

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 1984

S.P. 686

In Senate, January 8, 2020

An Act To Eliminate Waiting Lists for Home and Community-based Services for Adults with Intellectual Disabilities, Autism, Brain Injury and Other Related Conditions

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator MILLETT of Cumberland.

Cosponsored by Representative HYMANSON of York and

Senators: BELLOWS of Kennebec, CARPENTER of Aroostook, CLAXTON of Androscoggin, HERBIG of Waldo, President JACKSON of Aroostook, VITELLI of Sagadahoc, Representatives: GATTINE of Westbrook, TIPPING of Orono.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** persons with disabilities have the right to dignity, and to receive the
4 support they need to work and to be otherwise included in their communities; and

5 **Whereas,** many persons with disabilities have an urgent need for adult home and
6 community-based services to provide support and to enable their family members to
7 work; and

8 **Whereas,** as of November 2019 there were nearly 2,000 persons on the MaineCare
9 Section 29, Section 21, Section 20 and Section 18 waiver waiting lists for adult home and
10 community-based services; and

11 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
12 the meaning of the Constitution of Maine and require the following legislation as
13 immediately necessary for the preservation of the public peace, health and safety; now,
14 therefore,

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

16 **Sec. 1. 34-B MRSA §5003-A, sub-§1,** as amended by PL 2011, c. 542, Pt. A,
17 §83, is further amended to read:

18 **1. System of care.** The Legislature declares that the system of care through which
19 the State provides services to and programs for persons with intellectual disabilities or
20 autism must be designed to protect the integrity of the legal and human rights of these
21 persons and to meet their needs consistent with the principles guiding delivery of services
22 as set forth in section 5610. The Legislature further declares that:

23 A. It is the policy of the State not to impose any policy, rule, regulation or restriction
24 that interferes with the opportunity for persons with intellectual disabilities or autism
25 to live in the community and lead an independent life;

26 B. It is the policy of the State not to impose a waiting list or other mechanism that
27 delays or restricts access of persons with intellectual disabilities or autism to a
28 community-based long-term service or support; and

29 C. It is the policy of the State to establish an adequate rate or other payment structure
30 that is necessary to ensure the availability of a workforce sufficient to support a
31 person with intellectual disabilities or autism in living in the community and leading
32 an independent life.

33 **Sec. 2. 34-B MRSA §5003-A, sub-§2, ¶F,** as amended by PL 2011, c. 542, Pt.
34 A, §83, is further amended to read:

35 F. Strive toward having a sufficient number of personnel who are qualified and
36 experienced to provide treatment that is beneficial to persons with intellectual
37 disabilities or autism; ~~and~~

1 **Sec. 3. 34-B MRSA §5003-A, sub-§2, ¶G**, as amended by PL 2011, c. 542, Pt.
2 A, §83, is further amended to read:

3 G. Encourage other departments to provide to persons with intellectual disabilities or
4 autism those services that are required by law, and in particular:

5 (1) The commissioner shall work actively with the Commissioner of Education
6 to ensure that persons with intellectual disabilities or autism receive appropriate
7 services upon being diagnosed with either disability regardless of the degree of
8 functional limitation or accompanying disabilities;

9 (2) The commissioner shall advise other departments about standards and
10 policies pertaining to administration, staff, quality of care, quality of treatment,
11 health and safety of clients, rights of clients, community relations and licensing
12 procedures and other areas that affect persons with intellectual disabilities or
13 autism residing in facilities licensed by the department; and

14 (3) The commissioner shall inform the joint standing committee of the
15 Legislature having jurisdiction over human resources matters about areas where
16 increased cooperation by other departments is necessary in order to improve the
17 delivery of services to persons with intellectual disabilities or autism-;

18 **Sec. 4. 34-B MRSA §5003-A, sub-§2, ¶H** is enacted to read:

19 H. Post at least monthly on the department's publicly accessible website, for each
20 home and community-based services waiver from the United States Department of
21 Health and Human Services, Centers for Medicare and Medicaid Services in which
22 the State participates, data on how many persons were on a waiting list for services
23 on the first day of that month, including, for prioritized waiting lists, how many
24 persons were in each prioritization category; and

25 **Sec. 5. 34-B MRSA §5003-A, sub-§2, ¶I** is enacted to read:

26 I. Post at least monthly on the department's publicly accessible website, for each
27 home and community-based services waiver from the United States Department of
28 Health and Human Services, Centers for Medicare and Medicaid Services in which
29 the State participates, data on the average time from application for waiver services to
30 receipt of the same waiver services.

31 **Sec. 6. 34-B MRSA §5003-A, sub-§3, ¶F**, as amended by PL 2011, c. 542, Pt.
32 A, §83, is further amended to read:

33 F. The plan must include an assessment of the roles and responsibilities of
34 intellectual disability and autism agencies, human service agencies, health agencies
35 and involved state departments and suggest ways in which these departments and
36 agencies can better cooperate to improve the service systems. The assessment must
37 include quality metrics and data collection developed with input from across
38 stakeholder groups as described in paragraphs G and H.

39 **Sec. 7. 34-B MRSA §5003-A, sub-§3, ¶H**, as amended by PL 2011, c. 542, Pt.
40 A, §83, is further amended to read:

1 H. The commissioner ~~must~~ shall ensure that the development of the plan includes the
2 participation of community intellectual disability and autism service providers,
3 consumer and family groups and other interested persons or groups in annual
4 statewide hearings, as well as informal meetings and work sessions. The plan must
5 describe how the commissioner achieved this inclusion and what feedback the
6 department received from participants in each of these groups.

7 **Sec. 8. 34-B MRSA §5003-A, sub-§3, ¶J** is enacted to read:

8 J. The plan must project whether, given current budget projections and anticipated
9 demographic changes, there will be any waiting lists for adult developmental services
10 over the next 4 years and how many people are projected to be on those waiting lists
11 over that period of time. For prioritized waiting lists, the plan must indicate how
12 many persons are projected to be in each prioritization category and how many
13 persons would be in a different prioritization category except for their currently living
14 with a parent.

15 **Sec. 9. 34-B MRSA §5003-A, sub-§3, ¶K** is enacted to read:

16 K. The plan must indicate what additional budgeted resources would be required to
17 eliminate any waiting lists, if such waiting lists exist or are projected to exist over the
18 next 4 years. The budget projections must detail any anticipated savings that can be
19 realized from a less expensive adult developmental service when a person
20 relinquishes that less expensive adult developmental service in order to receive more
21 comprehensive support from another adult developmental service.

22 **Sec. 10. 34-B MRSA §5003-A, sub-§3, ¶L** is enacted to read:

23 L. The plan may consider how home and community-based services may be
24 redesigned to promote self-determination by persons with intellectual disabilities or
25 autism, to promote less restrictive placements over more restrictive placements and to
26 promote competitive integrated employment by persons with intellectual disabilities
27 or autism.

28 **Sec. 11. 34-B MRSA §5003-A, sub-§7** is enacted to read:

29 **7. Committee authorized to introduce legislation.** The joint standing committee
30 of the Legislature having jurisdiction over health and human services matters is
31 authorized to introduce a bill in each first regular session of the Legislature and a bill in
32 each second regular session of the Legislature to address the system of care for persons
33 with intellectual disabilities or autism.

34 **Sec. 12. Department of Health and Human Services to amend rules.** The
35 Department of Health and Human Services shall amend 10-144 C.M.R. Chapter 101,
36 MaineCare Benefits Manual, Chapters II and III, Section 18 and Section 20 to reduce and
37 eliminate waiting lists for home and community-based services for adults with brain
38 injury and other related conditions.

39 **Emergency clause.** In view of the emergency cited in the preamble, this
40 legislation takes effect when approved.

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SUMMARY

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This bill amends the system of care for adults with intellectual disabilities, autism,

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brain injury and other related conditions to reduce and eliminate MaineCare waiver

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waiting lists for home and community-based services.