatrist and licensed clinical  
20 psychologist of the State Forensic Service for the limited purpose of this examination. If  
21 the defendant is incarcerated, an initial examination to determine whether commitment to  
22 the custody of the Commissioner of Health and Human Services is necessary must be  
23 made within 90 days. If the defendant is incarcerated and it is determined that no long-  
24 term observation for the purpose of diagnosis is needed, the defendant's examinations  
25 must be completed within 30 days. If the examination by the designees can be completed  
26 without admission, a report of the results of the completed examination must be  
27 forwarded to the court without delay. If the designated examiners of the Commissioner  
28 of Health and Human Services determine that admission to an appropriate institution for  
29 the mentally ill or ~~mentally retarded~~ persons with developmental disabilities is necessary  
30 for complete examination, the examiners shall so notify the court, which may order the  
31 defendant committed to the custody of the Commissioner of Health and Human Services  
32 to be placed in an appropriate institution for the mentally ill or ~~the mentally retarded~~  
33 persons with developmental disabilities, to be there detained and observed by the  
34 superintendent, or the superintendent's delegate, and professional staff for a period of  
35 time not to exceed 60 days, for the purpose of ascertaining the mental condition of the  
36 defendant. When further detention for observation is determined no longer necessary by  
37 the State Forensic Service, the commissioner shall report this fact to the court. The court  
38 shall then order the person returned to the appropriate court for disposition; if the court  
39 ordering commitment for observation has provided for remand to the county jail  
40 following completion of the observation in the commitment order, the sheriff or any one  
41 or more of the sheriff's deputies shall execute the remand order upon advice from the  
42 commissioner of completion of the observation. A report of the results of the observation  
43 must be forwarded promptly to the court by the commissioner. Subsection 1 governs the  
44 distribution of reports of examination pursuant to this subsection.



1           **Sec. B-12. 15 MRSA §101-B, sub-§4, ¶A**, as amended by PL 2001, c. 634, §1  
2 and PL 2003, c. 689, Pt. B, §7, is further amended to read:

3           A. Commit the defendant to the custody of the Commissioner of Health and Human  
4 Services to be placed in an appropriate institution for the mentally ill or ~~the mentally~~  
5 retarded persons with developmental disabilities for observation, care and treatment.  
6 At the end of 30 days or sooner, and again in the event of recommitment, at the end  
7 of 60 days and one year, the State Forensic Service shall forward a report to the  
8 Commissioner of Health and Human Services relative to the defendant's competence  
9 to stand trial and its reasons therefor. The commissioner shall without delay file the  
10 report with the court having jurisdiction of the case. The court shall without delay set  
11 a date for and hold a hearing on the question of the defendant's competence to stand  
12 trial and receive all relevant testimony bearing on the question. If the court  
13 determines that the defendant is not competent to stand trial, but there does exist a  
14 substantial probability that the defendant will be competent to stand trial in the  
15 foreseeable future, it shall recommit the defendant to the custody of the  
16 Commissioner of Health and Human Services to be placed in an appropriate  
17 institution for the mentally ill or ~~the mentally retarded~~ persons with developmental  
18 disabilities for observation, care and treatment. If the defendant is charged with an  
19 offense under Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or  
20 803-A, and the court determines that the defendant is not competent to stand trial and  
21 there does not exist a substantial probability that the defendant can be competent in  
22 the foreseeable future, the court shall dismiss all charges against the defendant and  
23 order the Commissioner of Health and Human Services to commence involuntary  
24 commitment proceedings pursuant to Title 34-B, chapter 3, subchapter ~~IV~~ 4 or  
25 chapter 5, subchapter ~~III~~ 3. If the defendant is charged with offenses not listed in the  
26 previous sentence, and the court determines that the defendant is not competent to  
27 stand trial and there does not exist a substantial probability that the defendant can be  
28 competent in the foreseeable future, the court shall dismiss all charges against the  
29 defendant and notify the appropriate authorities who may institute civil commitment  
30 procedures for the individual; or

31           **Sec. B-13. 15 MRSA §103, first ¶**, as amended by PL 2005, c. 263, §1, is further  
32 amended to read:

33           When a court accepts a negotiated plea of not criminally responsible by reason of  
34 insanity or when a defendant is found not criminally responsible by reason of insanity by  
35 jury verdict or court finding, the judgment must so state. In those cases the court shall  
36 order the person committed to the custody of the Commissioner of Health and Human  
37 Services to be placed in an appropriate institution for the mentally ill or ~~the mentally~~  
38 retarded persons with developmental disabilities for care and treatment. Upon placement  
39 in the appropriate institution and in the event of transfer from one institution to another of  
40 persons committed under this section, notice of the placement or transfer must be given  
41 by the commissioner to the committing court.

42           **Sec. B-14. 17-A MRSA §253, sub-§2, ¶J**, as corrected by RR 2003, c. 2, §25, is  
43 amended to read:

1 J. The actor owns, operates or is an employee of an organization, program or  
2 residence that is operated, administered, licensed or funded by the Department of  
3 Health and Human Services and the other person, not the actor's spouse, receives  
4 services from the organization, program or residence and the organization, program  
5 or residence recognizes the other person as a person with ~~mental-retardation~~ a  
6 developmental disability. It is an affirmative defense to prosecution under this  
7 paragraph that the actor receives services for ~~mental-retardation~~ a developmental  
8 disability or is a person with ~~mental-retardation~~ a developmental disability as defined  
9 in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C  
10 crime.

11 **Sec. B-15. 17-A MRSA §255-A, sub-§1, ¶Q**, as corrected by RR 2003, c. 2,  
12 §26, is amended to read:

13 Q. The actor owns, operates or is an employee of an organization, program or  
14 residence that is operated, administered, licensed or funded by the Department of  
15 Health and Human Services and the other person, not the actor's spouse, receives  
16 services from the organization, program or residence and the organization, program  
17 or residence recognizes that other person as a person with ~~mental-retardation~~ a  
18 developmental disability. It is an affirmative defense to prosecution under this  
19 paragraph that the actor receives services for ~~mental-retardation~~ a developmental  
20 disability or is a person with ~~mental-retardation~~ a developmental disability as defined  
21 in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D  
22 crime;

23 **Sec. B-16. 17-A MRSA §255-A, sub-§1, ¶R**, as corrected by RR 2003, c. 2,  
24 §26, is amended to read:

25 R. The actor owns, operates or is an employee of an organization, program or  
26 residence that is operated, administered, licensed or funded by the Department of  
27 Health and Human Services and the other person, not the actor's spouse, receives  
28 services from the organization, program or residence and the organization, program  
29 or residence recognizes that other person as a person with ~~mental-retardation~~ a  
30 developmental disability and the sexual contact includes penetration. It is an  
31 affirmative defense to prosecution under this paragraph that the actor receives  
32 services for ~~mental-retardation~~ a developmental disability or is a person with ~~mental~~  
33 ~~retardation~~ a developmental disability as defined in Title 34-B, section 5001,  
34 subsection 3. Violation of this paragraph is a Class C crime;

35 **Sec. B-17. 17-A MRSA §260, sub-§1, ¶I**, as amended by PL 2005, c. 450, §3, is  
36 further amended to read:

37 I. The actor owns, operates or is an employee of an organization, program or  
38 residence that is operated, administered, licensed or funded by the Department of  
39 Health and Human Services and the other person, not the actor's spouse, receives  
40 services from the organization, program or residence and the organization, program  
41 or residence recognizes that other person as a person with ~~mental-retardation~~ a  
42 developmental disability. It is an affirmative defense to prosecution under this  
43 paragraph that the actor receives services for ~~mental-retardation~~ a developmental  
44 disability or is a person with ~~mental-retardation~~ a developmental disability as defined

1 in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D  
2 crime;

3 **Sec. B-18. 18-A MRSA §5-601, sub-§(a)**, as enacted by PL 1979, c. 540, §1, is  
4 amended to read:

5 (a). In any case in which a guardian or conservator may be appointed by the court  
6 under this Article, the court may appoint a public guardian or conservator as provided in  
7 this Part for persons ~~who are mentally retarded~~ with developmental disabilities and for  
8 incapacitated persons as defined in section 5-101, paragraph (1), who are in need of  
9 protective services.

10 **Sec. B-19. 18-A MRSA §5-601, sub-§(b)**, as amended by PL 2005, c. 397, Pt.  
11 A, §12, is further amended to read:

12 (b). The Department of Health and Human Services shall act as the public guardian  
13 or conservator for persons with ~~mental retardation~~ developmental disabilities and for  
14 other incapacitated persons in need of protective services.

15 **Sec. B-20. 18-A MRSA §5-606, sub-§(a)**, as amended by PL 1995, c. 560, Pt.  
16 K, §5 and affected by §83 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt.  
17 B, §§6 and 7, is further amended to read:

18 (a). When the Department of Health and Human Services is appointed public  
19 guardian or conservator of a person with ~~mental retardation~~ a developmental disability,  
20 the authority of the public guardian or conservator must be exercised by the  
21 Commissioner of Health and Human Services and by any persons duly delegated by the  
22 commissioner to exercise such authority.

23 **Sec. B-21. 18-A MRSA §5-608**, as amended by PL 1995, c. 395, Pt. G, §6 and  
24 affected by §20, is further amended to read:

25 **§5-608. Determination of need for guardianship of persons with developmental**  
26 **disabilities in institutions and residence facilities**

27 Whenever a ~~mentally retarded~~ minor with a developmental disability has been  
28 admitted to a state-operated institution or residence facility for ~~the mentally retarded~~  
29 persons with developmental disabilities, and has not been discharged from the institution  
30 or residence facility, the head of the institution or residence facility shall, within 6 months  
31 prior to the 18th birthday of ~~such mentally retarded~~ that person, cause the ~~mentally~~  
32 ~~retarded~~ person with a developmental disability to be examined to ascertain whether such  
33 person will, by reason of ~~mental retardation~~ a developmental disability, be in need of  
34 guardianship on attainment of ~~the mentally retarded~~ that person's majority. If, in the  
35 opinion of the examiner such need will exist, the institutional or residence facility head  
36 may advise in writing the parent, next of kin, or guardian of such minor of the need to  
37 institute proceedings for appointment of a guardian. In the event no guardian has been  
38 appointed, or no guardianship proceedings are pending when such minor has attained age  
39 18, or the institutional or residence facility head has determined that nomination of the  
40 public guardian is advisable in lieu of petition for guardianship by any of such persons,

1 such institutional or residence facility head shall nominate the public guardian to serve as  
2 guardian of ~~such mentally-retarded~~ the person with a developmental disability.

3 Prior to release of any ~~mentally-retarded~~ person with a developmental disability from  
4 a state-operated institution or residence facility for the ~~mentally-retarded~~ person's, the  
5 head of the institution or residence facility shall cause such person to be examined to  
6 ascertain whether such person will, by reason of ~~mental-retardation~~ a developmental  
7 disability, be in need of guardianship upon release from such institution or residence  
8 facility, and if in the opinion of such examiner such need will exist upon release, the  
9 institutional or residence facility head may advise in writing the parent or next of kin of  
10 ~~such mentally-retarded~~ that person of the need to institute proceedings for appointment of  
11 a guardian. If neither the parent nor next of kin is willing to institute proceedings for the  
12 appointment of a guardian for ~~such mentally-retarded~~ that person, or the institutional or  
13 residence facility head has determined that nomination of the public guardian is advisable  
14 in lieu of petition for guardianship by any of such persons, the institutional or residence  
15 facility head shall, prior to the release of ~~such mentally-retarded~~ that person, nominate the  
16 public guardian.

17 **Sec. B-22. 18-A MRSA §5-609**, as enacted by PL 1979, c. 540, §1, is amended to  
18 read:

19 **§5-609. No change in rights to services**

20 The appointment of a public guardian or conservator in no way enlarges or  
21 diminishes the ward's or protected person's right to services made available to all  
22 ~~mentally-retarded~~ persons with developmental disabilities or incapacitated persons in the  
23 State except for the provision of guardianship or conservatorship services as provided  
24 under this Article.

25 **Sec. B-23. 18-A MRSA §5-613, sub-§(2)**, as amended by PL 1993, c. 410, Pt.  
26 CCC, §6 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

27 **(2).** The Division of ~~Mental-Retardation~~ Developmental Disabilities or the  
28 Department of Health and Human Services is not liable for the costs set out in subsection  
29 (1) if the division or the department can demonstrate that the allegedly incapacitated  
30 person has assets against which the costs may be assessed or that another more  
31 appropriate funding source is available and subject to the court's jurisdiction.

32 **Sec. B-24. 19-A MRSA §701, sub-§3**, as enacted by PL 1995, c. 694, Pt. B, §2  
33 and affected by Pt. E, §2, is amended to read:

34 **3. Persons under disability.** A person who is impaired ~~by reason of~~ because the  
35 person has a mental illness or ~~mental-retardation~~ a developmental disability to the extent  
36 that that person lacks sufficient understanding or capacity to make, communicate or  
37 implement responsible decisions concerning that person's property or person is not  
38 capable of contracting marriage. For the purposes of this section:

39 A. "Mental illness" means a psychiatric or other disease that substantially impairs a  
40 person's mental health; and

1 B. "~~Mental retardation~~ Developmental disability" means a condition of significantly  
2 subaverage intellectual functioning resulting in or associated with concurrent  
3 impairments in adaptive behavior and manifested during the developmental period.

4 **Sec. B-25. 20-A MRSA §7001, sub-§1-B, ¶B**, as enacted by PL 2005, c. 662,  
5 Pt. A, §15, is amended to read:

6 B. For children at least 3 years of age and under 20 years of age evaluated in  
7 accordance with the federal Individuals with Disabilities Education Act, 20 United  
8 States Code, Section 1414, subsections (a) to (c) as measured by both standardized,  
9 norm-referenced diagnostic instruments and appropriate procedures with delays or  
10 impairments such that the children need special education:

11 (1) A child at least 3 years of age and under 6 years of age with a significant  
12 developmental delay, at the discretion of the intermediate educational unit or  
13 school administrative unit, as defined in rules adopted by the department, in one  
14 or more of the following areas: cognitive development; physical development,  
15 including vision and hearing; communication development; social or emotional  
16 development; adaptive development; or

17 (2) A child with at least one of the following:

18 (a) ~~Mental retardation~~ A developmental disability;

19 (b) Hearing impairment, including deafness;

20 (c) Speech or language impairment;

21 (d) Visual impairment, including blindness;

22 (e) Serious emotional disturbance;

23 (f) Orthopedic impairment;

24 (g) Autism;

25 (h) Traumatic brain injury;

26 (i) Other health impairment;

27 (j) Specific learning disabilities;

28 (k) Deafness and blindness; and

29 (l) Multiple disabilities.

30 **Sec. B-26. 20-A MRSA §7258, sub-§1-A**, as enacted by PL 1997, c. 778, §1 and  
31 amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to  
32 read:

33 **1-A. Case manager.** Within 2 years before the date that a student with ~~mental~~  
34 ~~retardation~~, a serious emotional disturbance or other a developmental disabilities  
35 disability will graduate or finish school, the Department of Health and Human Services,  
36 in consultation with the pupil evaluation team of the school administrative unit, shall  
37 designate a case manager to participate in transition planning for that student. The case  
38 manager shall convene an adult services transition team, ensure interagency coordination

1 and access to adult services, serve as a single contact person for the student transitioning  
2 into the adult services and attend pupil evaluation team meetings or provide relevant  
3 information to the pupil evaluation team for transition planning purposes.

4 **Sec. B-27. 20-A MRSA §7258, sub-§1-B**, as enacted by PL 1997, c. 778, §1 and  
5 amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to  
6 read:

7 **1-B. Annual report.** Beginning January 1, 1999 and annually thereafter, the  
8 department, in conjunction with the Department of Health and Human Services, shall  
9 report to the joint standing committee of the Legislature having jurisdiction over health  
10 and human services matters and to the joint standing committee of the Legislature having  
11 jurisdiction over appropriations and financial affairs regarding transition planning for the  
12 adult services system and the number of persons 16 years of age or older on waiting lists  
13 for services for persons with autism or ~~mental retardation~~ developmental disabilities  
14 provided by or under the authority of the department and the Department of Health and  
15 Human Services.

16 **Sec. B-28. 20-A MRSA §7804, sub-§1-A**, as amended by PL 2007, c. 539, Pt.  
17 JJJJ, §8, is further amended to read:

18 **1-A. Grants.** The committee, as established in section 7803, may provide funds to  
19 support the effective delivery of services to handicapped youth in transition by  
20 coordinating existing programs, when possible, and establishing a mechanism for  
21 ongoing coordination of programs for handicapped youths in transition at a local or  
22 regional level, including local educational agencies, community mental health centers,  
23 regional ~~mental retardation~~ developmental disability services, regional rehabilitation  
24 programs and other public and private agencies as appropriate. Each project must  
25 establish a method to identify unserved and underserved handicapped youths in transition  
26 and develop services for these youths.

27 **Sec. B-29. 22 MRSA §42, sub-§1-A**, as amended by PL 1983, c. 284, §1, is  
28 further amended to read:

29 **1-A. Administration of medication.** The administration of medication in boarding  
30 care facilities, drug treatment centers, day care facilities, children's homes and nursery  
31 schools and group home intermediate care facilities for ~~the mentally retarded~~ shall  
32 persons with developmental disabilities must be in accordance with rules established by  
33 the department. In other facilities licensed or approved by the department, excluding  
34 those facilities licensed under section 1811, other than group home intermediate care  
35 facilities for ~~the mentally retarded~~ persons with developmental disabilities, the  
36 department may establish rules for the administration of medication as it ~~deems~~  
37 determines necessary. In establishing rules for each type of facility, the department shall  
38 consider, among other factors, the general health of the persons likely to receive  
39 medication, the number of persons served by the facility and the number of persons  
40 employed at the facility who might be involved in the administration of medication. Any  
41 rules for the administration of medication shall must be established in accordance with  
42 the Maine Administrative Procedure Act, Title 5, chapter 375.

1           **Sec. B-30. 22 MRSA §802, sub-§4-A, ¶A**, as enacted by PL 2001, c. 185, §2, is  
2 amended to read:

3           A. "Designated health care facility" means a licensed nursing facility, residential care  
4 facility, intermediate care facility for ~~the mentally retarded~~ persons with  
5 developmental disabilities, multi-level health care facility, hospital or home health  
6 agency.

7           **Sec. B-31. 22 MRSA §812, sub-§1, ¶G**, as amended by PL 2005, c. 383, §12, is  
8 further amended to read:

9           G. Undergoing a comprehensive medical assessment by the State Forensic Service.  
10 The court, in selecting the examination site, shall consider proximity to the court,  
11 availability of an examiner and the need to protect the public health. No person may  
12 be presented for examination under this subsection without arrangements for  
13 examination having first been made by the court, clerk of the court or the petitioner  
14 with the State Forensic Service. The opinion of the State Forensic Service must be  
15 reported to the court forthwith following the examination.

16 The court shall order the individual to be further examined by a psychiatrist,  
17 neurologist and any additional expert if, based on the report of the State Forensic  
18 Service, it appears that:

19           (1) The individual suffers from a mental disease or defect that causes the  
20 individual to act in such a manner as to endanger others with risk of infection  
21 with a communicable disease; or

22           (2) Further observation or examination is required.

23 If, based on the examinations, the department determines that admission to an  
24 appropriate institution for the mentally ill or ~~mentally retarded~~ persons with  
25 developmental disabilities is necessary, it shall petition for involuntary  
26 hospitalization pursuant to Title 34-B, chapter 3. If the District Court orders the  
27 involuntary hospitalization of the individual pursuant to Title 34-B, chapter 3, the  
28 petition brought pursuant to section 811 must be dismissed without prejudice. If it is  
29 determined that admission to an appropriate institution for the mentally ill or ~~the~~  
30 ~~mentally retarded~~ persons with developmental disabilities is not necessary, the head  
31 of the institution where the examinations have taken place shall notify the  
32 commissioner or the commissioner's designee, prior to discharging the respondent.

33 In no event may the period of examination pursuant to this subsection exceed 60 days  
34 without further order by the court, which may extend commitment for further  
35 observation or examination for an additional 60 days, provided that the court finds  
36 facts sufficient to show that the individual suffers from a mental disease or defect that  
37 causes the individual to act in such a manner as to endanger others with risk of  
38 infection with a communicable disease; and

39           **Sec. B-32. 22 MRSA §1714-A, sub-§1, ¶F**, as enacted by PL 1991, c. 9, Pt. G,  
40 §4, is amended to read:

1 F. "Nursing home" means any facility that meets the definition of section 1812-A,  
2 including an intermediate care facility for ~~the mentally retarded~~ persons with  
3 developmental disabilities.

4 **Sec. B-33. 22 MRSA §1812-B**, as amended by PL 1983, c. 284, §2, is further  
5 amended to read:

6 **§1812-B. Hospitals and nursing homes**

7 The administration of medication in facilities licensed under section 1811, except  
8 group home intermediate care facilities for ~~the mentally retarded~~ persons with  
9 developmental disabilities, may be delegated to unlicensed personnel when such  
10 personnel have received appropriate training and instruction and the programs of training  
11 and instruction have been approved by the State Board of Nursing. The administration of  
12 medication in group home intermediate care facilities for ~~the mentally retarded~~ persons  
13 with developmental disabilities may be performed by unlicensed personnel when these  
14 personnel have received appropriate training and instruction and the programs of training  
15 and instruction have been approved by the department. Delegation of the administration  
16 of medication ~~shall~~ may not require the personal presence of the delegating professional  
17 nurse at the place where this service is performed, unless that personal presence is  
18 necessary to ~~assure~~ ensure that medications are safely administered. The board shall issue  
19 such rules concerning delegation as it ~~deems~~ determines necessary to ~~insure~~ ensure the  
20 highest quality of health care to the patient. The department shall issue such rules as it  
21 ~~deems~~ considers necessary to ~~insure~~ ensure the highest quality of health care to residents  
22 of group home intermediate care facilities for ~~the mentally retarded~~ persons with  
23 developmental disabilities.

24 **Sec. B-34. 22 MRSA §1826, sub-§2, ¶B**, as enacted by PL 1985, c. 291, §1, is  
25 amended to read:

26 B. Each contract or agreement ~~shall~~ must contain a complete copy of the department  
27 rules establishing residents' rights and ~~shall contain~~ a written acknowledgement that  
28 the resident has been informed of those rights. In the case of a ~~mentally retarded~~  
29 person with a developmental disability or an otherwise incompetent individual, the  
30 written acknowledgement of those rights ~~shall~~ must be made by a representative of  
31 the resident. No provision in the contract or agreement may negate, limit or  
32 otherwise modify any provision of the residents' rights.

33 **Sec. B-35. 22 MRSA §2053, sub-§2-A**, as repealed and replaced by PL 1995, c.  
34 179, §1, is amended to read:

35 **2-A. Community health or social service facility.** "Community health or social  
36 service facility" means a community-based facility that provides medical or medically  
37 related diagnostic or therapeutic services, mental health or ~~mental retardation~~  
38 developmental disability services, substance abuse services or family counseling and  
39 domestic abuse intervention services, and is licensed by the State.



1           **Sec. B-36. 22 MRSA §3172-B, sub-§1**, as amended by PL 1981, c. 493, §2 and  
2 PL 1995, c. 560, Pt. K, §82 and affected by §83 and amended by PL 2001, c. 354, §3 and  
3 PL 2003, c. 689, Pt. B, §6, is further amended to read:

4           **1. Fund.** All moneys received by the department under section 3172 ~~which that~~ are  
5 generated by services rendered at any of the mental health and ~~mental-retardation~~  
6 developmental disability institutions operated by that department ~~shall~~ must be credited to  
7 the General Fund.

8           **Sec. B-37. 22 MRSA §3172-B, sub-§4**, as amended by PL 1979, c. 293, Pt. B,  
9 §1, is further amended to read:

10           **4. Budget.** Those mental health and ~~mental-retardation~~ developmental disability  
11 programs receiving legislative approval for funding for fiscal year 1979 ~~shall~~ must be  
12 considered current services by the Bureau of the Budget.

13           **Sec. B-38. 22 MRSA §3174-I, sub-§2**, as amended by PL 1993, c. 410, Pt. FF,  
14 §12, is further amended to read:

15           **2. Assessment for mental health diagnosis or developmental disability.** The  
16 department shall assess every applicant to a nursing facility to screen for ~~mental~~  
17 ~~retardation~~ developmental disability and mental illness in accordance with the Federal  
18 Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, Section 4211. Such  
19 assessments are intended to increase the probability that any individual who is ~~mentally~~  
20 ~~retarded~~ developmentally disabled or mentally ill will receive active treatment for that  
21 individual's ~~mental~~ condition.

22           **Sec. B-39. 22 MRSA §3186, last ¶**, as enacted by PL 1987, c. 869, §1, is  
23 amended to read:

24           Principles of reimbursement established for intermediate care facilities for ~~the~~  
25 ~~mentally-retarded~~ persons with developmental disabilities must be amended to  
26 implement the recommendations of the Advisory Committee on Staff Retention. These  
27 amendments ~~shall~~ become effective on April 1, 1989.

28           **Sec. B-40. 22 MRSA §3187**, as amended by PL 2003, c. 684, §1, is further  
29 amended to read:

30           **§3187. Principles of reimbursement; rules**

31           The department shall meet annually with providers of community-based intermediate  
32 care facilities for ~~the mentally-retarded~~ persons with developmental disabilities to review  
33 current principles of reimbursement under the federal Social Security Act, Title XIX, 42  
34 United States Code, Chapter 7, and discuss necessary and appropriate changes.

35           Principles of reimbursement established for intermediate care facilities for ~~the~~  
36 ~~mentally-retarded~~ persons with developmental disabilities must ensure maximum  
37 flexibility enabling facilities to shift variable cost funds within accounts established

1 pursuant to the principles. These principles may not set any artificial limits on specific  
2 variable cost accounts as long as facility totals are met.

3 Rules regarding principles of reimbursement for intermediate care facilities for ~~the~~  
4 mentally-retarded persons with developmental disabilities adopted pursuant to section  
5 3173 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

6 **Sec. B-41. 22 MRSA §3573, sub-§1, ¶B,** as enacted by PL 2003, c. 602, §1, is  
7 amended to read:

8 B. "Mental and physical impairments" include, but are not limited to, the following  
9 conditions: ~~mental-retardation~~ developmental disability, autism, cerebral palsy,  
10 Asperger syndrome, mental illness, Prader-Willi syndrome and epilepsy.

11 **Sec. B-42. 22 MRSA §5104, sub-§5-A,** as enacted by PL 1989, c. 329, §9, is  
12 amended to read:

13 **5-A. Dependent adult.** "Dependent adult" means any adult who is wholly or  
14 partially dependent upon one or more other persons for care or support, either emotional  
15 or physical, and who would be in danger if that care or support were withdrawn. For the  
16 purpose of this Part only, the term "dependent adult" excludes any adult ~~who is mentally~~  
17 retarded with a developmental disability.

18 **Sec. B-43. 22 MRSA §5104, sub-§7-A,** as enacted by PL 1989, c. 329, §12, is  
19 amended to read:

20 **7-A. Incapacitated adult.** "Incapacitated adult" means any adult who is impaired  
21 by reason of mental illness, mental deficiency, physical illness or disability to the extent  
22 that the adult lacks sufficient understanding or capacity to make or communicate  
23 responsible decisions concerning that individual's person, or to the extent the adult cannot  
24 effectively manage or apply that individual's estate to necessary ends. For the purpose of  
25 this Part only, the term "incapacitated adult" excludes any adult ~~who is mentally-retarded~~  
26 with a developmental disability.

27 **Sec. B-44. 22 MRSA §5106, sub-§11-B,** as amended by PL 2003, c. 653, §21, is  
28 further amended to read:

29 **11-B. Adult protective services.** Administer a program of protective services as  
30 provided in chapter 958-A designed to protect incapacitated and dependent adults, other  
31 than adults ~~who are mentally-retarded with developmental disabilities~~, from abuse,  
32 neglect, exploitation and physical danger. The program is described in the Adult  
33 Protective Services Act;

34 **Sec. B-45. 22 MRSA §5310, sub-§9,** as enacted by PL 1973, c. 793, §12, is  
35 amended to read:

36 **9. Continuing evaluation.** Carry on a continuing evaluation of the social services  
37 programs and activities affecting ~~Maine's~~ the State's residents, to determine the needs and  
38 priorities for types of social services; the types of services available; the number, location  
39 and characteristics of people served by each type of service; the amount, type and source

1 of resources supporting types of services, the administrative adequacy and capacity of  
2 social service agencies; and the quality and quantity of types of social services; as well as  
3 to determine the value and impact of programs operated by or administered with the  
4 assistance of the State and Federal Governments; including social services as authorized  
5 by this and the several Acts and amendments to them enacted by the People of the State  
6 of Maine; and those authorized by these United States Acts and amendments to them; the  
7 federal Social Security Act of 1935, the federal Economic Opportunity Act of 1965, and  
8 similar Acts. Such human services to be included, but to which the bureau ~~shall~~ may not  
9 be limited, are those relating to education, employment and vocational services, income,  
10 health, housing, community, mental health, ~~mental retardation~~ developmental disability,  
11 social, transportation and rehabilitation services for people, except older people.  
12 Maintaining statistical information through use of uniform methods, which are  
13 reasonable, feasible and economically efficient, ~~shall~~ must be specified for use by public  
14 and private agencies, organizations and individuals assisted by state or federal funds  
15 pursuant to this Part;

16 **Sec. B-46. 22 MRSA §6110, 4th ¶**, as repealed and replaced by PL 1975, c. 523,  
17 §1, is amended to read:

18 Services for ~~the Mentally Retarded~~ persons with developmental disabilities;

19 **Sec. B-47. 22 MRSA §6111, sub-§4**, as amended by PL 1977, c. 317, §3, is  
20 further amended to read:

21 **4. Maximum state share of cost.** State funds appropriated for priority social  
22 services may be used to pay a portion of expenditures under each agreement for each type  
23 of social service in an amount not to exceed the maximum percentage for state funds of  
24 100% of the total expenditures for each type of priority social service as specified below.  
25 One hundred percent funding ~~shall~~ must be available for not more than 2 years  
26 consecutively or in total. State funds appropriated for priority social services may be  
27 used to pay a portion of expenditures under each agreement for each type of social  
28 service in an amount not to exceed the maximum percentage for state funds of the total  
29 expenditures for each type of priority social service as specified below when programs  
30 have been funded for a total of 2 years, consecutively or in total. The maximum  
31 percentage of state funds of the total expenditures for each type of service ~~shall~~ may not  
32 exceed:

33 75% for homemaker service;

34 75% for developmental day care, including family day care;

35 75% for services for ~~the mentally retarded~~ persons with developmental disabilities;

36 75% for meals for older people;

37 75% for mental health services;

38 75% for transportation services;

39 75% for health and home care needs for the elderly.

1           **Sec. B-48. 22 MRSA §6111, sub-§5**, as amended by PL 1981, c. 608, §3, is  
2 further amended to read:

3           **5. Maximum use of nonstate resources.** State funds paying a portion only of  
4 expenditures for priority social services ~~shall be~~ are valid only when "earned" or  
5 "matched" by expenditure of nonstate resources ~~which~~ that may be cash or in-kind. The  
6 expenditure of such resource ~~shall~~ must be in an amount at least equal to the minimum  
7 percentage for nonstate resources of the total expenditures for each type of priority social  
8 services as specified below. The minimum percentage for nonstate resources of the total  
9 expenditures for each type of service ~~shall~~ must be:

10           25% for homemaker service;

11           25% for developmental day care, including family day care;

12           25% for services for ~~the mentally retarded~~ persons with developmental disabilities;

13           25% for meals for older people;

14           25% for mental health services;

15           25% for transportation services;

16           25% for health and home care needs for the elderly.

17           Nonstate resources authorized to qualify to earn or match state funds ~~shall~~ include private  
18 funds such as gifts, grants, fees for service or contributions; in-kind resources that are  
19 actual out-of-pocket expenditures; or actual loss of revenue related directly and  
20 essentially as an integral part of the operation of a priority social service; and public  
21 revenues such as municipal taxes, a municipal or county amount of federal revenue  
22 sharing funds, other appropriate federal resources and state revenue sharing funds and  
23 such other public resources as may be received by, generated by or available to a  
24 municipal or county government or other political subdivision or quasi-governmental  
25 bodies.

26           **Sec. B-49. 22 MRSA §7302, sub-§6**, as amended by PL 2001, c. 596, Pt. B, §10  
27 and affected by §25, is further amended to read:

28           **6. Institutional settings.** "Institutional settings" means residential care facilities,  
29 licensed pursuant to chapter 1664; intermediate care and skilled nursing facilities and  
30 units and hospitals, licensed pursuant to chapter 405; and state institutions for individuals  
31 who are mentally ill or ~~mentally retarded~~ developmentally disabled or who have related  
32 conditions.

33           **Sec. B-50. 22 MRSA §7942, sub-§7**, as amended by PL 2003, c. 634, §8, is  
34 further amended to read:

35           **7. State licensing rules.** "State licensing rules" refers to the department's rules  
36 governing the licensing and functioning of nursing facilities, intermediate care facilities  
37 for persons with ~~mental retardation~~ developmental disabilities and assisted living  
38 programs or residential care facilities.

1           **Sec. B-51. 22-A MRSA §203, sub-§1, ¶C**, as enacted by PL 2003, c. 689, Pt. A,  
2 §1, is amended to read:

3           C. ~~Mental retardation and developmental~~ Developmental disability services;

4           **Sec. B-52. 22-A MRSA §206, sub-§4**, as enacted by PL 2007, c. 539, Pt. N, §45,  
5 is amended to read:

6           **4. Grievance procedures.** The commissioner shall establish procedures for hearing  
7 grievances of clients who receive mental health services or ~~mental retardation~~  
8 developmental disability services or of children who receive behavioral health services.  
9 The procedures must include the opportunity for a timely hearing before a state hearing  
10 examiner or an independent fair hearing examiner. The commissioner may contract for  
11 the services of the hearing examiner, who shall conduct adjudicatory proceedings  
12 pursuant to the Maine Administrative Procedure Act.

13           **Sec. B-53. 22-A MRSA §207, sub-§7**, as enacted by PL 2007, c. 539, Pt. N, §46,  
14 is amended to read:

15           **7. Contracts with health care servicing entities.** The commissioner may enter into  
16 contracts with health care servicing entities for the financing, management and oversight  
17 of the delivery of mental health, ~~mental retardation~~ developmental disability and  
18 substance abuse services to clients pursuant to a state or federally sponsored health  
19 program in which the department participates or that the department administers. For the  
20 purposes of this subsection, "health care servicing entity" means a partnership,  
21 association, corporation, limited liability company or other legal entity that enters into a  
22 contract with the State to provide or arrange for the provision of a defined set of health  
23 care services; to assume responsibility for some aspects of quality assurance, utilization  
24 review, provider credentialing and provider relations or other related network  
25 management functions; and to assume financial risk for provision of such services to  
26 clients through capitation reimbursement or other risk-sharing arrangements. "Health  
27 care servicing entity" does not include insurers or health maintenance organizations. In  
28 contracting with health care servicing entities, the commissioner:

29           A. Shall include in all contracts with the health care servicing entities standards,  
30 developed in consultation with the Superintendent of Insurance, to be met by the  
31 contracting entity in the areas of financial solvency, quality assurance, utilization  
32 review, network sufficiency, access to services, network performance, complaint and  
33 grievance procedures and records maintenance;

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

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

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

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

8 **Sec. B-54. 30-A MRSA §1561, sub-§1, ¶E**, as enacted by PL 1995, c. 201, §1,  
9 is amended to read:

10 E. Is an inpatient at a state-funded mental health or ~~mental-retardation~~ developmental  
11 disability facility;

12 **Sec. B-55. 30-A MRSA §4349-A, sub-§1, ¶C**, as amended by PL 2001, c. 613,  
13 §2, is further amended to read:

14 C. Areas other than those described in paragraph A or B for the following projects:

15 (1) A project certified to the Land and Water Resources Council established in  
16 Title 5, section 3331 by the head of the agency funding the project as necessary  
17 to remedy a threat to public health or safety or to comply with environmental  
18 clean-up laws;

19 (2) A project related to a commercial or industrial activity that, due to its  
20 operational or physical characteristics, typically is located away from other  
21 development, such as an activity that relies on a particular natural resource for its  
22 operation;

23 (3) An airport, port or railroad or industry that must be proximate to an airport, a  
24 port or a railroad line or terminal;

25 (4) A pollution control facility;

26 (5) A project that maintains, expands or promotes a tourist or cultural facility  
27 that is required to be proximate to a specific historic, natural or cultural resource  
28 or a building or improvement that is related to and required to be proximate to  
29 land acquired for a park, conservation, open space or public access or to an  
30 agricultural, conservation or historic easement;

31 (6) A project located in a municipality that has none of the geographic areas  
32 described in paragraph A or B and that prior to January 1, 2000 formally  
33 requested but had not received from the office funds to assist with the preparation  
34 of a comprehensive plan or that received funds to assist with the preparation of a  
35 comprehensive plan within the previous 2 years. This exception expires for a  
36 municipality 2 years after such funds are received;

37 (7) A housing project serving the following: individuals with mental illness,  
38 ~~mental-retardation~~, developmental disabilities, physical disabilities, brain injuries,  
39 substance abuse problems or a human immunodeficiency virus; homeless  
40 individuals; victims of domestic violence; foster children; or children or adults in

1 the custody of the State. A nursing home is not considered a housing project  
2 under this paragraph; or

3 (8) A project certified to the Land and Water Resources Council established in  
4 Title 5, section 3331 by the head of the agency funding the project as having no  
5 feasible location within an area described in paragraph A or B if, by majority  
6 vote of all members, the Land and Water Resources Council finds that  
7 extraordinary circumstances or the unique needs of the agency require state funds  
8 for the project. The members of the Land and Water Resources Council may not  
9 delegate their authority under this subparagraph to the staffs of their member  
10 agencies.

11 **Sec. B-56. 30-A MRSA §4722, sub-§2, ¶C**, as amended by PL 1991, c. 511, Pt.  
12 B, §1 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

13 C. Any nursing home or related institution licensed or subject to license by the  
14 Department of Health and Human Services under Title 22, section 1817, except  
15 intermediate care facilities for ~~the mentally retarded~~ persons with developmental  
16 disabilities and persons with related conditions or the construction, substantial  
17 rehabilitation or improvement of homeless shelter facilities that may be related to an  
18 institution licensed or subject to license by the Department of Health and Human  
19 Services under Title 22, section 1817.

20 **Sec. B-57. 32 MRSA §63-A, sub-§1**, as amended by PL 2007, c. 402, Pt. E, §1,  
21 is further amended to read:

22 **1. Membership.** The Nursing Home Administrators Licensing Board, as established  
23 by Title 5, section 12004-A, subsection 23, consists of 7 members appointed by the  
24 Governor. The members must be residents of this State. One member must be a  
25 registered nurse with not less than 5 years of active practice in nursing homes in the State.  
26 Two members must be public members as defined in Title 5, section 12004-A. Three  
27 members must be administrators of nursing homes with not less than 5 years of active  
28 experience in the State. One member must be an administrator of an intermediate care  
29 facility for ~~the mentally retarded~~ persons with developmental disabilities with not less  
30 than 5 years of active practice in that capacity.

31 **Sec. B-58. 34-A MRSA §1206, sub-§1, ¶D**, as enacted by PL 1983, c. 459, §6,  
32 is amended to read:

33 D. "Human service" means any alcoholism, children's community action,  
34 corrections, criminal justice, developmental disability, donated food, education,  
35 elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal,  
36 medical care, mental health, ~~mental retardation~~ developmental disability, poverty,  
37 public assistance, rehabilitation, social, substance abuse, transportation, welfare or  
38 youth service operated by a community agency under an agreement financially  
39 supporting the service, wholly or in part, by funds authorized for expenditure for the  
40 department.

41 **Sec. B-59. 34-A MRSA §3031, sub-§2, ¶A**, as amended by PL 1995, c. 462, Pt.  
42 D, §6, is further amended to read:

1 A. A client is exempt from payment of medical and dental services fees and fees for  
2 prescriptions, medication or prosthetic devices when the client:

3 (1) Receives treatment initiated by facility staff;

4 (2) Is a juvenile;

5 (3) Is pregnant;

6 (4) Is seriously mentally ill or developmentally disabled. For the purposes of  
7 this paragraph, "seriously mentally ill" or "developmentally disabled" means a  
8 client who, as a result of a mental disorder or developmental disability, exhibits  
9 emotional or behavioral functioning that is so impaired as to interfere  
10 substantially with the client's capacity to remain in the general prison population  
11 without supportive treatment or services of a long-term or indefinite duration, as  
12 determined by the facility's psychiatrist or psychologist;

13 (5) Is an inpatient at a state-funded mental health or ~~mental-retardation~~  
14 developmental disability facility;

15 (6) Is undergoing follow-up treatment;

16 (7) Receives emergency treatment as determined by the facility's medical or  
17 dental staff; or

18 (8) Has less than \$15 in the client's facility account and did not receive  
19 additional money from any source for 6 months following the medical or dental  
20 service or provision of the prescription, medication or prosthetic device.

21 **Sec. B-60. 34-B MRSA §1208, sub-§1, ¶D**, as enacted by PL 1983, c. 459, §7,  
22 is amended to read:

23 D. "Human service" means any alcoholism, children's community action,  
24 corrections, criminal justice, developmental disability, donated food, education,  
25 elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal,  
26 medical care, mental health, ~~mental-retardation~~, poverty, public assistance,  
27 rehabilitation, social, substance abuse, transportation, welfare or youth service  
28 operated by a community agency under an agreement financially supporting the  
29 service, wholly or in part, by funds authorized for expenditure by the department.

30 **Sec. B-61. 34-B MRSA §1208, sub-§1, ¶H**, as enacted by PL 2003, c. 673, Pt.  
31 SSS, §1, is amended to read:

32 H. "Service provider" means a community agency providing services for children  
33 with mental health needs, ~~mental-retardation~~ developmental disabilities and autism.

34 **Sec. B-62. 34-B MRSA §1208, sub-§7**, as enacted by PL 1999, c. 401, Pt. SS, §1  
35 and affected by §4, is amended to read:

36 **7. Community agency staff retention.** The commissioner shall, through contracts  
37 and service agreements with community agencies, provide funding to retain qualified  
38 direct-care workers employed by community ~~mental-retardation~~ developmental disability  
39 services providers.



1           **Sec. B-63. 34-B MRSA §1216, sub-§1**, as amended by PL 1995, c. 560, Pt. K,  
2 §22, is further amended to read:

3           **1. Responsibilities.** The Consumer Advisory Board, as established by the  
4 community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C  
5 (D. Me., September 28, 1994), functions as an independent oversight body that carries out  
6 responsibilities pursuant to this section, the consent decree and subsequent agreements  
7 approved by the United States District Court for the District of Maine. The Consumer  
8 Advisory Board may review alleged abuse, exploitation or neglect or an alleged  
9 dehumanizing practice or violation of rights of any person with ~~mental-retardation~~ a  
10 developmental disability or autism who is a client of the department. The Consumer  
11 Advisory Board shall promote the normalization and habilitation of persons with ~~mental~~  
12 ~~retardation~~ developmental disabilities or autism.

13           **Sec. B-64. 34-B MRSA §1216, sub-§3**, as amended by PL 1995, c. 560, Pt. K,  
14 §23, is further amended to read:

15           **3. Access to information.** With regard to any institution, facility, agency or other  
16 provider serving persons with ~~mental-retardation~~ developmental disabilities or autism  
17 who are clients of the department or when any such person resides or participates in work  
18 or in a program in an institution, facility, agency or other provider, the Consumer  
19 Advisory Board members and staff must be given direct access to all living, work and  
20 program areas and to all living, work and program area records, including, but not limited  
21 to, records related to any personal planning process, and must be given access to the  
22 personnel, but not personnel records. The chief advocate of the department may release  
23 to the Consumer Advisory Board information pertaining to alleged abuse, exploitation or  
24 neglect or an alleged dehumanizing practice or violation of rights of a person with ~~mental~~  
25 ~~retardation~~ a developmental disability or autism. The Consumer Advisory Board shall  
26 keep any confidential information disclosed to it or discovered by it confidential, as  
27 required by section 1207.

28           **Sec. B-65. 34-B MRSA §1218, sub-§2**, as amended by PL 1995, c. 560, Pt. K,  
29 §24, is further amended to read:

30           **2. Developmental disability services.** The department shall provide  
31 accommodations and services ensuring access for persons who are deaf or hard-of-  
32 hearing to ~~mental-retardation~~ developmental disability programs funded or licensed by  
33 the department. These accommodations and services must include, but are not limited to,  
34 the following.

35           A. The department shall ensure the provision of appropriate assessments for clients  
36 who are deaf or hard-of-hearing. Assessments must be performed by a person who is  
37 proficient in American Sign Language and must include an assessment of ~~mental~~  
38 ~~retardation~~ developmental disability and an assessment of communication skills,  
39 including the capacity to communicate using American Sign Language. The  
40 department shall survey the client population to determine which clients are deaf or  
41 hard-of-hearing.

1 B. For purposes of treatment, the department shall ensure the provision of interpreter  
2 services by a person proficient in American Sign Language.

3 C. The department shall ensure that ~~mental retardation~~ developmental disability staff  
4 providing direct services to persons who are deaf or hard-of-hearing have education  
5 and training in American Sign Language and deaf culture.

6 D. The department shall provide for the placement in comprehensive community  
7 ~~mental retardation~~ developmental disability facilities of telecommunication devices  
8 for persons who are deaf or hard-of-hearing.

9 E. The department shall ensure the provision of support and training for families  
10 with members with ~~mental retardation~~ developmental disabilities who are deaf or  
11 hard-of-hearing.

12 F. The department shall establish therapeutic residence options for persons with  
13 ~~mental retardation~~ developmental disabilities who are deaf or hard-of-hearing and in  
14 need of a residence. The therapeutic residences must be operated in conjunction with  
15 existing rehabilitation, education, ~~mental retardation~~ developmental disability  
16 treatment and housing resources. The therapeutic residences must be staffed by  
17 individuals trained in ~~mental retardation~~ developmental disability treatment and  
18 proficient in American Sign Language. Therapeutic residence options must be  
19 flexible and allow for individual choice.

20 G. The department shall designate in each regional office one staff person who is  
21 responsible for the coordination of deaf services in that office. The department shall  
22 provide ongoing training to regional office staff with the goal of having at least one  
23 person in each regional office who is proficient in American Sign Language.

24 **Sec. B-66. 34-B MRSA §1223, sub-§1**, as enacted by PL 2007, c. 356, §7 and  
25 affected by c. 695, Pt. D, §3, is amended to read:

26 **1. Composition.** The Maine Developmental Services Oversight and Advisory  
27 Board, as established by Title 5, section 12004-J, subsection 15 and referred to in this  
28 section as "the board," consists of 15 members appointed by the Governor from a list of  
29 nominees proposed by the board pursuant to procedures established in the rules of the  
30 board.

31 A. The board shall submit nominees to the Governor at least 90 days prior to the  
32 expected date of each vacancy.

33 B. In making nominations, the board shall endeavor to ensure adequate  
34 representation at all times from different service regions of the State and from  
35 interested stakeholder groups, including but not limited to:

36 (1) The protection and advocacy agency designated pursuant to Title 5, section  
37 19502;

38 (2) A statewide coalition that works to support and facilitate the ability of local  
39 and statewide self-advocacy organizations to network with each other and with  
40 national organizations;

1 (3) A nonprofit organization that serves teens and young adults in the State with  
2 emotional and intellectual disabilities;

3 (4) A statewide coalition that works to support and facilitate the ability of local  
4 and statewide self-advocacy organizations to network with each other and with  
5 national organizations; and

6 (5) The Maine Developmental Disabilities Council.

7 C. In making the nominations and appointments, the board and the Governor shall  
8 endeavor to ensure that at least 8 of the members of the board are persons with  
9 ~~mental retardation~~ developmental disabilities or autism or family members, guardians  
10 or allies of persons with ~~mental retardation~~ developmental disabilities or autism who  
11 receive services funded by the Department of Health and Human Services. Of these  
12 members, at least 4 must be persons with ~~mental retardation~~ developmental  
13 disabilities or autism, referred to in this section as "self-advocates."

14 Members of the board must include stakeholders involved in services and supports for  
15 persons with ~~mental retardation~~ developmental disabilities or autism in the State and  
16 other individuals interested in issues affecting persons with ~~mental retardation~~  
17 developmental disabilities or autism. Employees of the Department of Health and  
18 Human Services may not be appointed as members of the board.

19 **Sec. B-67. 34-B MRSA §1223, sub-§8**, as enacted by PL 2007, c. 356, §7 and  
20 affected by c. 695, Pt. D, §3, is amended to read:

21 **8. Oversight and advisory functions.** The board shall:

22 A. Provide independent oversight over programs and services for adults with ~~mental~~  
23 ~~retardation~~ developmental disabilities or autism that are provided, authorized, funded  
24 or supported by the department or any other agency or department of State  
25 Government. The board shall focus on systemic concerns affecting the rights of  
26 persons with ~~mental retardation~~ developmental disabilities or autism, including but  
27 not limited to issues surrounding health and safety, inclusion, identification of needs  
28 and desires of persons eligible for services by the department, the timely meeting of  
29 the identified needs and effective and efficient delivery of services and supports; and

30 B. Provide advice and systemic recommendations to the commissioner, the Governor  
31 and the Legislature regarding policies, priorities, budgets and legislation affecting the  
32 rights and interests of persons with ~~mental retardation~~ developmental disabilities or  
33 autism.

34 **Sec. B-68. 34-B MRSA §1223, sub-§9, ¶A**, as enacted by PL 2007, c. 356, §7  
35 and affected by c. 695, Pt. D, §3, is amended to read:

36 A. The board shall hold at least one hearing or other forum each year that is open to  
37 the public in order to gather information about the availability, accessibility and  
38 quality of services available to persons with ~~mental retardation~~ developmental  
39 disabilities or autism and their families.

40 **Sec. B-69. 34-B MRSA §1223, sub-§9, ¶D**, as enacted by PL 2007, c. 356, §7  
41 and affected by c. 695, Pt. D, §3, is amended to read:

1 D. The board shall report at least annually to the Governor and the Legislature on its  
2 activities and recommendations regarding policies, priorities, budgets and legislation  
3 affecting the rights and interests of persons with ~~mental-retardation~~ developmental  
4 disabilities or autism. The board's annual report must include the board's assessment  
5 of its operations and progress in addressing the priorities established pursuant to  
6 paragraph C. The board's annual report must be made public and widely  
7 disseminated in a manner designed to inform interested stakeholders.

8 **Sec. B-70. 34-B MRSA §1223, sub-§10**, as enacted by PL 2007, c. 356, §7 and  
9 affected by c. 695, Pt. D, §3, is amended to read:

10 **10. Access to information.** The board is entitled to access to information from the  
11 department necessary to carry out its functions. Except as provided in paragraphs B, C, D  
12 and E, information provided pursuant to this subsection may not contain personally  
13 identifying information about a person with ~~mental-retardation~~ developmental disabilities  
14 or autism.

15 A. The department shall provide the board, on a schedule to be agreed upon between  
16 the board and the department, reports on case management, reportable events, adult  
17 protective and rights investigations, unmet needs, crisis services, quality assurance,  
18 quality improvement, budgets and other reports that contain data about or report on  
19 the delivery of services to or for the benefit of persons with ~~mental-retardation~~  
20 developmental disabilities or autism, including reports developed by or on behalf of  
21 the department and reports prepared by others about the department.

22 B. The chief advocate and the manager of adult protective services in the Office of  
23 Adults with Cognitive and Physical Disability Services within the department, when  
24 requested by the board or pursuant to a written agreement with the board, shall  
25 release to the board information pertaining to alleged abuse, exploitation or neglect or  
26 alleged dehumanizing practice or violation of rights of a person with ~~mental~~  
27 ~~retardation~~ a developmental disability or autism. The board shall maintain the  
28 confidentiality of information disclosed to it or discovered by it as required by section  
29 1207.

30 C. The board may request and review reports of actions taken by an entity to which a  
31 referral is made under subsection 9, paragraph F. If these reports are likely to reveal  
32 personally identifying information, the board shall conduct reviews in executive  
33 session and shall take all actions necessary and appropriate to preserve the  
34 confidentiality of the information.

35 D. The board may examine confidential information in individual records with  
36 written permission of the person or that person's guardian. If the person or that  
37 person's guardian provides the board with written permission to examine confidential  
38 information, the board must maintain the confidentiality of the information as  
39 required by section 1207.

40 E. The board or the board's staff may receive and examine confidential information  
41 when otherwise authorized to do so by law, including but not limited to when serving  
42 on a committee established by the department for which access to such information is  
43 necessary to perform the function of the committee.

1           **Sec. B-71. 34-B MRSA §1402, sub-§1**, as amended by PL 1995, c. 560, Pt. K,  
2 §27, is further amended to read:

3           **1. Commissioner's duty.** In every state institution to which a person with mental  
4 illness or ~~mental-retardation~~ a developmental disability may be committed, the  
5 commissioner shall organize and administer the duties set forth in subsection 2.

6           **Sec. B-72. 34-B MRSA §1402, sub-§2, ¶C**, as amended by PL 1995, c. 560, Pt.  
7 K, §27, is further amended to read:

8           C. Acquire and disseminate knowledge of mental disease, ~~mental-retardation~~  
9 developmental disability and allied conditions with a view to promoting a better  
10 understanding and the most enlightened public sentiment and policy in these matters,  
11 and in this work the department may cooperate with local authorities, schools and  
12 social agencies.

13           **Sec. B-73. 34-B MRSA §1407**, as enacted by PL 1983, c. 459, §7, is amended to  
14 read:

15           **§1407. Appointment of physician**

16           In every state institution to which a mentally ill person or ~~mentally-retarded~~ a person  
17 with a developmental disability may be committed, the commissioner shall appoint a  
18 physician experienced in the care and treatment of such persons and the necessary  
19 assistants to the physician.

20           **Sec. B-74. 34-B MRSA §1408**, as enacted by PL 1983, c. 459, §7, is amended to  
21 read:

22           **§1408. Cooperation with state departments**

23           Whenever it is ~~deemed~~ considered advisable, the chief administrative officer of any  
24 institution for the mentally ill or ~~mentally-retarded~~ persons with developmental  
25 disabilities may cooperate with state departments to examine upon request and  
26 recommend suitable treatment and supervision for:

27           **1. Mental illness or developmental disability.** Persons thought to be mentally ill or  
28 ~~mentally-retarded~~ developmental disabled; and

29           **2. Juvenile Court.** Children brought before any Juvenile Court.

30           **Sec. B-75. 34-B MRSA §1431, sub-§2**, as enacted by PL 1983, c. 459, §7, is  
31 amended to read:

32           **2. Requirements.** The chief administrative officer of any state institution, or a  
33 person designated by ~~him~~ the chief administrative officer, may place any person who has  
34 been hospitalized as mentally ill or ~~mentally-retarded~~ developmental disabled, except  
35 residents described in chapter 3, subchapter ~~IV~~ 4, Article ~~II~~ 2, on indefinite convalescence  
36 status, if the officer or ~~his~~ the officer's designee determines that the residential facility in

1 which the person will be residing is at least equivalent in the quality of living conditions  
2 to the state institution in which the person is hospitalized.

3 **Sec. B-76. 34-B MRSA §3801, sub-§5**, as enacted by PL 1983, c. 459, §7, is  
4 amended to read:

5 **5. Mentally ill person.** "Mentally ill person" means a person having a psychiatric or  
6 other disease ~~which that~~ substantially impairs ~~his~~ the person's mental health, including  
7 persons suffering from the effects of the use of drugs, narcotics, hallucinogens or  
8 intoxicants, including alcohol, but not including ~~mentally-retarded~~ persons with  
9 developmental disabilities or sociopathic persons.

10 **Sec. B-77. 34-B MRSA §5001, sub-§1-B**, as enacted by PL 2007, c. 356, §8 and  
11 affected by §31, is amended to read:

12 **1-B. Correspondent.** "Correspondent" means a person designated by the Consumer  
13 Advisory Board or its successor to act as a next friend of a person with ~~mental-retardation~~  
14 a developmental disability or autism.

15 **Sec. B-78. 34-B MRSA §5001, sub-§2**, as enacted by PL 1983, c. 459, §7, is  
16 amended to read:

17 **2. Incapacitated person.** "Incapacitated person" means any person with a  
18 developmental disability who is impaired ~~by reason of mental-retardation~~ to the extent  
19 that ~~he~~ the person lacks sufficient understanding or capacity to make, communicate or  
20 implement responsible decisions concerning ~~his~~ the person or the person's property.

21 **Sec. B-79. 34-B MRSA §5001, sub-§2-A**, as enacted by PL 2007, c. 356, §10  
22 and affected by §31, is amended to read:

23 **2-A. Individual support coordinator.** "Individual support coordinator" means a  
24 regional staff member of the department with the responsibility for coordinating the  
25 personal planning and professional services for a person with ~~mental-retardation~~ a  
26 developmental disability or autism.

27 **Sec. B-80. 34-B MRSA §5001, sub-§3**, as amended by PL 1989, c. 73, §3, is  
28 further amended to read:

29 **3. Developmental disability.** "~~Mental-retardation~~ Developmental disability" means  
30 a condition of significantly subaverage intellectual functioning resulting in or associated  
31 with concurrent impairments in adaptive behavior and manifested during the  
32 developmental period.

33 **Sec. B-81. 34-B MRSA §5001, sub-§3-A**, as enacted by PL 1989, c. 73, §4, is  
34 repealed.

35 **Sec. B-82. 34-B MRSA §5001, sub-§3-B**, as enacted by PL 2007, c. 356, §11  
36 and affected by §31, is amended to read:

1           **3-B. Person.** "Person" means an adult with ~~mental retardation~~ a developmental  
2 disability or autism.

3           **Sec. B-83. 34-B MRSA §5001, sub-§3-C,** as enacted by PL 2007, c. 356, §12  
4 and affected by §31, is amended to read:

5           **3-C. Personal planning.** "Personal planning" means a process that assists and  
6 supports each person with ~~mental retardation~~ a developmental disability or autism in  
7 creating a vision for how to live in and be a part of the community.

8           **Sec. B-84. 34-B MRSA §5001, sub-§3-D,** as enacted by PL 2007, c. 356, §13  
9 and affected by §31, is amended to read:

10           **3-D. Personal planning team.** "Personal planning team" means the person with  
11 ~~mental retardation~~ a developmental disability or autism, the person's guardian, if any, the  
12 person's individual support coordinator or case manager and other individuals chosen or  
13 identified by the person to participate in personal planning.

14           **Sec. B-85. 34-B MRSA §5002, sub-§1,** as enacted by PL 1983, c. 459, §7, is  
15 amended to read:

16           **1. Services.** It is the policy of the State to provide education, training and  
17 habilitative services to ~~mentally retarded~~ persons with developmental disabilities who  
18 need those services, except that nothing in this chapter may replace or limit the right of  
19 any ~~mentally retarded~~ person with a developmental disability to treatment by spiritual  
20 means alone, through prayer, if that treatment is requested by the person or by ~~his~~ the  
21 person's next of kin or guardian.

22           **Sec. B-86. 34-B MRSA §5002, sub-§2, ¶A,** as enacted by PL 1983, c. 459, §7,  
23 is amended to read:

24           A. Impose the fewest possible restrictions on the liberty of ~~mentally retarded~~ persons  
25 with developmental disabilities; and

26           **Sec. B-87. 34-B MRSA §5003-A,** as enacted by PL 2007, c. 356, §16 and  
27 affected by §31, is amended to read:

28           **§5003-A. System of care for clients with developmental disabilities or autism**

29           **1. System of care.** The Legislature declares that the system of care through which  
30 the State provides services to and programs for persons with ~~mental retardation~~  
31 developmental disabilities or autism must be designed to protect the integrity of the legal  
32 and human rights of these persons and to meet their needs consistent with the principles  
33 guiding delivery of services as set forth in section 5610.

34           **2. Responsibilities of the department.** To facilitate the development of a system  
35 that meets the needs of persons with ~~mental retardation~~ developmental disabilities or  
36 autism, the commissioner shall:

- 1 A. Provide a mechanism for the identification, evaluation, treatment and  
2 reassessment of and the provision of services to persons with ~~mental-retardation~~  
3 developmental disabilities or autism that is consistent with the principles guiding  
4 delivery of services, as set forth in section 5610, through appropriate personal  
5 planning offered to persons served by the department in accordance with section  
6 5470-B;
- 7 B. Identify the needs and desires of persons with ~~mental-retardation~~ developmental  
8 disabilities or autism through appropriate personal planning and record any unmet  
9 needs of persons served or eligible for service by the department for development of  
10 budget requests to the Governor that are adequate to meet such needs;
- 11 C. Provide programs, insofar as resources permit, for appropriate services and  
12 supports to persons with ~~mental-retardation~~ developmental disabilities or autism  
13 regardless of age, severity of need or ability to pay;
- 14 D. Support the establishment of community services for persons eligible to receive  
15 services from the department by promoting access to professional services in the  
16 person's community. Such support may be provided directly or through contracts  
17 with qualified providers. For persons who have professional service needs identified  
18 through personal planning, the department shall monitor the provision of those  
19 services;
- 20 E. Eliminate the department's own duplicative and unnecessary administrative  
21 procedures and practices in the system of care for persons with ~~mental-retardation~~  
22 developmental disabilities or autism, encourage other departments to do the same and  
23 clearly define areas of responsibility in order to use present resources economically;
- 24 F. Strive toward having a sufficient number of personnel who are qualified and  
25 experienced to provide treatment that is beneficial to persons with ~~mental-retardation~~  
26 developmental disabilities or autism; and
- 27 G. Encourage other departments to provide to persons with ~~mental-retardation~~  
28 developmental disabilities or autism those services that are required by law, and in  
29 particular:
- 30 (1) The commissioner shall work actively with the Commissioner of Education  
31 to ensure that persons with ~~mental-retardation~~ developmental disabilities or  
32 autism receive appropriate services upon being diagnosed with either disability  
33 regardless of the degree of ~~retardation~~ developmental disability or autism or  
34 accompanying disabilities or handicaps;
- 35 (2) The commissioner shall advise other departments about standards and  
36 policies pertaining to administration, staff, quality of care, quality of treatment,  
37 health and safety of clients, rights of clients, community relations and licensing  
38 procedures and other areas that affect persons with ~~mental-retardation~~  
39 developmental disabilities or autism residing in facilities licensed by the  
40 department; and
- 41 (3) The commissioner shall inform the joint standing committee of the  
42 Legislature having jurisdiction over human resources matters about areas where  
43 increased cooperation by other departments is necessary in order to improve the



1 delivery of services to persons with ~~mental retardation~~ developmental disabilities  
2 or autism.

3 **3. Plan.** The commissioner shall prepare a plan pursuant to this subsection.

4 A. The plan must indicate the most effective and efficient manner in which to  
5 implement services and programs for persons with ~~mental retardation~~ developmental  
6 disabilities or autism while safeguarding and respecting the legal and human rights of  
7 these persons.

8 B. The plan must be prepared once every 2 years and must be submitted to the joint  
9 standing committee of the Legislature having jurisdiction over health and human  
10 services matters by no later than January 15th of every odd-numbered year.

11 C. The joint standing committee of the Legislature having jurisdiction over health  
12 and human services matters shall study the plan and make recommendations to the  
13 Legislature with respect to funding improvements in programs and services to  
14 persons with ~~mental retardation~~ developmental disabilities or autism.

15 D. The plan must describe the system of ~~mental retardation~~ developmental disability  
16 and autism services in each of the ~~mental retardation~~ developmental disabilities  
17 service regions and statewide.

18 E. The plan must include both existing service resources and deficiencies in the  
19 system of services.

20 F. The plan must include an assessment of the roles and responsibilities of ~~mental~~  
21 ~~retardation~~ developmental disability and autism agencies, human service agencies,  
22 health agencies and involved state departments and suggest ways in which these  
23 departments and agencies can better cooperate to improve the service systems.

24 G. The plan must be made public within the State in such a manner as to facilitate  
25 public involvement.

26 H. The commissioner must ensure that the development of the plan includes the  
27 participation of community ~~mental retardation~~ developmental disability and autism  
28 service providers, consumer and family groups and other interested persons or groups  
29 in annual statewide hearings, as well as informal meetings and work sessions.

30 I. The commissioner must consider community service needs, relate these identified  
31 needs to biennial budget requests and incorporate necessary service initiatives into a  
32 comprehensive planning document.

33 **4. General Fund account; Medicaid match; developmental disability; autism.**  
34 The commissioner shall establish a General Fund account to provide the General Fund  
35 match for ~~mental retardation~~ developmental disability or autism Medicaid eligible  
36 services. Any unencumbered balances of General Fund appropriations remaining at the  
37 end of each fiscal year must be carried forward to be used for the same purposes.

38 **5. Medicaid savings.** Intermediate care facilities for persons with ~~mental retardation~~  
39 developmental disabilities or autism and providers of freestanding day habilitation  
40 programs shall submit payment to the department equal to 50% of any Medicaid savings  
41 due the State pursuant to the principles of reimbursement, as established under Title 22,

1 sections 3186 and 3187, that are reported in any unaudited cost report for fiscal years  
2 ending June 30, 1995 and thereafter. Payment is due with the cost report. After audit,  
3 any amount submitted in excess of savings allocated to the facility or provider pursuant to  
4 the principles of reimbursement must be returned to the facility or provider.  
5 Notwithstanding requirements or conditions contained in the principles of reimbursement,  
6 any amount due the State after final audit in excess of savings paid on submission of a  
7 cost report must be paid to the State within 90 days following receipt of the department's  
8 final audit report.

9 **6. Required reporting by the department.** The department shall make available,  
10 on at least an annual basis, a report or reports regarding the services and support provided  
11 by the department to persons with ~~mental retardation~~ developmental disabilities or  
12 autism.

13 A. The goal of the reporting under this subsection is to provide the public with  
14 information on outcome measures established by the department. These measures  
15 may include, but are not limited to, whether:

- 16 (1) Persons served by the department are healthy and safe;
- 17 (2) Needs of persons are being met;
- 18 (3) People are included in their communities; and
- 19 (4) The system of care under this section is efficient and effective.

20 B. At a minimum, the department's report or reports under this subsection must offer  
21 information on the following:

- 22 (1) Unmet needs;
- 23 (2) Reportable events;
- 24 (3) Adult protective services;
- 25 (4) Crisis services;
- 26 (5) Persons' and families' satisfaction with services;
- 27 (6) Case management ratios;
- 28 (7) Evaluations of costs of services;
- 29 (8) Grievances;
- 30 (9) Quality assurance and quality improvement efforts; and
- 31 (10) New initiatives.

32 C. A report under this subsection must be provided to the joint standing committee  
33 of the Legislature having jurisdiction over health and human services matters. The  
34 commissioner or the commissioner's designee shall appear in person before the  
35 committee and shall present the report. The report must be posted on the  
36 department's publicly accessible website and must be made easily available to  
37 persons served by the department, families, guardians, advocates, Legislators and the  
38 provider community.

1           **Sec. B-88. 34-B MRSA §5004**, as corrected by RR 2003, c. 2, §103, is amended  
2 to read:

3           **§5004. Sexual activity with recipient of services prohibited**

4           A person who owns, operates or is an employee of an organization, program or  
5 residence that is operated, administered, licensed or funded by the Department of Health  
6 and Human Services may not engage in a sexual act, as defined in Title 17-A, section  
7 251, subsection 1, paragraph C, with another person or subject another person to sexual  
8 contact, as defined in Title 17-A, section 251, subsection 1, paragraph D, if the other  
9 person, not the actor's spouse, is a person with ~~mental retardation~~ a developmental  
10 disability who receives therapeutic, residential or habilitative services from the  
11 organization, program or residence.

12           **Sec. B-89. 34-B MRSA §5005, sub-§1**, as enacted by PL 2007, c. 356, §17 and  
13 affected by §31, is amended to read:

14           **1. Establishment.** The Office of Advocacy, referred to in this section as "the  
15 office," is established within the department to provide the services described in  
16 subsection 3 to individuals with ~~mental retardation~~ developmental disabilities or autism.

17           **Sec. B-90. 34-B MRSA §5005, sub-§2, ¶A**, as enacted by PL 2007, c. 356, §17  
18 and affected by §31, is amended to read:

19           A. The chief advocate shall report administratively to the commissioner and advise  
20 and consult with and inform the commissioner on the issues described in this section.  
21 The chief advocate shall provide the commissioner with regular reports on the  
22 office's findings, conclusions and recommendations regarding individual and  
23 systemic violations of the rights of individuals with ~~mental retardation~~ developmental  
24 disabilities or autism.

25           **Sec. B-91. 34-B MRSA §5005, sub-§3**, as enacted by PL 2007, c. 356, §17 and  
26 affected by §31, is amended to read:

27           **3. Duties.** The office, through the chief advocate and other advocates, shall:

28           A. Receive complaints made by or on behalf of individuals with ~~mental retardation~~  
29 developmental disabilities or autism and represent their interests in any matter  
30 pertaining to their rights and dignity;

31           B. Investigate the claims, grievances and allegations of violations of the rights of  
32 individuals with ~~mental retardation~~ developmental disabilities or autism;

33           C. Intercede on behalf of individuals with ~~mental retardation~~ developmental  
34 disabilities or autism with officials of any provider of service administered, licensed  
35 or funded by the department, except that the office may refuse to take action on any  
36 complaint that it considers to be trivial or moot or for which there is clearly another  
37 remedy available;

38           D. Assist individuals with ~~mental retardation~~ developmental disabilities or autism in  
39 any hearing or grievance proceeding pertaining to their rights and dignity;

1 E. Refer individuals with ~~mental-retardation~~ developmental disabilities or autism to  
2 other agencies or entities and collaborate with those agencies or entities for the  
3 purpose of advocating for the rights and dignity of those individuals;

4 F. Act as an information source regarding the rights of all individuals with ~~mental~~  
5 ~~retardation~~ developmental disabilities or autism, keeping itself informed about all  
6 laws, administrative rules and institutional and other policies relating to the rights and  
7 dignity of those individuals and about relevant legal decisions and other  
8 developments related to the fields of mental health, ~~mental-retardation~~ developmental  
9 disability and autism, both in this State and in other parts of the country; and

10 G. Make and publish reports necessary to the performance of the duties described in  
11 this section. The chief advocate may report findings of the office to groups outside  
12 the department, such as legislative bodies, advisory committees, commissions, law  
13 enforcement agencies and the press, and may authorize the advocates in the office to  
14 so communicate. At least annually, the chief advocate shall report both in person and  
15 in writing to the joint standing committee of the Legislature having jurisdiction over  
16 health and human services matters regarding the performance of the duties described  
17 in this section.

18 **Sec. B-92. 34-B MRSA §5005, sub-§4, ¶B**, as enacted by PL 2007, c. 356, §17  
19 and affected by §31, is amended to read:

20 B. An advocate has concerns regarding the rights or dignity of a person with ~~mental~~  
21 ~~retardation~~ a developmental disability or autism.

22 **Sec. B-93. 34-B MRSA §5005, sub-§6**, as enacted by PL 2007, c. 356, §17 and  
23 affected by §31, is amended to read:

24 **6. Confidentiality.** Requests for confidentiality are treated as follows.

25 A. Any request by or on behalf of an individual with ~~mental-retardation~~ a  
26 developmental disability or autism for action by the office and all written records or  
27 accounts related to the request are confidential as to the identity of the individual.

28 B. The records and accounts under paragraph A may be released only as provided by  
29 law.

30 **Sec. B-94. 34-B MRSA §5005, sub-§7**, as enacted by PL 2007, c. 356, §17 and  
31 affected by §31, is amended to read:

32 **7. Protection for advocates.** Advocates may not be disciplined or sanctioned for  
33 any action taken pursuant to this section on behalf of individuals with ~~mental-retardation~~  
34 developmental disabilities or autism.

35 **Sec. B-95. 34-B MRSA §5201, sub-§2**, as amended by PL 2007, c. 356, §18 and  
36 affected by §31, is further amended to read:

37 **2. Statewide system.** The planning, promotion, coordination and development of a  
38 complete and integrated statewide system of services for adults with ~~mental-retardation~~  
39 developmental disabilities or autism;

1           **Sec. B-96. 34-B MRSA §5201, sub-§3**, as amended by PL 2007, c. 356, §18 and  
2 affected by §31, is further amended to read:

3           **3. Liaison.** Serving as liaison, coordinator and consultant to the several state  
4 departments in order to develop the statewide system of services for adults with ~~mental~~  
5 ~~retardation~~ developmental disabilities or autism;

6           **Sec. B-97. 34-B MRSA §5201, sub-§4**, as amended by PL 2007, c. 356, §18 and  
7 affected by §31, is further amended to read:

8           **4. Community-based services.** Ensuring that adults with ~~mental-retardation~~  
9 developmental disabilities or autism residing in community residential facilities,  
10 including nursing homes, boarding homes, foster homes, group homes or halfway houses  
11 licensed by the Department of Health and Human Services, are provided, insofar as  
12 possible, with residential accommodations and access to habilitation services appropriate  
13 to their needs;

14           **Sec. B-98. 34-B MRSA §5201, sub-§6**, as enacted by PL 2007, c. 356, §18 and  
15 affected by §31, is amended to read:

16           **6. Individual support coordinators.** Providing persons with ~~mental-retardation~~  
17 developmental disabilities or autism who are eligible for MaineCare services with case  
18 management services.

19           A. Case management services as defined in rules may be provided by qualified staff  
20 employed by the department or a contracted agency.

21           B. Unless otherwise specified in personal planning:

22                   (1) Case managers shall maintain at least monthly contact with each person in  
23 order to ensure that the quality and availability of services and consumer  
24 satisfaction are maintained at a high level; and

25                   (2) Visits to the person's home must occur at least twice a year.

26           C. The department shall ensure that case managers maintain adequate written and  
27 electronic records to permit monitoring and accountability.

28           D. The department shall provide sufficient numbers of case managers and  
29 supervisors to fulfill the duties specified in this subsection and shall maintain an  
30 overall ratio of one case manager to every 35 people in each region. The ratio must be  
31 calculated separately for staff employed by the department and by contracted  
32 agencies, and this ratio must be maintained for each group;

33           **Sec. B-99. 34-B MRSA §5201, sub-§7**, as enacted by PL 2007, c. 356, §18 and  
34 affected by §31, is amended to read:

35           **7. Crisis and respite.** Provision of crisis and respite services to persons with ~~mental~~  
36 ~~retardation~~ developmental disabilities or autism in accordance with section 5206; and

37           **Sec. B-100. 34-B MRSA §5206**, as enacted by PL 2007, c. 356, §19 and affected  
38 by §31, is amended to read:

1           **§5206. Crisis and respite services**

2           The department shall provide crisis and respite services throughout the State in  
3 accordance with this section.

4           **1. Crisis services.** The department shall maintain the capacity to intervene in  
5 personal crises that could lead to the loss of the home, program or employment of a  
6 person with ~~mental retardation~~ a developmental disability or autism. Such capacity must  
7 include:

8           A. Assessment, consultation, planning, training and support for persons with ~~mental~~  
9 ~~retardation~~ developmental disabilities or autism and their families or allies both  
10 before and after a crisis occurs;

11           B. Providing staff support to prevent or respond to a crisis at the site of the crisis  
12 when appropriate;

13           C. Ensuring mental health supports when necessary, including access to a licensed  
14 mental health provider, inpatient treatment when indicated, psychiatric services and  
15 mental health aftercare services; and

16           D. Identifying appropriate professional services for the person in crisis.

17           **2. Out-of-home services.** The department shall provide out-of-home services in  
18 accordance with this subsection.

19           A. The department shall maintain an adequate capacity to provide out-of-home  
20 safety and support by trained staff with appropriate professional backup resources for  
21 a person with ~~mental retardation~~ a developmental disability or autism experiencing a  
22 crisis that cannot be safely managed at the person's residence.

23           B. Unless otherwise specified in personal planning, crisis intervention services must  
24 be provided at a person's home, program or workplace when prevention efforts are  
25 not successful. The services must assist with admission to an appropriate out-of-  
26 home service in the event that intervention in the home, program or workplace is  
27 inappropriate.

28           **3. Transportation.** The department may not routinely use law enforcement entities  
29 to transport persons with ~~mental retardation~~ developmental disabilities or autism in crisis.  
30 Transportation of persons in crisis by law enforcement personnel may occur only if such  
31 transportation has been specifically authorized by the person's guardian or personal  
32 planning team or when determined by law enforcement personnel to be necessary to  
33 provide for the safety of the person or others.

34           **4. Post-crisis review.** A post-crisis review must occur no more than 10 working  
35 days after any out-of-home crisis placement. The review must include significant  
36 providers and supporters, including appropriate members of the person's planning team.  
37 The review must identify possible causes of the person's crisis and must recommend for  
38 the personal planning team changes in the person's environment, services and supports to  
39 prevent crises in the future.

1           **5. Respite services.** The department shall maintain and fund a statewide respite  
2 system for planned or unplanned respite for persons with ~~mental-retardation~~  
3 developmental disabilities or autism and their families. The department shall, when  
4 appropriate, use the natural supports of a person in the development of respite services.  
5 For purposes of this subsection, "natural supports" means those supports provided by  
6 persons who are not disability service providers but who provide assistance, contact or  
7 companionship to enable a person with ~~mental-retardation~~ a developmental disability or  
8 autism to participate independently in employment or other community settings.

9           **6. Information regarding use.** The department shall maintain information  
10 regarding use of crisis and respite services sufficient to plan and budget for adequate  
11 crisis and respite services. The information must include an assessment of the needs, both  
12 met and unmet, for crisis and respite services. The department shall provide information  
13 regarding the availability of services under this section and the proper means to obtain  
14 them to persons with ~~mental-retardation~~ developmental disabilities or autism, their  
15 parents and allies, providers of services and other interested persons.

16           **7. Training.** The department shall offer regular and ongoing information,  
17 consultation and training on crisis prevention and intervention and respite services to its  
18 own staff, providers, and persons with ~~mental-retardation~~ developmental disabilities or  
19 autism and their families, guardians, correspondents and allies.

20           **Sec. B-101. 34-B MRSA §5431**, as enacted by PL 1983, c. 459, §7, is amended  
21 to read:

22           **§5431. Purpose**

23           The purpose of this Article is to assist in the establishment and expansion of  
24 community-based ~~mental-retardation~~ developmental disability services and programs for  
25 ~~mentally-retarded~~ persons with developmental disabilities residing in the community and  
26 residing in privately-operated residential care facilities.

27           **Sec. B-102. 34-B MRSA §5432, sub-§1**, as enacted by PL 1983, c. 459, §7, is  
28 amended to read:

29           **1. Community participation.** Encourage persons in local communities to  
30 participate in the provision of supportive services for ~~mentally-retarded~~ persons with  
31 developmental disabilities, so that persons in the community may have a better  
32 understanding of the need for those services;

33           **Sec. B-103. 34-B MRSA §5433, sub-§2**, as enacted by PL 1983, c. 459, §7, is  
34 amended to read:

35           **2. Services and programs.** Provide and help finance ~~mental-retardation~~  
36 developmental disability services and programs throughout the State for ~~mentally~~  
37 ~~retarded~~ persons with developmental disabilities residing in the community and residing  
38 in privately-owned residential care facilities;

1           **Sec. B-104. 34-B MRSA §5433, sub-§3**, as amended by PL 1985, c. 768, §6, is  
2 further amended to read:

3           **3. Cooperation.** Cooperate with other state agencies, municipalities, other  
4 governmental units, unincorporated associations and nonstock corporations in order to  
5 provide and help finance services and programs for ~~mentally-retarded~~ persons with  
6 developmental disabilities;

7           **Sec. B-105. 34-B MRSA §5433, sub-§5**, as enacted by PL 1985, c. 768, §7, is  
8 amended to read:

9           **5. Transitional services coordination projects.** Participate in the coordination of  
10 services for ~~mentally-retarded~~ persons with developmental disabilities with local  
11 transitional services coordination projects for handicapped youths, as established in Title  
12 20-A, chapter 308, assigning appropriate regional staff and resources as available and  
13 necessary in each region to be served by a project.

14           **Sec. B-106. 34-B MRSA §5434, sub-§1**, as enacted by PL 1983, c. 459, §7, is  
15 amended to read:

16           **1. Authorization.** A municipality or other governmental unit, such as a county,  
17 school district or health district, through its local board of health or other town or  
18 governmental agency approved by the commissioner, may adopt and carry out a program  
19 of ~~mental-retardation~~ developmental disability services established or approved by the  
20 commissioner and appropriate money for that purpose.

21           **Sec. B-107. 34-B MRSA §5434, sub-§3**, as enacted by PL 1983, c. 459, §7, is  
22 amended to read:

23           **3. Grants.** Upon application to the department by a municipality or other  
24 governmental unit, the commissioner may grant to the applicant money to be used for  
25 carrying out its ~~mental-retardation~~ developmental disability services, including any  
26 necessary capital expenditures or purchase of buildings.

27           **Sec. B-108. 34-B MRSA §5435, sub-§1**, as enacted by PL 1983, c. 459, §7, is  
28 amended to read:

29           **1. Department grants.** Upon application to the department by an unincorporated  
30 association or nonstock corporation organized for the improvement of community health  
31 and welfare, the commissioner may grant to the applicant money to be used for carrying  
32 out its ~~mental-retardation~~ developmental disability services, including any necessary  
33 capital expenditures or purchase of buildings.

34           **Sec. B-109. 34-B MRSA §5435, sub-§2, ¶B**, as amended by PL 1995, c. 560,  
35 Pt. K, §53, is further amended to read:

36           B. The department shall give consideration to the ability of the municipality or  
37 governmental unit to support the ~~mental-retardation~~ developmental disability  
38 services, as reflected by the State's evaluation of the component communities.



1           **Sec. B-110. 34-B MRSA §5437, first ¶**, as amended by PL 1995, c. 560, Pt. K,  
2           §54, is further amended to read:

3           The department shall establish a contingency fund for use by community-based  
4           intermediate care facilities for persons with ~~mental retardation~~ developmental disabilities  
5           and department clients residing in licensed boarding and foster homes or intermediate  
6           care facilities or participating in appropriate day treatment programs. This fund must be  
7           used in accordance with the following provisions.

8           **Sec. B-111. 34-B MRSA §5437, sub-§3, ¶A**, as enacted by PL 1985, c. 486, §2,  
9           is amended to read:

10           A. Payment for special client assessment and treatment services not reimbursed  
11           through the principles of reimbursement for intermediate care facilities for ~~the~~  
12           ~~mentally-retarded~~ persons with developmental disabilities;

13           **Sec. B-112. 34-B MRSA §5438**, as enacted by PL 2007, c. 152, §1, is amended  
14           to read:

15           **§5438. Services for adults with diagnoses of developmental disabilities**

16           To the extent possible using available resources, the department shall provide adults  
17           with diagnoses of ~~mental retardation and other~~ developmental disabilities choices from  
18           among an array of supports and services, including but not limited to: employment  
19           supports, personal supports, day programs and residential services. The department shall  
20           pursue appropriate resources for the supports and services needed by adults covered  
21           under this chapter.

22           **Sec. B-113. 34-B MRSA §5461, sub-§1**, as enacted by PL 1983, c. 459, §7, is  
23           amended to read:

24           **1. Advocate.** "Advocate" means a person:

25           A. Who is familiar with the procedures involved both in admitting ~~mentally-retarded~~  
26           persons with developmental disabilities to a facility and in providing services to those  
27           persons; and

28           B. Who is capable of advocating solely on behalf of a ~~mentally-retarded~~ person with  
29           a developmental disability.

30           **Sec. B-114. 34-B MRSA §5461, sub-§2**, as enacted by PL 1983, c. 459, §7, is  
31           amended to read:

32           **2. Client.** "Client" means a person asking the department for ~~mental retardation~~  
33           developmental disability services or the person for whom those services are asked.

34           **Sec. B-115. 34-B MRSA §5461, sub-§4**, as enacted by PL 1983, c. 459, §7, is  
35           amended to read:

36           **4. Comprehensive evaluation.** "Comprehensive evaluation" means a  
37           comprehensive set of evaluations ~~which~~ that:

- 1 A. Results in the distinguishing of ~~mental-retardation~~ a developmental disability  
2 from other conditions;
- 3 B. Determines the severity of disability resulting from ~~mental-retardation~~ a  
4 developmental disability and other conditions; and
- 5 C. Estimates the degree to which ~~mental-retardation~~ developmental disabilities and  
6 other conditions can be ameliorated.

7 **Sec. B-116. 34-B MRSA §5461, sub-§5**, as enacted by PL 1983, c. 459, §7, is  
8 amended to read:

9 **5. Facility.** "Facility" means a residential facility operated by the department for  
10 ~~mentally-retarded~~ clients with developmental disabilities.

11 **Sec. B-117. 34-B MRSA §5461, sub-§7-A, ¶C**, as enacted by PL 1983, c. 580,  
12 §11, is amended to read:

13 C. A reasonable certainty that severe physical or mental impairment or injury will  
14 result to the ~~mentally-retarded~~ person with a developmental disability as manifested  
15 by recent evidence of ~~his~~ that person's actions or behavior ~~which~~ that demonstrates  
16 ~~his~~ an inability to avoid or protect ~~himself~~ the self from that impairment or injury  
17 and, after consideration of less restrictive treatment settings and modalities, a  
18 determination that suitable community resources for ~~his~~ that person's care are  
19 unavailable.

20 **Sec. B-118. 34-B MRSA §5461, sub-§8**, as enacted by PL 1983, c. 459, §7, is  
21 amended to read:

22 **8. Person in need of institutional services.** "Person in need of institutional  
23 services" means a person who, because of ~~mental-retardation~~ a developmental disability  
24 and other severely disabling conditions, is unable to care for ~~himself~~ the self and to avoid  
25 or protect ~~himself~~ that person from severe physical or psychological impairment, and who  
26 needs habilitation in an institutional setting designed to improve ~~his~~ that person's ability  
27 to care for and protect ~~himself~~ the self.

28 **Sec. B-119. 34-B MRSA §5461, sub-§10, ¶B**, as enacted by PL 1983, c. 580,  
29 §12, is amended to read:

30 B. Where licensure, certification or registration is not required, a person possessing a  
31 master's degree in the appropriate discipline or a person possessing a bachelor's  
32 degree in the appropriate discipline and 3 years' experience in treating ~~mentally~~  
33 ~~retarded~~ persons with developmental disabilities or 3 years' experience in a related  
34 human services field.

35 **Sec. B-120. 34-B MRSA §5462**, as amended by PL 2003, c. 389, §6, is further  
36 amended to read:

1           **§5462. Procedure policies**

2           **1. Steps.** It is the policy of the State that, in order to ensure that ~~mentally-retarded~~  
3 persons with developmental disabilities receive needed services, to the extent possible,  
4 the following steps ~~shall~~ must be taken for each person found by the department to be  
5 ~~mentally-retarded~~ developmentally disabled and in need of services:

- 6           A. An assessment of the person's needs;
- 7           B. The development of a personal plan or service plan for the delivery and  
8 coordination of services to the person through a personal planning process;
- 9           C. A determination of the suitability and quality of needed services ~~which~~ that are  
10 available to the person, first in the community and 2nd in state-operated facilities;  
11 and
- 12           D. Insofar as possible, obtaining high quality and suitable services for the person.

13           **2. Persons involved with procedures.** It is the policy of the State that:

- 14           A. To the extent possible, the ~~mentally-retarded~~ person with a developmental  
15 disability and ~~his~~ that person's guardian or next of kin be involved with the steps  
16 specified in subsection 1; and
- 17           B. An advocate be available to the ~~mentally-retarded~~ person with a developmental  
18 disability throughout the steps specified in subsection 1.

19           **Sec. B-121. 34-B MRSA §5467, sub-§1,** as amended by PL 2003, c. 389, §9, is  
20 further amended to read:

21           **1. Application.** An application for ~~mental-retardation~~ developmental disability  
22 services, on a form provided by the commissioner, must be initiated at or referred to a  
23 regional office of the department. Except for referrals identifying a possible need for  
24 adult protective services, the department shall accept only those referrals to which the  
25 client or client's guardian has consented.

26           **Sec. B-122. 34-B MRSA §5467, sub-§2, ¶D,** as amended by PL 2003, c. 389,  
27 §9, is further amended to read:

28           D. Ensure the client's access to an advocate throughout the process of ~~mental~~  
29 ~~retardation~~ developmental disability services under sections 5467 to 5474;

30           **Sec. B-123. 34-B MRSA §5468, sub-§2,** as repealed and replaced by PL 1983, c.  
31 580, §18, is amended to read:

32           **2. Comprehensive evaluation.** The comprehensive evaluation ~~shall~~ must be  
33 conducted by a person who is a licensed physician, licensed clinical psychologist or  
34 licensed psychological examiner and who has had training and experience in the  
35 diagnosis and treatment of ~~mentally-retarded~~ persons with developmental disabilities.

36           **Sec. B-124. 34-B MRSA §5469, first ¶,** as amended by PL 2003, c. 388, §1, is  
37 further amended to read:

1           Within 90 days of the day of the application made under section 5467, the department  
2 shall obtain a report of the comprehensive evaluation made under section 5468, which  
3 must state specifically whether or not the client is ~~mentally-retarded~~ developmentally  
4 disabled.

5           **Sec. B-125. 34-B MRSA §5469, sub-§1**, as repealed and replaced by PL 1983, c.  
6 580, §20, is amended to read:

7           **1. Client not developmentally disabled.** If the comprehensive evaluation concludes  
8 that the client is not ~~mentally-retarded~~ developmentally disabled, the department shall  
9 deny the application for services, care and treatment, but shall make appropriate referrals  
10 in cases where clear needs of the client exist.

11           **Sec. B-126. 34-B MRSA §5469, sub-§2**, as amended by PL 2003, c. 389, §11, is  
12 further amended to read:

13           **2. Client with a developmental disability.** If the comprehensive evaluation  
14 concludes that the client is ~~mentally-retarded~~ developmentally disabled and is in need of  
15 services:

16           A. The department, through the regional office, shall determine the client's case  
17 management status and develop a personal plan or service plan; and

18           B. The department, through the planning team, shall develop a personal plan or  
19 service plan for the client within 45 days of the date of the determination of  
20 eligibility. Implementation of the plan is governed by section 5471, subsection 4.

21           **Sec. B-127. 34-B MRSA §5470-B, sub-§1**, as enacted by PL 2007, c. 356, §21  
22 and affected by §31, is amended to read:

23           **1. Right to personal planning.** Every adult with ~~mental-retardation~~ a  
24 developmental disability or autism who is eligible for services must be provided the  
25 opportunity to engage in a personal planning process in which the needs and desires of  
26 the person are articulated and identified.

27           **Sec. B-128. 34-B MRSA §5470-B, sub-§2**, as enacted by PL 2007, c. 356, §21  
28 and affected by §31, is amended to read:

29           **2. Process.** The personal planning opportunities afforded to a person with ~~mental~~  
30 ~~retardation~~ a developmental disability or autism pursuant to subsection 1 must:

31           A. Be understandable to that person and in plain language and, if that person is deaf  
32 or nonverbal, uses sign language or speaks another language, the process must  
33 include qualified interpreters;

34           B. Focus on the choices made by that person;

35           C. Reflect and support the goals and aspirations of that person;

36           D. Be developed at the direction of that person and include people whom the person  
37 chooses to participate. The planning process must minimally include the person, the  
38 person's guardian, if any, the correspondent, if any, and the person's case manager;

- 1 E. Be flexible enough to change as new opportunities arise;
- 2 F. Be offered to that person at least annually or on a schedule established through the
- 3 planning process and be reviewed according to a specified schedule and by a person
- 4 designated for monitoring;
- 5 G. Include all of the needs and desires of that person without respect to whether
- 6 those desires are reasonably achievable or the needs are presently capable of being
- 7 addressed; and
- 8 H. Include a provision for ensuring the satisfaction of that person with the quality of
- 9 the plan and the supports that the person receives.

10 **Sec. B-129. 34-B MRSA §5470-B, sub-§3**, as enacted by PL 2007, c. 356, §21  
11 and affected by §31, is amended to read:

12 **3. Action plans and unmet needs.** The ongoing personal planning for a person with  
13 ~~mental retardation~~ a developmental disability or autism must include an action plan that  
14 describes the services to be provided, the process of providing the services and who is  
15 responsible for overseeing the provision of the services. In cases where resources  
16 required to address identified needs or desires are not available, the action plan must  
17 identify interim measures based on available resources that address the needs or desires  
18 as nearly as possible and identify steps toward meeting the person's actual identified  
19 needs.

20 Unmet needs must be documented continually, collated annually and used for appropriate  
21 development activities on a regional and statewide basis.

22 **Sec. B-130. 34-B MRSA §5470-B, sub-§4**, as enacted by PL 2007, c. 356, §21  
23 and affected by §31, is amended to read:

24 **4. Review of personal plans.** The person with ~~mental retardation~~ a developmental  
25 disability or autism or another member of the planning team may initiate a review of the  
26 person's personal plan when needed or desired.

27 A. A review under this subsection must be done by meeting or by other means  
28 sufficient to address the needed or desired changes. The review must include the  
29 person, the person's guardian, if any, and the person's case manager. Invitations to  
30 participate may also be sent to others who may be anticipated to assist the person in  
31 pursuing articulated needs and desires unless the person or a private guardian objects.

32 B. Events that could lead to the loss of the person's home, job or program and events  
33 defined in a departmental rule or in the person's plan must lead to a plan review.

34 **Sec. B-131. 34-B MRSA §5470-B, sub-§8, ¶B**, as enacted by PL 2007, c. 356,  
35 §21 and affected by §31, is amended to read:

36 B. The department shall ensure the provision of regular and ongoing training in  
37 personal planning to persons with ~~mental retardation~~ developmental disabilities or  
38 autism and their families, guardians, correspondents and allies as well as its own staff  
39 and providers. The department shall regularly provide persons with ~~mental~~

1           ~~retardation~~ developmental disabilities or autism and their families, guardians and  
2           allies with informational materials regarding personal planning.

3           **Sec. B-132. 34-B MRSA §5474, sub-§3**, as enacted by PL 1983, c. 459, §7, is  
4           amended to read:

5           **3. Emergency admission.** When immediate detention of a person believed to be  
6           ~~mentally retarded~~ a person with a developmental disability is necessary, the person may  
7           be temporarily restrained in accordance with section 5477.

8           **Sec. B-133. 34-B MRSA §5475, sub-§2, ¶C**, as amended by PL 2003, c. 389,  
9           §18, is further amended to read:

10           C. Unless waived by a client and the client's counsel, cause the client who is the  
11           subject of the proceeding to be examined by a professional.

12                   (1) The client or the client's counsel may choose the professional, if the  
13                   professional the client chooses is reasonably available.

14                   (2) The professional may not be the same one who performed any part of the  
15                   evaluation required under section 5468 or who participated in the development of  
16                   the personal plan or service plan.

17                   (3) Upon completion of the examination, the professional shall report to the  
18                   court the professional's opinion whether the client is ~~mentally retarded~~  
19                   developmentally disabled and requires treatment, stating the professional's  
20                   reasons for the professional's opinion;

21           **Sec. B-134. 34-B MRSA §5476, first ¶**, as amended by PL 2003, c. 389, §19, is  
22           further amended to read:

23           Any client recommended for admission to a ~~mental retardation~~ developmental  
24           disability facility may be admitted by judicial commitment according to the following  
25           procedures.

26           **Sec. B-135. 34-B MRSA §5476, sub-§3**, as enacted by PL 1983, c. 580, §23, is  
27           amended to read:

28           **3. Accompanying documents.** The application ~~shall~~ must be accompanied by:

29           A. A written application, made subject to the prohibitions and penalties of section  
30           3805 and made by any health officer, law enforcement officer or other person,  
31           stating:

32                   (1) ~~His~~ That person's belief that the client is ~~mentally retarded~~ developmentally  
33                   disabled and poses a likelihood of serious harm; and

34                   (2) The grounds for this belief;

35           B. A dated certificate, signed by a private licensed physician or a private licensed  
36           clinical psychologist, stating that:

1 (1) ~~He~~ That person has examined the client on the date of the certificate, which  
2 date may not be more than 3 days before the date of admission to the facility; and

3 (2) ~~He~~ That person is of the opinion that the client is ~~mentally-retarded~~  
4 developmentally disabled and poses a likelihood of serious harm; and

5 C. A certificate of the facility's examining physician or psychologist, stating that ~~he~~  
6 that person has examined the client and ~~it is his~~ has formed the opinion that the client  
7 is ~~mentally-retarded~~ developmentally disabled and poses a likelihood of serious harm:

8 (1) The examiner may not be the certifying examiner under paragraph B; and

9 (2) If the examination is not held within 24 hours after the time of admission or  
10 if the facility's examining physician or psychologist fails or refuses to make the  
11 required certification, the client ~~shall~~ must be immediately discharged.

12 **Sec. B-136. 34-B MRSA §5476, sub-§5, ¶C**, as enacted by PL 1983, c. 580,  
13 §23, is amended to read:

14 C. If the unanimous reports of the examiners are to the effect that the client is not  
15 ~~mentally-retarded~~ developmentally disabled or does not pose a likelihood of serious  
16 harm, the application ~~shall~~ must be dismissed and the client ~~shall~~ must be ordered  
17 discharged forthwith.

18 **Sec. B-137. 34-B MRSA §5476, sub-§5, ¶D**, as enacted by PL 1983, c. 580,  
19 §23, is amended to read:

20 D. If the report of either or both of the examiners is to the effect that the client is  
21 ~~mentally-retarded~~ developmentally disabled and poses a likelihood of serious harm,  
22 the hearing ~~shall~~ must be held on the date, or on the continued date, ~~which~~ that  
23 the court has set for the hearing.

24 **Sec. B-138. 34-B MRSA §5476, sub-§6, ¶E**, as enacted by PL 1983, c. 580,  
25 §23, is amended to read:

26 E. In addition to proving that the client is ~~mentally-retarded~~ developmentally  
27 disabled, the applicant shall show:

28 (1) By evidence of the client's actions and behavior, that the client poses a  
29 likelihood of serious harm; and

30 (2) That after full consideration of less restrictive treatment settings and  
31 modalities, judicial commitment to a ~~mental-retardation~~ developmental disability  
32 facility is the best available means for the treatment or security of the client.

33 **Sec. B-139. 34-B MRSA §5476, sub-§7, ¶A**, as amended by PL 1983, c. 763, is  
34 further amended to read:

35 A. The District Court shall so state in the record, if it finds upon completion of the  
36 hearing and consideration of the record:

37 (1) Clear and convincing evidence that the client is ~~mentally-retarded~~  
38 developmentally disabled and that ~~his~~ the client's recent actions and behavior  
39 demonstrate that ~~he~~ the client poses a likelihood of serious harm;

- 1 (2) That judicial commitment to the facility is the best available means for  
2 treatment or security of the client; and  
3 (3) That it is satisfied with the individual treatment plan offered by the facility.

4 **Sec. B-140. 34-B MRSA §5477, sub-§1**, as amended by PL 1983, c. 580, §24, is  
5 further amended to read:

6 **1. Protective custody.** If a law enforcement officer has reasonable grounds to  
7 believe, based upon his personal observation, that a person may be ~~mentally-retarded~~  
8 developmentally disabled, that ~~he~~ that person presents a threat of imminent and  
9 substantial physical harm to ~~himself~~ that person or to other persons and that an  
10 emergency exists requiring immediate residential placement:

- 11 A. The officer may take the person into protective custody; and  
12 B. If the officer does take the person into protective custody, the officer shall deliver  
13 the person forthwith, within 18 hours, for examination by an available licensed  
14 physician or licensed psychologist as provided in subsection 4.

15 **Sec. B-141. 34-B MRSA §5477, sub-§4, ¶B**, as enacted by PL 1983, c. 459, §7,  
16 is amended to read:

17 B. The written application ~~shall~~ must be accompanied by a dated certificate, signed  
18 by a licensed physician or a licensed clinical psychologist, stating:

- 19 (1) ~~He~~ That person has examined the person on the date of the certificate, which  
20 date may not be more than 3 days before the date of admission to the facility; and  
21 (2) ~~He~~ That person is of the opinion that the person is a ~~mentally-retarded~~  
22 with a developmental disability in need of institutional services.

23 **Sec. B-142. 34-B MRSA §5478, sub-§1**, as repealed and replaced by PL 1983, c.  
24 580, §26, is amended to read:

25 **1. Authority to continue treatment.** A client who has been admitted to a facility by  
26 judicial certification, or who has been retained in a facility pursuant to this section, may  
27 continue extended care and treatment in that facility for an additional period, not to  
28 exceed 2 years, only after judicial certification under section 5474 or after waiver of that  
29 process as provided in this section, except that waiver of the judicial certification process  
30 is not permitted for any ~~mentally-retarded~~ person with a developmental disability under  
31 public guardianship.

32 **Sec. B-143. 34-B MRSA §5601, sub-§5**, as amended by PL 1993, c. 326, §3, is  
33 further amended to read:

34 **5. Normalization principle.** "Normalization principle" means the principle of  
35 assisting the person with ~~mental-retardation~~ a developmental disability or autism to  
36 obtain an existence as close to normal as possible and making available to that person  
37 patterns and conditions of everyday life that are as close as possible to the norms and  
38 patterns of the mainstream of society.



1           **Sec. B-144. 34-B MRSA §5601, sub-§5-A**, as enacted by PL 1993, c. 326, §4, is  
2 amended to read:

3           **5-A. Person receiving services.** "Person receiving services" means a person with  
4 ~~mental retardation~~ a developmental disability or autism receiving services from the  
5 bureau or from an agency or facility licensed or funded to provide services to persons  
6 with ~~mental retardation~~ developmental disabilities or autism except those presently  
7 serving sentences for crime.

8           **Sec. B-145. 34-B MRSA §5601, sub-§6**, as amended by PL 1993, c. 326, §5 and  
9 PL 2003, c. 689, Pt. B, §6, is further amended to read:

10           **6. Residential facility.** "Residential facility" means a facility providing 24-hour  
11 residential services for persons with ~~mental retardation~~ developmental disabilities or  
12 autism that is owned, operated, licensed or funded, in whole or in part, by the department  
13 or through the department.

14           **Sec. B-146. 34-B MRSA §5601, sub-§7-A**, as enacted by PL 1993, c. 326, §6, is  
15 amended to read:

16           **7-A. Supports.** "Supports" are those actions or that assistance that permits a person  
17 with ~~mental retardation~~ a developmental disability or autism to carry out life activities as  
18 the person desires.

19           **Sec. B-147. 34-B MRSA §5602**, as amended by PL 1993, c. 326, §8, is further  
20 amended to read:

21           **§5602. Purpose**

22           It is the intent of the Legislature to guarantee individual dignity, liberty, pursuit of  
23 happiness and the protection of the civil and legal rights of persons with ~~mental~~  
24 ~~retardation~~ developmental disabilities or autism and to articulate rights of persons with  
25 ~~mental retardation~~ developmental disabilities or autism, so that these rights may be  
26 exercised and protected.

27           **Sec. B-148. 34-B MRSA §5603**, as amended by PL 1993, c. 326, §8, is further  
28 amended to read:

29           **§5603. Entitlement**

30           Each person with ~~mental retardation~~ a developmental disability or autism is entitled  
31 to the rights enjoyed by citizens of the State and of the United States, unless some of  
32 these rights have been suspended as the result of court guardianship proceedings.

33           **Sec. B-149. 34-B MRSA §5604, first ¶**, as amended by PL 1993, c. 326, §8, is  
34 further amended to read:

35           The Legislature finds and declares that the rights of persons with ~~mental retardation~~  
36 developmental disabilities or autism can be protected best under a system of services that

1 operates according to the principles of normalization and full inclusion and that the  
2 State's system of services must operate according to these principles with the goals of:

3 **Sec. B-150. 34-B MRSA §5604, sub-§2**, as amended by PL 2007, c. 356, §23  
4 and affected by §31, is further amended to read:

5 **2. Independence and productivity.** Providing habilitation, education and other  
6 training to persons with ~~mental retardation~~ developmental disabilities or autism that will  
7 maximize their potential to lead independent and productive lives and that will afford  
8 opportunities for outward mobility from institutions; and

9 **Sec. B-151. 34-B MRSA §5604, sub-§3**, as enacted by PL 2007, c. 356, §23 and  
10 affected by §31, is amended to read:

11 **3. Grievance right.** Providing a person with ~~mental retardation~~ a developmental  
12 disability or autism with the right to appeal a decision regarding actions or inactions by  
13 the department that affects the person's life. The department shall establish in rule a  
14 process for hearing such grievances pursuant to section 1203, subsection 4. The rules  
15 must contain strict time frames for the resolution of grievances. The rules may provide  
16 for resolution of grievances through mediation.

17 A. The department shall provide easily accessible and regular notice of the grievance  
18 process to persons with ~~mental retardation~~ developmental disabilities or autism  
19 served by the department. This notice must be included in informational materials  
20 provided to such persons, as well as to guardians, families, correspondents and allies.  
21 Notice of the right to appeal must be prominently displayed in regional offices and on  
22 the department's publicly accessible website and must be readily available from  
23 provider agencies. Notice of the right to appeal must be included in all substantive  
24 correspondence regarding personal planning. Written notice of the right to appeal  
25 must also be provided when there is a denial or reduction of services or supports to  
26 persons served by the department. All notices and information regarding the  
27 grievance process must be written in language that is plain and understandable and  
28 must include the address and telephone number of the Office of Advocacy and the  
29 protection and advocacy agency designated pursuant to Title 5, section 19502.

30 B. The department must make available a one-page form that enables a person with  
31 ~~mental retardation~~ a developmental disability or autism to file a grievance. A  
32 grievance may also be filed through an oral request. If a grievance is filed through an  
33 oral request, the person receiving the grievance shall reduce the grievance to writing  
34 using a one-page form made available by the department.

35 C. The department shall offer regular training in the grievance process for persons  
36 served by the department, their families, guardians and allies and department and  
37 service provider staff.

38 D. If an appeal proceeds to a hearing, the hearing officer's decision constitutes final  
39 agency action for the purposes of Rule 80C of the Maine Rules of Civil Procedure  
40 unless final decision-making authority has been reserved by the commissioner. If the  
41 commissioner makes the final decision and modifies or rejects the hearing officer's  
42 recommended decision, the commissioner must state in writing the basis for the

1 commissioner's decision. When the commissioner rejects or modifies a hearing  
2 officer's factual findings or makes additional factual findings, the commissioner shall  
3 articulate the evidentiary basis for such rejection or modification with appropriate  
4 references to the record. The commissioner shall give substantial deference to a  
5 hearing officer's determinations on matters of credibility relating to testimony that  
6 was heard by the hearing officer, and when rejecting or modifying such  
7 determinations of credibility, the commissioner shall state with particularity the  
8 reasons with appropriate references to evidence in the record. In the event the  
9 commissioner fails to issue a written final decision within 30 days of the date of the  
10 recommended decision, the recommended decision of the hearing officer is deemed  
11 the final decision of the commissioner.

12 **Sec. B-152. 34-B MRSA §5604-A, sub-§2**, as enacted by PL 2007, c. 356, §24  
13 and affected by §31, is amended to read:

14 **2. Maintain reporting system.** The department shall maintain a reportable event  
15 and adult protective services system that provides for receiving reports of alleged  
16 incidents, prioritizing such reports, assigning reports for investigation by qualified  
17 investigators, reviewing the adequacy of the investigations, making recommendations for  
18 preventive and corrective actions as appropriate and substantiating allegations against  
19 individuals who have been found under the Adult Protective Services Act to have abused,  
20 neglected or exploited persons with ~~mental retardation~~ developmental disabilities or  
21 autism. The department shall fully establish the reportable event and adult protective  
22 services system through rulemaking.

23 **Sec. B-153. 34-B MRSA §5604-A, sub-§3**, as enacted by PL 2007, c. 356, §24  
24 and affected by §31, is amended to read:

25 **3. Violation.** All persons with knowledge of an alleged violation of the rights of an  
26 individual with ~~mental retardation~~ a developmental disability or autism as set out in  
27 section 5605 shall promptly report the details of the alleged violation to the Office of  
28 Advocacy as set forth in department rules.

29 **Sec. B-154. 34-B MRSA §5605**, as amended by PL 2007, c. 573, §§1 to 4, is  
30 further amended to read:

31 **§5605. Rights and basic protections of a person with a developmental disability or**  
32 **autism**

33 A person with ~~mental retardation~~ a developmental disability or autism is entitled to  
34 the following rights and basic protections.

35 **1. Humane treatment.** A person with ~~mental retardation~~ a developmental disability  
36 or autism is entitled to dignity, privacy and humane treatment.

37 **2. Practice of religion.** A person with ~~mental retardation~~ a developmental disability  
38 or autism is entitled to religious freedom and practice without any restriction or forced  
39 infringement on that person's right to religious preference and practice.

1           **3. Communications.** A person with ~~mental retardation~~ a developmental disability or  
2 autism is entitled to private communications.

3           A. A person with ~~mental retardation~~ a developmental disability or autism is entitled  
4 to receive, send and mail sealed, unopened correspondence. A person who owns or is  
5 employed by a day facility or a residential facility may not delay, hold or censor any  
6 incoming or outgoing correspondence of any person with ~~mental retardation~~ a  
7 developmental disability or autism, nor may any such correspondence be opened  
8 without the consent of the person or the person's legal guardian.

9           B. A person with ~~mental retardation~~ a developmental disability or autism in a  
10 residential facility is entitled to reasonable opportunities for telephone  
11 communication.

12           C. A person with ~~mental retardation~~ a developmental disability or autism is entitled  
13 to an unrestricted right to visitations during reasonable hours, except that nothing in  
14 this provision may be construed to permit infringement upon others' rights to privacy.

15           **4. Work.** A person with ~~mental retardation~~ a developmental disability or autism  
16 engaged in work programs that require compliance with state and federal wage and hour  
17 laws is entitled to fair compensation for labor in compliance with regulations of the  
18 United States Department of Labor.

19           **5. Vote.** A person with ~~mental retardation~~ a developmental disability or autism may  
20 not be denied the right to vote for reasons of mental illness, as provided in the  
21 Constitution of Maine, Article II, Section 1, unless under guardianship.

22           **6. Personal property.** A person with ~~mental retardation~~ a developmental disability  
23 or autism is entitled to the possession and use of that person's own clothing, personal  
24 effects and money, except that, when necessary to protect the person or others from  
25 imminent injury, the chief administrator of a day facility or a residential facility may take  
26 temporary custody of clothing or personal effects, which the administrator shall  
27 immediately return when the emergency ends.

28           **7. Nutrition.** A person with ~~mental retardation~~ a developmental disability or autism  
29 in a residential facility is entitled to nutritious food in adequate quantities and meals may  
30 not be withheld for disciplinary reasons.

31           **8. Medical care.** A person with ~~mental retardation~~ a developmental disability or  
32 autism is entitled to receive prompt and appropriate medical and dental treatment and  
33 care for physical and mental ailments and for the prevention of any illness or disability,  
34 and medical treatment must be consistent with the accepted standards of medical practice  
35 in the community, unless the religion of the person with ~~mental retardation~~ a  
36 developmental disability or autism so prohibits.

37           A. Medication may be administered only at the written order of a physician.

38           B. Medication may not be used as punishment, for the convenience of staff, as a  
39 substitute for a habilitation plan or in unnecessary or excessive quantities.

- 1 C. Daily notation of medication received by each person with ~~mental retardation~~ a  
2 developmental disability or autism in a residential facility must be kept in the records  
3 of the person with ~~mental retardation~~ a developmental disability or autism.
- 4 D. Periodically, but no less frequently than every 6 months, the drug regimen of each  
5 person with ~~mental retardation~~ a developmental disability or autism in a residential  
6 facility must be reviewed by the attending physician or other appropriate monitoring  
7 body, consistent with appropriate standards of medical practice.
- 8 E. All prescriptions must have a termination date.
- 9 F. Pharmacy services at each residential facility operated by the department must be  
10 directed or supervised by a professionally competent pharmacist licensed according  
11 to the provisions of Title 32, chapter 41.
- 12 G. Prior to instituting a plan of experimental medical treatment or carrying out any  
13 surgical procedure, express and informed consent must be obtained from the person  
14 with ~~mental retardation~~ a developmental disability or autism, unless the person has  
15 been found to be legally incompetent, in which case the person's guardian may  
16 consent.
- 17 (1) Before making a treatment or surgical decision, the person must be given  
18 information, including, but not limited to, the nature and consequences of the  
19 procedures, the risks, benefits and purposes of the procedures and the availability  
20 of alternate procedures.
- 21 (2) The person or, if legally incompetent, that person's guardian may withdraw  
22 express and informed consent at any time, with or without cause, before  
23 treatment or surgery.
- 24 H. Notwithstanding the absence of express and informed consent, emergency  
25 medical care or treatment may be provided to any person with ~~mental retardation~~ a  
26 developmental disability or autism who has been injured or who is suffering from an  
27 acute illness, disease or condition if delay in initiation of emergency medical care or  
28 treatment would endanger the health of the person.
- 29 I. Notwithstanding the absence of express and informed consent, emergency surgical  
30 procedures may be provided to any person with ~~mental retardation~~ a developmental  
31 disability or autism who has been injured or who is suffering from an acute illness,  
32 disease or condition if delay in initiation of emergency surgery would substantially  
33 endanger the health of the person.
- 34 **9. Sterilization.** A person with ~~mental retardation~~ a developmental disability or  
35 autism may not be sterilized, except in accordance with chapter 7.
- 36 **10. Social activity.** A person with ~~mental retardation~~ a developmental disability or  
37 autism is entitled to suitable opportunities for behavioral and leisure time activities that  
38 include social interaction.
- 39 **11. Physical exercise.** A person with ~~mental retardation~~ a developmental disability  
40 or autism is entitled to opportunities for appropriate physical exercise, including the use  
41 of available indoor and outdoor facilities and equipment.

1           **12. Discipline.** Discipline of persons with ~~mental-retardation~~ developmental  
2           disabilities or autism is governed as follows.

3           A. The chief administrative officer of each facility shall prepare a written statement  
4           of policies and procedures for the control and discipline of persons receiving services  
5           that is directed to the goal of maximizing the growth and development of persons  
6           receiving services.

7                     (1) Persons receiving services are entitled to participate, as appropriate, in the  
8                     formulation of the policies and procedures.

9                     (2) Copies of the statement of policies and procedures must be given to each  
10                    person receiving services and, if the person has been adjudged incompetent, to  
11                    that person's parent or legal guardian.

12                    (3) Copies of the statement of policies and procedures must be posted in each  
13                    residential and day facility.

14           B. Corporal punishment or any form of inhumane discipline is not permitted.

15           C. Seclusion is not permitted.

16           **13. Behavioral treatment.** Behavioral treatment of a person with ~~mental-retardation~~  
17           a developmental disability or autism is governed as follows.

18           A. A person with ~~mental-retardation~~ a developmental disability or autism may not be  
19           subjected to a treatment program to eliminate dangerous or maladaptive behavior  
20           without first being examined by a physician to rule out the possibility that the  
21           behavior is organically caused.

22           A-1. Behavioral treatment programs may contain both behavior modification and  
23           behavior management components. Behavior modification components consist of  
24           interventions designed to assist a person with ~~mental-retardation~~ a developmental  
25           disability or autism to learn to replace dangerous or maladaptive behavior with safer  
26           and more adaptive behavior. Behavior management components consist of  
27           systematic strategies to prevent the occurrence of dangerous or maladaptive  
28           behaviors by minimizing or eliminating environmental or other factors that cause  
29           those behaviors.

30           B. Treatment programs involving the use of noxious or painful stimuli or other  
31           aversive or severely intrusive techniques, as defined in department rules, may be used  
32           only to correct behavior more harmful than the treatment program to the person with  
33           ~~mental-retardation~~ a developmental disability or autism and only:

34                     (1) On the recommendation of a physician, psychiatrist or psychologist;

35                     (2) For an adult 18 years of age or older, with the approval, following a case-by-  
36                     case review, of a review team composed of an advocate from the Office of  
37                     Advocacy; a representative of the Division of ~~Mental-Retardation~~ Developmental  
38                     Disabilities; and a representative of the Consumer Advisory Board; and

39                     (3) For a child under 18 years of age, with the approval, following a case-by-  
40                     case review, of a review team composed of an advocate from the Office of  
41                     Advocacy, a team leader of the department's children's services division and the

1 children's services medical director or the director's designee. Until rules are  
2 adopted by the department to govern behavioral treatment reviews for children,  
3 the team may not approve techniques any more aversive or intrusive than are  
4 permitted in rules adopted by the Secretary of the United States Department of  
5 Health and Human Services regarding treatment of children and youth in  
6 nonmedical community-based facilities funded under the Medicaid program.

7 The department may adopt rules as necessary to implement this paragraph. Rules  
8 adopted pursuant to this paragraph are routine technical rules as defined in Title 5,  
9 chapter 375, subchapter 2-A.

10 C. Notwithstanding paragraph B, for a child under 18 years of age, treatment  
11 programs involving the use of seclusion or any noxious or painful stimuli, as defined  
12 in department rules, may not be approved.

13 **14-A. Physical restraints.** A person with ~~mental-retardation~~ a developmental  
14 disability or autism is entitled to be free from a physical restraint unless:

15 A. The physical restraint is a short-term step to protect the person from imminent  
16 injury to that person or others; or

17 B. The physical restraint has been approved as a behavioral treatment program in  
18 accordance with this section.

19 A physical restraint may not be used as punishment, for the convenience of the staff or as  
20 a substitute for habilitative services. A physical restraint may impose only the least  
21 possible restriction consistent with its purpose and must be removed as soon as the threat  
22 of imminent injury ends. A physical restraint may not cause physical injury to the person  
23 receiving services and must be designed to allow the greatest possible comfort and safety.  
24 The use of totally enclosed cribs and barred enclosures is prohibited in all circumstances.

25 Daily records of the use of physical restraints identified in paragraph A must be kept,  
26 which may be accomplished by meeting reportable event requirements.

27 Daily records of the use of physical restraints identified in paragraph B must be kept, and  
28 a summary of the daily records pertaining to the person must be made available for  
29 review by the person's planning team, as defined in section 5461, subsection 8-C, on a  
30 schedule determined by the team. The review by the personal planning team may occur  
31 no less frequently than quarterly. The summary of the daily records must state the type of  
32 physical restraint used, the duration of the use and the reasons for the use. A monthly  
33 summary of all daily records pertaining to all persons must be relayed to the Office of  
34 Advocacy.

35 **14-B. Mechanical supports.** Mechanical supports used in normative situations to  
36 achieve proper body position and balance are not considered physical restraints, but  
37 mechanical supports must be prescriptively designed and applied under the supervision of  
38 a qualified professional with concern for principles of good body alignment and  
39 circulation and allowance for change of position.

40 **14-C. Safety devices.** A safety device whose effect is to reduce or inhibit a person's  
41 movement in any way but whose purpose is to maintain or ensure the safety of the person  
42 is not considered behavioral treatment or a physical restraint. Safety devices include, but

1 are not limited to, implements, garments, gates, barriers, locks or locking apparatus,  
2 alarms, helmets, masks, gloves, straps, belts or protective gloves whose purpose is to  
3 maintain the safety of the person. The department may adopt rules concerning the use  
4 and approval of safety devices. Rules adopted pursuant to this subsection are routine  
5 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

6 **15. Records.** All records of persons receiving services must remain confidential as  
7 provided in section 1207.

8 A. The person with ~~mental retardation~~ a developmental disability or autism or, if the  
9 person is incompetent, a parent or guardian is entitled to have access to the records  
10 upon request.

11 B. The commissioner is entitled to have access to the records of a day facility or a  
12 residential facility if necessary to carry out the statutory functions of the  
13 commissioner's office.

14 **Sec. B-155. 34-B MRSA §5606, sub-§3,** as amended by PL 1993, c. 326, §10, is  
15 further amended to read:

16 **3. Prohibited acts; penalty; defense.** A person is guilty of violation of the rights of  
17 a person with ~~mental retardation~~ a developmental disability or autism who is receiving  
18 services if that person intentionally violates or abuses any rights or privileges of persons  
19 receiving services granted by this subchapter.

20 A. Violation of the rights of a person with ~~mental retardation~~ a developmental  
21 disability or autism who is receiving services is a Class E crime.

22 B. Good-faith compliance with the provisions of this subchapter in connection with  
23 evaluation, admission, habilitation programming, education, treatment or discharge of  
24 a person receiving services is a defense to prosecution under this subchapter.

25 **Sec. B-156. 34-B MRSA §5610,** as enacted by PL 2007, c. 356, §27 and affected  
26 by §31, is amended to read:

27 **§5610. Service delivery**

28 **1. Guiding service delivery.** The delivery of services by providers of services and  
29 the department to persons with ~~mental retardation~~ developmental disabilities and autism  
30 is guided by the following.

31 A. Persons with ~~mental retardation~~ developmental disabilities or autism have the  
32 same rights as all citizens, including the rights to live, work and participate in the life  
33 of the community.

34 B. Community inclusion is achieved by connecting persons and their families,  
35 whenever possible, to local and generic supports within the community and by the  
36 use of residential services that are small and integrated into the community.

37 C. Real work for real pay for persons in integrated settings in the community is the  
38 cornerstone of all vocational and employment services.



1 D. Service delivery to persons with ~~mental retardation~~ developmental disabilities and  
2 autism is based on the following fundamentals:

- 3 (1) Maximizing the growth and development of the person and inclusion in the  
4 community;
- 5 (2) Maximizing the person's control over that person's life;
- 6 (3) Supporting the person in that person's own home;
- 7 (4) Acknowledging and enhancing the role of the family, as appropriate, as the  
8 primary and most natural caregiver; and
- 9 (5) Planning for the delivery of community services that:
- 10 (a) Promotes a high quality of life;
- 11 (b) Is based on ongoing individualized assessment of the strengths, needs and  
12 preferences of the person and the strengths of that person's family; and
- 13 (c) Identifies and considers connections in other areas of the person's life,  
14 including but not limited to family, allies, friends, work, recreation and  
15 spirituality.

16 **Sec. B-157. 34-B MRSA §6001**, as amended by PL 2001, c. 354, §3 and PL  
17 2003, c. 689, Pt. B, §6, is further amended to read:

18 **§6001. Legislative intent**

19 It is the intent of the Legislature that social and habilitative services directed at  
20 persons who have been diagnosed as being autistic or having other pervasive  
21 developmental disorders be developed and planned for, to the extent that resources  
22 permit, by the Department of Health and Human Services through the Division of ~~Mental~~  
23 Retardation Developmental Disabilities.

24 **Sec. B-158. 34-B MRSA §6201, sub-§2, ¶B**, as amended by PL 1993, c. 738,  
25 Pt. E, §3 and affected by §6, is further amended to read:

26 B. A child 17 years of age or younger who has treatment needs related to mental  
27 illness, ~~mental retardation~~, autism, developmental disabilities or emotional or  
28 behavioral needs that are not under current statutory authority of other state agencies;  
29 or

30 **Sec. B-159. 34-B MRSA §6201, sub-§2, ¶C**, as amended by PL 1995, c. 560,  
31 Pt. K, §67, is further amended to read:

32 C. A person 18 years of age or older and under 21 years of age who has treatment  
33 needs related to mental illness, ~~mental retardation~~, autism, developmental disabilities  
34 or emotional or behavioral needs if the department has determined that it is in the  
35 interest of that person to receive treatment through the department.

36 **Sec. B-160. 34-B MRSA §6205**, as amended by PL 2003, c. 706, Pt. A, §14, is  
37 further amended to read:

1           **§6205. Services for juveniles committed to the youth development centers**

2           **1. Department authority.** The department may provide consultation services to any  
3 juvenile with ~~mental retardation~~ a developmental disability committed to the Long Creek  
4 Youth Development Center or the Mountain View Youth Development Center if those  
5 services are requested by the Commissioner of Corrections or the commissioner's  
6 designee. Consultation services may include participation by appropriate department  
7 professionals on the Classification Committee of the Long Creek Youth Development  
8 Center or the Classification Committee of the Mountain View Youth Development  
9 Center in order to assist in the design of individual treatment plans to provide habilitation,  
10 education and skill training to juveniles with ~~mental retardation~~ developmental  
11 disabilities in residence at the Long Creek Youth Development Center or the Mountain  
12 View Youth Development Center.

13           **2. Support services.** Whenever a program has been designed for a juvenile with  
14 ~~mental retardation~~ a developmental disability by the Classification Committee of the  
15 Long Creek Youth Development Center or the Classification Committee of the Mountain  
16 View Youth Development Center and the classification committee has included  
17 participation by the department professionals, the department shall provide, insofar as  
18 possible, support services to implement that program.

19           **3. Case management.** The department may provide case management services to  
20 juveniles with ~~mental retardation~~ developmental disabilities who are released from the  
21 Long Creek Youth Development Center or the Mountain View Youth Development  
22 Center.

23           **Sec. B-161. 36 MRSA §652, sub-§1, ¶C,** as amended by PL 2007, c. 627, §20,  
24 is further amended to read:

25           C. Further conditions to the right of exemption under paragraphs A and B are that:

26           (1) Any corporation claiming exemption under paragraph A must be organized  
27 and conducted exclusively for benevolent and charitable purposes;

28           (2) A director, trustee, officer or employee of an organization claiming  
29 exemption may not receive directly or indirectly any pecuniary profit from the  
30 operation of that organization, except as reasonable compensation for services in  
31 effecting its purposes or as a proper beneficiary of its strictly benevolent or  
32 charitable purposes;

33           (3) All profits derived from the operation of an organization claiming exemption  
34 and the proceeds from the sale of its property must be devoted exclusively to the  
35 purposes for which it is organized;

36           (4) The institution, organization or corporation claiming exemption under this  
37 section must file with the assessors upon their request a report for its preceding  
38 fiscal year in such detail as the assessors may reasonably require;

39           (5) An exemption may not be allowed under this section in favor of an  
40 agricultural fair association holding pari-mutuel racing meets unless it has

1 qualified the next preceding year as a recipient of a stipend from the Stipend  
2 Fund provided in Title 7, section 86;

3 (6) An exemption allowed under paragraph A or B for real or personal property  
4 owned and occupied or used to provide federally subsidized residential rental  
5 housing is limited as follows: Federally subsidized residential rental housing  
6 placed in service prior to September 1, 1993 by other than a nonprofit housing  
7 corporation that is acquired on or after September 1, 1993 by a nonprofit housing  
8 corporation and the operation of which is not an unrelated trade or business to  
9 that nonprofit housing corporation is eligible for an exemption limited to 50% of  
10 the municipal assessed value of that property.

11 An exemption granted under this subparagraph must be revoked for any year in  
12 which the owner of the property is no longer a nonprofit housing corporation or  
13 the operation of the residential rental housing is an unrelated trade or business to  
14 that nonprofit housing corporation.

15 (a) For the purposes of this subparagraph, the following terms have the  
16 following meanings.

17 (i) "Federally subsidized residential rental housing" means residential  
18 rental housing that is subsidized through project-based rental assistance,  
19 operating assistance or interest rate subsidies paid or provided by or on  
20 behalf of an agency or department of the Federal Government.

21 (ii) "Nonprofit housing corporation" means a nonprofit corporation  
22 organized in the State that is exempt from tax under Section 501(c)(3) of  
23 the Code and has among its corporate purposes the provision of services  
24 to people of low income or the construction, rehabilitation, ownership or  
25 operation of housing.

26 (iii) "Residential rental housing" means one or more buildings, together  
27 with any facilities functionally related and subordinate to the building or  
28 buildings, located on one parcel of land and held in common ownership  
29 prior to the conversion to nonprofit status and containing 9 or more  
30 similarly constructed residential units offered for rental to the general  
31 public for use on other than a transient basis, each of which contains  
32 separate and complete facilities for living, sleeping, eating, cooking and  
33 sanitation.

34 (iv) "Unrelated trade or business" means any trade or business whose  
35 conduct is not substantially related to the exercise or performance by a  
36 nonprofit corporation of the purposes or functions constituting the basis  
37 for exemption under Section 501(c)(3) of the Code.

38 (b) Eligibility of the following property for exemption is not affected by the  
39 provisions of this subparagraph:

40 (i) Property used as a nonprofit nursing home, residential care facility  
41 licensed by the Department of Health and Human Services pursuant to  
42 Title 22, chapter 1663 or a community living arrangement as defined in  
43 Title 30-A, section 4357-A or any property owned by a nonprofit

1 organization licensed or funded by the Department of Health and Human  
2 Services to provide services to or for the benefit of persons with mental  
3 illness or ~~mental retardation~~ developmental disabilities;

4 (ii) Property used for student housing;

5 (iii) Property used for parsonages;

6 (iv) Property that was owned and occupied or used to provide residential  
7 rental housing that qualified for exemption under paragraph A or B prior  
8 to September 1, 1993; or

9 (v) Property exempt from taxation under other provisions of law; and

10 (7) In addition to the requirements of subparagraphs (1) to (4), an exemption is  
11 not allowed under paragraph A or B for real or personal property owned and  
12 occupied or used to provide residential rental housing that is transferred or placed  
13 in service on or after September 1, 1993, unless the property is owned by a  
14 nonprofit housing corporation and the operation of the residential rental housing  
15 is not an unrelated trade or business to the nonprofit housing corporation.

16 For the purposes of this subparagraph, the following terms have the following  
17 meanings.

18 (a) "Nonprofit housing corporation" means a nonprofit corporation  
19 organized in the State that is exempt from tax under Section 501(c)(3) of the  
20 Code and has among its corporate purposes the provision of services to  
21 people of low income or the construction, rehabilitation, ownership or  
22 operation of housing.

23 (b) "Residential rental housing" means one or more buildings, together with  
24 any facilities functionally related and subordinate to the building or  
25 buildings, containing one or more similarly constructed residential units  
26 offered for rental to the general public for use on other than a transient basis,  
27 each of which contains separate and complete facilities for living, sleeping,  
28 eating, cooking and sanitation.

29 (c) "Unrelated trade or business" means any trade or business whose conduct  
30 is not substantially related to the exercise or performance by a nonprofit  
31 organization of the purposes constituting the basis for exemption under  
32 Section 501(c)(3) of the Code.

33 **Sec. B-162. 36 MRSA §1760, sub-§28**, as amended by PL 1999, c. 708, §28; PL  
34 2001, c. 354, §3; and PL 2003, c. 689, Pt. B, §6, is further amended to read:

35 **28. Community mental health facilities, community developmental disability**  
36 **facilities and community substance abuse facilities.** Sales to mental health facilities,  
37 ~~mental retardation~~ developmental disability facilities or substance abuse facilities that are:

38 A. Contractors under or receiving support under the Federal Community Mental  
39 Health Centers Act, or its successors; or

40 B. Receiving support from the Department of Health and Human Services pursuant  
41 to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204.

1           **Sec. B-163. 36 MRSA §2551, sub-§1-B**, as amended by PL 2007, c. 539, Pt.  
2 DDD, §2, is further amended to read:

3           **1-B. Community support services for persons with developmental disabilities or**  
4 **autism.** "Community support services for persons with ~~mental-retardation~~ developmental  
5 disabilities or autism" means services:

6           A. That are provided by community-based agencies to children or adults with ~~mental~~  
7 ~~retardation~~ developmental disabilities or autism and include assistance with the  
8 acquisition, retention or improvement of self-help, socialization and adaptive living  
9 skills; and

10          B. That take place in a nonresidential setting separate from the home or facility in  
11 which the child or adult resides, except when a physician has ordered that such  
12 services be provided in the child's or adult's home, and focus on enabling the child or  
13 adult to attain or maintain maximum functional levels.

14 "Community support services for persons with ~~mental-retardation~~ developmental  
15 disabilities or autism" includes only those services provided by designated agencies under  
16 a contract with the Department of Health and Human Services.

17           **Sec. B-164. 36 MRSA §2551, sub-§7-B**, as amended by PL 2007, c. 539, Pt.  
18 DDD, §3, is further amended to read:

19           **7-B. Home support services.** "Home support services" means services provided to  
20 adults with ~~mental-retardation~~ developmental disabilities or autism, including direct  
21 assistance with eating, bathing, dressing, personal hygiene and other activities of daily  
22 living. These services include only those services provided by designated agencies under  
23 a contract with the Department of Health and Human Services and:

24          A. May include assistance with instrumental activities of daily living such as  
25 assistance with the preparation of meals, but does not include the cost of the meals  
26 themselves;

27          B. If specified in the adult's care plan, may include such housekeeping chores as bed  
28 making, dusting and vacuuming that are incidental to the care furnished, or are  
29 essential to the health and welfare of the adult; and

30          C. May be provided by a provider unrelated to the adult or by an adult relative other  
31 than an adult recipient's spouse, but may not be provided in the same setting where  
32 residential training is provided.

33           **Sec. B-165. 36 MRSA §2552, sub-§1, ¶I**, as amended by PL 2007, c. 539, Pt.  
34 DDD, §6, is further amended to read:

35          I. Community support services for persons with ~~mental-retardation~~ developmental  
36 disabilities or autism; and

37           **Sec. B-166. 36 MRSA §2557, sub-§6**, as amended by PL 2007, c. 438, §60, is  
38 further amended to read:

1           **6. Community mental health facilities, community developmental disability**  
2 **facilities and community substance abuse facilities.** Sales to mental health facilities,  
3 ~~mental retardation~~ developmental disability facilities or substance abuse facilities that are:

4           A. Contractors under or receiving support under the federal Community Mental  
5 Health Centers Act, or its successors; or

6           B. Receiving support from the Department of Health and Human Services pursuant  
7 to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204;

8           **Sec. B-167. 36 MRSA §2559**, as amended by PL 2007, c. 539, Pt. DDD, §9, is  
9 further amended to read:

10           **§2559. Application of revenues**

11           Revenues derived by the tax imposed by this chapter must be credited to a General  
12 Fund suspense account. On or before the last day of each month, the State Controller  
13 shall transfer a percentage of the revenues received by the State Tax Assessor during the  
14 preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A  
15 to F to the Local Government Fund as provided by Title 30-A, section 5681, subsection 5.  
16 The balance remaining in the General Fund suspense account must be transferred to  
17 service provider tax General Fund revenue. On or before the 15th day of each month, the  
18 State Controller shall transfer all revenues received by the assessor during the preceding  
19 month pursuant to the tax imposed by section 2552, subsection 1, paragraphs G to J to the  
20 Medical Care Services Other Special Revenue Funds account, the Other Special Revenue  
21 Funds Mental Health Services - Community Medicaid program, the Medicaid Services -  
22 ~~Mental Retardation~~ Developmental Disability program and the Office of Substance  
23 Abuse - Medicaid Seed program within the Department of Health and Human Services.

24           **Sec. B-168. 36 MRSA §2871, sub-§6**, as amended by PL 2003, c. 2, Pt. GG, §1  
25 and affected by §3, is further amended to read:

26           **6. Residential treatment facility.** "Residential treatment facility" means an  
27 intermediate care facility for ~~the mentally retarded~~ persons with developmental  
28 disabilities, or a level I assisted living facility for ~~the mentally retarded~~ persons with  
29 developmental disabilities, that falls within the definitions provided by the United States  
30 Social Security Act, 42 United States Code, Section 1396(d) and that provides services to  
31 individuals with developmental disabilities. "Residential treatment facility" also means a  
32 community-based facility that provides similar services to the developmentally disabled  
33 under a waiver granted pursuant to the United States Social Security Act, 42 United  
34 States Code, Section 1396n(c) to the extent permitted by federal law and regulations.

35           **Sec. B-169. Maine Revised Statutes headnote amended; revision clause.**  
36 In the Maine Revised Statutes, Title 34-B, chapter 5, in the chapter headnote, the words  
37 "mental retardation" are amended to read "developmental disability" and the Revisor of  
38 Statutes shall implement this revision when updating, publishing or republishing the  
39 statutes.

40           **Sec. B-170. Maine Revised Statutes headnote amended; revision clause.**  
41 In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 2, in the subchapter

1 headnote, the words "mental retardation services" are amended to read "departmental  
2 services for persons with developmental disabilities" and the Revisor of Statutes shall  
3 implement this revision when updating, publishing or republishing the statutes.

4 **Sec. B-171. Maine Revised Statutes headnote amended; revision clause.**  
5 In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 3, in the subchapter  
6 headnote, the words "services for mentally retarded persons" are amended to read  
7 "services for persons with developmental disabilities" and the Revisor of Statutes shall  
8 implement this revision when updating, publishing or republishing the statutes.

9 **Sec. B-172. Maine Revised Statutes headnote amended; revision clause.**  
10 In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 3, article 1, in the article  
11 headnote, the words "state-operated facilities for mentally retarded persons" are amended  
12 to read "state-operated facilities for persons with developmental disabilities" and the  
13 Revisor of Statutes shall implement this revision when updating, publishing or  
14 republishing the statutes.

15 **Sec. B-173. Maine Revised Statutes headnote amended; revision clause.**  
16 In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 4, in the subchapter  
17 headnote, the words "rights of persons with mental retardation or autism" are amended to  
18 read "rights of persons with developmental disabilities or autism" and the Revisor of  
19 Statutes shall implement this revision when updating, publishing or republishing the  
20 statutes.

21 **SUMMARY**

22 This bill makes several changes throughout the Maine Revised Statutes to avoid  
23 certain terms or phrases that might be construed as disrespectful. The terminology  
24 removed is replaced with more respectful alternatives that place people first.

25 Part A removes the terms "common drunkard," "lunatic," "mentally deranged" and  
26 "senile" from the statutes and removes language that refers to persons being "afflicted"  
27 with a condition.

28 Part B removes references to "mental retardation" and "mentally retarded" and  
29 changes the reference to "persons with developmental disabilities."