

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 897

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H.P. 620

House of Representatives, March 7, 2013

### **An Act To Establish the Volunteer Advocate Program**

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative WILLETTE of Mapleton.  
Cosponsored by Senator JACKSON of Aroostook and  
Representatives: CLARK of Easton, FARNSWORTH of Portland, SANDERSON of Chelsea,  
SIROCKI of Scarborough.

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

2 **Sec. 1. 5 MRSA §12004-J, sub-§18** is enacted to read:

3 **18.**

4 Mental Health and Volunteer Advocate Expenses Only 34-B MRSA §1226  
5 Intellectual Program Board  
6 Disability

7 **Sec. 2. 34-B MRSA §1226** is enacted to read:

8 **§1226. Volunteer Advocate Program**

9 **1. Program established.** The Volunteer Advocate Program, referred to in this  
10 section as "the program," is established within the department for the purpose of  
11 advocating for the rights of persons with intellectual disabilities or autism, referred to in  
12 this section as "consumers," within a system of services and supports that operates  
13 according to the principles of normalization and full community inclusion.

14 **2. Volunteer Advocate Program Board.** The Volunteer Advocate Program Board,  
15 established by Title 5, section 12004-J, subsection 18 and referred to in this section as  
16 "the board," consists of 6 members.

17 A. The Governor shall appoint the members of the board based on recommendations  
18 of the steering committee of an existing independent program of volunteer advocates  
19 for persons with intellectual disabilities or autism. Members serve for terms of 3  
20 years and may be reappointed for up to 2 full terms. In making appointments, the  
21 Governor shall endeavor to ensure adequate representation from different regions of  
22 the State.

23 B. Board members must be volunteer advocates. A member of the Maine  
24 Developmental Services Oversight and Advisory Board, a member of any other state  
25 advisory board and a state employee or contractor may not serve as a board member.

26 C. A vacancy on the board must be filled as soon as practicable by appointment for  
27 the unexpired term in the same manner as the original appointment under paragraph  
28 A. A member serves until a successor is appointed.

29 **3. Chair.** The board shall elect a chair from among its members.

30 **4. Compensation.** Board members are entitled to reimbursement of reasonable  
31 expenses incurred in order to serve on the board as provided in Title 5, section 12004-J,  
32 subsection 18.

33 **5. Staff.** The board may hire a program coordinator.

34 **6. Budget.** The board shall provide to the commissioner a proposed budget in  
35 accordance with a schedule agreed to by the chair and the commissioner. The department  
36 shall include in its estimate of expenditure and appropriation requirements filed pursuant

1 to Title 5, section 1665 sufficient funds, listed in a separate account as a separate line  
2 item, to enable the board to administer the program.

3 **7. Fund-raising.** The board may raise funds, through grants or other means, to be  
4 used toward the operation of the program or for specific projects. Up to 75% of funds  
5 raised for the operation of the program may be used to defray the State's budget  
6 expenditure for the program.

7 **8. Maine Tort Claims Act.** Board members and staff of the program act as  
8 employees of the State, as defined in Title 14, section 8102, subsection 1, when engaged  
9 in official duties specified in this section or assigned by the board.

10 **9. Duties of the board.** The board shall oversee the operation of the program. The  
11 board has the following duties:

12 **A. To recruit, approve, train, assign, supervise and support volunteer advocates for**  
13 **consumers of the department's services for persons with intellectual disabilities or**  
14 **autism; and**

15 **B. To maintain and update a policy and training manual for volunteer advocates.**  
16 **The manual must include a policy regarding protection of confidential information**  
17 **and conflicts of interest. The board shall submit a copy of the manual, and any**  
18 **updates, to the Maine Developmental Services Oversight and Advisory Board and the**  
19 **department for review and comment.**

20 **10. Referral.** The program may refer matters brought to its attention to other  
21 resources when those matters involve consumers who have a volunteer advocate assigned  
22 by the program.

23 **11. Access to information and facilities.** The program and its staff have the  
24 following rights of access to information and facilities.

25 **A. A volunteer advocate must be provided access to all living and program areas**  
26 **used by a consumer and to records related to a consumer for whom the volunteer**  
27 **advocate serves as volunteer advocate, other than personnel records of persons**  
28 **providing services to the consumer. A volunteer advocate must be provided access to**  
29 **the personnel of any institution, facility, agency or other provider serving a consumer**  
30 **the volunteer advocate represents that is administered, licensed or funded by a state**  
31 **agency. This paragraph does not permit a volunteer advocate access to information**  
32 **or records relating to a person or persons for whom the volunteer advocate does not**  
33 **serve as the designated volunteer advocate.**

34 **B. The program must be provided access as described in paragraph A for all**  
35 **consumers who participate in the program.**

36 **C. A volunteer advocate has the right to be notified of and attend all personal**  
37 **planning meetings for the consumer to whom the volunteer advocate is assigned and**  
38 **to file grievances on that consumer's behalf.**

39 **12. Duties of volunteer advocates.** A volunteer advocate shall serve as the next  
40 friend of a consumer to whom the volunteer advocate has been assigned by the program.

1 A volunteer advocate shall attend planning meetings and assist a consumer in articulating  
2 the consumer's needs and desires and in ensuring that the consumer's rights under law are  
3 acknowledged and respected.

4 **13. Rulemaking.** The board shall adopt rules governing its operations, including  
5 rules establishing its bylaws. Rules adopted pursuant to this subsection are routine  
6 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

7 **14. Transition to not-for-profit corporation.** The board, in the interests of the  
8 complete independence of the program, shall work toward establishing the program as a  
9 not-for-profit tax-exempt corporation that is independent of the department and any of its  
10 agencies. The department shall assist the board in the transition of the program to an  
11 independent entity.

12 **Sec. 3. 34-B MRSA §5470-B, sub-§10** is enacted to read:

13 **10. Notice to Volunteer Advocate Program.** The department shall notify the  
14 Volunteer Advocate Program under section 1226 whenever a planning team for an adult  
15 with an intellectual disability or autism has determined that the adult has a need for a  
16 volunteer advocate.

17 **Sec. 4. Staggered terms.** Notwithstanding the Maine Revised Statutes, Title  
18 34-B, section 1226, subsection 2, paragraph A, of the initial members of the Volunteer  
19 Advocate Program Board, the Governor shall designate 2 appointees to serve for one-year  
20 terms, 2 appointees to serve for 2-year terms and 2 appointees to serve for 3-year terms.  
21 An initial term of one year or 2 years may not be considered a full term for the purposes  
22 of limiting the number of terms for which a member may serve.

23 **SUMMARY**

24 This bill establishes in law the Volunteer Advocate Program to replace the Volunteer  
25 Correspondent Program established in 1978 pursuant to the Pineland Consent Decree.  
26 The bill establishes a structure and guidelines for the enhancement and continuation of a  
27 program of volunteer advocates for persons with intellectual disabilities and autism with  
28 the goal of establishing an independent not-for-profit corporation to provide volunteer  
29 advocacy services.