

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1631

H.P. 1107

House of Representatives, March 3, 2016

**An Act To Reduce the Liability of Maine Taxpayers by Aligning
Maine's Welfare Programs with Federal Law**

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

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative FREDETTE of Newport. (GOVERNOR'S BILL)
Cosponsored by Senator MASON of Androscoggin and
Representatives: FARRIN of Norridgewock, HARRINGTON of Sanford, MAKER of Calais,
PIERCE of Dresden, POULIOT of Augusta, TURNER of Burlington, Senators: COLLINS of
York, SAVIELLO of Franklin.

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

2 **Sec. 1. 22 MRSA §3762, sub-§4**, as enacted by PL 1997, c. 530, Pt. A, §16, is
3 amended to read:

4 **4. Promoting support by both parents.** The department shall enforce laws and
5 establish policies to ensure that both parents contribute to the economic support of their
6 child or children and to promote every child's right to economic support from both
7 parents. Applicants for and recipients of assistance may refuse to cooperate in the
8 establishment of paternity or child support enforcement for good cause related to
9 domestic violence, including situations when cooperation may result in harm to the parent
10 or child, or when the child was conceived as a result of incest or rape. Evidence
11 supporting a good cause determination includes, but is not limited to, the evidence
12 specified in section ~~3785~~ 3785-B, subsection 13 subsections 1 and 2. The department
13 shall notify all applicants and recipients orally and in writing of the availability of this
14 determination. When a determination of good cause is made by the department, the
15 department may not impose sanctions or penalties against the applicant or recipient or
16 engage in any other activity that could subject any member of the family to harm.

17 **Sec. 2. 22 MRSA §3762, sub-§10, ¶¶A and B**, as enacted by PL 1997, c. 530,
18 Pt. A, §16, are amended to read:

19 A. The department shall provide all applicants for assistance under this chapter with
20 information both orally and in writing of the availability of services for victims of
21 domestic violence and of the good cause determination for victims of domestic
22 violence under section ~~3785, subsection 13~~ 3785-B. If an applicant requests a good
23 cause determination under section ~~3785, subsection 13~~ 3785-B, the department shall
24 promptly determine whether the applicant qualifies for good cause. An individual
25 may not be required to participate in any TANF activity including orientation until
26 the good cause determination is made.

27 B. When a determination of good cause is made under section ~~3785, subsection 13~~
28 3785-B, the ASPIRE-TANF program may contact the individual and offer domestic
29 violence victim services or other appropriate services on a voluntary basis.

30 **Sec. 3. 22 MRSA §3763, sub-§1-A**, as enacted by PL 2011, c. 380, Pt. PP, §4, is
31 amended to read:

32 **1-A. Partial and full termination of benefits.** Benefits under this chapter must be
33 terminated by the department under the provisions of subsection 1 and sections ~~3785 and~~
34 3785-A and 3785-B as follows:

35 A. For a first failure to meet the conditions of a family contract, termination of
36 benefits applies to the adult recipient;

37 B. For a first failure to meet the conditions of a family contract for which termination
38 of benefits under paragraph A lasts for longer than 90 days and for a 2nd and
39 subsequent violation, termination of benefits applies to the adult recipient and the full
40 family unit; and

1 C. Prior to the implementation of a full family unit sanction, the department shall
2 offer the adult recipient an opportunity to claim good cause for noncompliance as
3 described in section ~~3785~~ 3785-B.

4 Benefits that have been terminated under this subsection must be restored once the adult
5 recipient signs a new contract under subsection 1 and complies with the provisions of the
6 family contract.

7 **Sec. 4. 22 MRSA §3785**, as amended by PL 1997, c. 530, Pt. A, §§20 to 24, is
8 repealed.

9 **Sec. 5. 22 MRSA §3785-A, first ¶**, as enacted by PL 2001, c. 335, §1, is
10 amended to read:

11 ~~Prior to imposing a sanction against an individual, the department must complete the~~
12 The sanction process, which includes the following.

13 **Sec. 6. 22 MRSA §3785-A, sub-§1**, as enacted by PL 2001, c. 335, §1, is
14 amended to read:

15 **1. Procedures.** Prior to imposing a sanction against an individual for failure to
16 comply with Temporary Assistance for Needy Families or ASPIRE-TANF rules, the
17 department shall:

18 A. Thoroughly review the circumstances of the individual; and

19 ~~B. Provide the individual with a notice that states the basis for the sanction and a~~
20 ~~complete list of good cause reasons as set forth in section 3785;~~

21 ~~C. Provide the individual with an opportunity to inform the department of good~~
22 ~~cause circumstances under section 3785; and~~

23 D. Obtain supervisory approval of the recommendation of the case manager to
24 impose a sanction.

25 **Sec. 7. 22 MRSA §3785-A, sub-§1-A** is enacted to read:

26 **1-A. Notice of basis for sanction.** At the time of imposing a sanction against an
27 individual for failure to comply with Temporary Assistance for Needy Families or
28 ASPIRE-TANF rules, the department shall provide the individual with a notice that states
29 the basis for the sanction and the good cause reason as set forth in section 3785-B.

30 **Sec. 8. 22 MRSA §3785-B** is enacted to read:

31 **§3785-B. Domestic violence exception from sanctions for failure to participate**

32 An individual may not be sanctioned under this program or Temporary Assistance for
33 Needy Families for failure to participate in the ASPIRE-TANF program if that individual
34 is unable to participate because of physical injuries or the psychological effects of abuse;
35 because of legal proceedings, counseling or other activities related to abuse; because the
36 abuser actively interferes with the individual's participation; because the location puts the
37 individual at risk; or for other good cause related to domestic violence. Good cause for

1 failure to participate in this program must be found when there is reasonable and
2 verifiable evidence of domestic violence. For the purposes of this subsection, reasonable
3 and verifiable evidence may include but is not limited to the following:

4 1. Records. Court, medical, law enforcement, child protective, social services,
5 psychological or other records that establish that the individual has been a victim of
6 domestic violence; or

7 2. Sworn statements. Sworn statements from persons other than the individual with
8 knowledge of the circumstances affecting the individual.

9 Each individual participating in an ASPIRE-TANF orientation must receive written
10 and oral notice of what constitutes good cause for nonparticipation in ASPIRE-TANF.

11 **Sec. 9. 22 MRSA §3787-A** is enacted to read:

12 **§3787-A. Fund for the Payment of Federal Fines Imposed for Noncompliance with**
13 **Federal Work Participation Requirements**

14 1. Fund established. The Fund for the Payment of Federal Fines Imposed for
15 Noncompliance with Federal Work Participation Requirements, referred to in this section
16 as "the fund," is established within the department for the purpose of paying fines
17 imposed on the State by the Federal Government due to the State's failure to comply with
18 federal requirements related to the ASPIRE-TANF program.

19 2. Fund maintenance. By January 31st annually, the commissioner shall report to
20 the joint standing committee of the Legislature having jurisdiction over health and human
21 services matters any fines owed by the State to the Federal Government as a result of
22 noncompliance with federal work participation requirements under the ASPIRE-TANF
23 program. The committee, within 30 days of the commissioner's report, shall report out a
24 bill that appropriates to the fund the amount necessary to pay any federal fines owed and
25 may report out legislation related to the commissioner's report.

26 **Sec. 10. 22 MRSA §3788, sub-§3**, as amended by PL 2013, c. 376, §1, is further
27 amended to read:

28 **3. Assessment.** Each participant's case manager shall conduct an initial assessment
29 to determine that individual's education, training and employment needs based on
30 available program resources, the participant's skills and aptitudes, the participant's need
31 for supportive services, local employment opportunities, the existence of any good cause
32 circumstances under section ~~3785~~ 3785-B and, to the maximum extent possible, the
33 preferences of the participant. The department shall document findings in the
34 participant's case record indicating any barriers to participation, including, but not limited
35 to, any physical or mental health problems, including learning disabilities or cognitive
36 impairments, or other good cause circumstances specified in section ~~3785~~ 3785-B.

37 **Sec. 11. 22 MRSA §3788, sub-§3-A**, as enacted by PL 2013, c. 376, §2, is
38 amended to read:

1 **3-A. Comprehensive screening and assessment.** If upon an initial screening or at a
2 later date it is determined that a participant has physical or mental health impairments,
3 learning disabilities, cognitive impairments or limitations related to providing care for a
4 household member with a disability or serious illness or a child with a serious behavioral
5 condition, the participant must be offered the opportunity for a comprehensive assessment
6 that may result in referral for alternative services, supports and income benefits. If the
7 participant chooses to have a comprehensive assessment, the participant must be referred
8 to a qualified professional to identify the strengths and needs of and barriers faced by that
9 participant. The participant's case manager shall ensure that any accommodation or
10 support services necessary for the participant to participate in the assessment are made
11 available to the participant. The participant may supplement this assessment with
12 medical records or any other credible information related to the participant's ability to
13 participate in program activities. An assessment under this subsection may also be
14 initiated at the choice of the participant at any time. The individual performing this
15 assessment shall recommend to the case manager any services, supports and programs
16 needed to improve the economic self-sufficiency and well-being of the participant and the
17 participant's family based on the assessment.

18 In coordination with the participant, the case manager shall establish a plan for the
19 participant and the participant's family based on the assessment that includes appropriate
20 services, supports and programs consistent with the findings and recommendations of the
21 assessment that may include:

22 A. Referral to a community agency qualified to assist the participant with services,
23 supports, education, training and accommodations needed to reduce or overcome any
24 barriers to achieving self-sufficiency and to fulfill the participant's personal and
25 family responsibilities; and

26 B. Assistance needed by the participant to obtain federal social security disability
27 insurance benefits or federal supplemental security income benefits.

28 This subsection does not preclude a determination that the participant is temporarily
29 unable to participate, including participation in any assessment pursuant to this
30 subsection, due to good cause as described in section ~~3785~~ 3785-B. Any determination
31 made under this subsection may be appealed in accordance with section 3762, subsection
32 9.

33 A participant who chooses to participate in a comprehensive assessment under this
34 subsection and fails to participate without good cause may be sanctioned in accordance
35 with section 3763, subsection 1-A, paragraph A regardless of any previous sanctions that
36 the participant may have incurred.

37 The department shall provide training for case managers regarding their job
38 responsibilities and their obligation to comply with the requirements of the federal
39 Americans with Disabilities Act of 1990; the federal Rehabilitation Act of 1973; and the
40 Maine Human Rights Act when interviewing and providing information to participants,
41 when referring participants for alternative services or when considering whether the
42 participant requires reasonable accommodations in order to participate in the ASPIRE-
43 TANF program.

1 **Sec. 12. 22 MRSA §3788, sub-§10, ¶C**, as amended by PL 2005, c. 480, §1, is
2 repealed and the following enacted in its place:

3 C. For individuals who are satisfactorily participating in an education or training
4 program, the department shall determine the acceptability of the activity for purposes
5 of meeting the participation requirements of this chapter using the same criteria as are
6 used for any individual in the ASPIRE-TANF program.

7 **Sec. 13. 22 MRSA §3788, sub-§11, ¶B**, as amended by PL 1997, c. 530, Pt. A,
8 §26, is further amended to read:

9 B. ASPIRE-TANF participants who are attending school or are involved in an
10 equivalent educational program recognized by the Department of Education or a local
11 school board are considered to be in the education, training or treatment component
12 ~~and their participation is not limited to 24 months.~~ The department shall encourage
13 recipients younger than 20 years of age who have not completed high school to attend
14 traditional high school.

15 **Sec. 14. 22 MRSA §3788, sub-§11, ¶D**, as enacted by PL 2001, c. 335, §3, is
16 amended to read:

17 D. If a claim of disability or other good cause is made by a participant, the
18 department shall assess the circumstances of the claim. If disability or other good
19 cause is found to exist, the department shall offer reasonable alternative participation
20 requirements to the extent required by federal law and document them in the
21 participant's family contract and case record.

22 **Sec. 15. 22 MRSA §3790, sub-§3**, as repealed and replaced by PL 1999, c. 407,
23 §1, is amended to read:

24 **3. Program requirements.** An enrollee must participate in a combination of
25 education, training, study or work-site experience for an average of 20 hours per week in
26 a manner that meets federal work participation requirements in the first 24 12 months of
27 the program. Aid under this chapter may continue beyond 24 12 months if the enrollee
28 remains in an educational program and ~~agrees to participate in either of the following~~
29 ~~options:~~ meets federal work participation requirements.

30 ~~A. Fifteen hours per week of work site experience in addition to other education,~~
31 ~~training or study; or~~

32 ~~B. A total of 40 hours of education, training, study or work site experience.~~

33 ~~The department shall present both options to enrollees and permit them to choose either~~
34 ~~option.~~ For the purpose of this subsection, work-site experience includes, but is not
35 limited to, paid employment, work study, practicums, internships, clinical placements,
36 laboratory or field work directly related to the enrollee's employment goal or any other
37 work activities that, as determined by the department, will enhance the enrollee's
38 employability in the enrollee's field. In the last semester of the enrollee's educational
39 program, work-site experience may also include resume preparation, employment
40 research, interviews and other activities related to job placement.

1 The bill establishes the Fund for the Payment of Federal Fines Imposed for
2 Noncompliance with Federal Work Participation Requirements in the Department of
3 Health and Human Services. The purpose of the fund is to pay fines imposed on the State
4 by the Federal Government due to the State's failure to comply with federal requirements
5 related to the ASPIRE-TANF program. The bill provides an appropriation in fiscal year
6 2016-17 and requires the Commissioner of Health and Human Services to report annually
7 regarding the fines owed by the State for noncompliance to the joint standing committee
8 of the Legislature having jurisdiction over health and human services matters, which is
9 required to report out a bill, within 30 days of the commissioner's report, appropriating
10 the amount necessary to pay the fines.