

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 858

H.P. 626

House of Representatives, March 8, 2021

An Act To Expand Recovery Services to Persons on Probation

Reference to the Committee on Judiciary suggested and ordered printed.

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

ROBERT B. HUNT
Clerk

Presented by Representative McCREIGHT of Harpswell.

Cosponsored by Representatives: HARNETT of Gardiner, PICKETT of Dixfield, PLUECKER of Warren, RECKITT of South Portland, WARREN of Hallowell.

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

2 **Sec. 1. 17-A MRSA §1801, sub-§1-A** is enacted to read:

3 **1-A. Certified intentional peer support specialist.** "Certified intentional peer
4 support specialist" means a person trained and certified through an intentional peer support
5 program approved by the Department of Health and Human Services.

6 **Sec. 2. 17-A MRSA §1801, sub-§1-B** is enacted to read:

7 **1-B. Certified recovery coach.** "Certified recovery coach" means a person trained
8 and certified through a recovery coach program approved by the Department of Health and
9 Human Services.

10 **Sec. 3. 17-A MRSA §1801, sub-§2-A** is enacted to read:

11 **2-A. Integrated medication-assisted treatment.** "Integrated medication-assisted
12 treatment" means a treatment method that combines medication approved by the federal
13 Food and Drug Administration for the treatment of substance use disorder with counseling,
14 urine drug screening and behavioral therapy that has proven effective in treating substance
15 use disorder.

16 **Sec. 4. 17-A MRSA §1801, sub-§2-B** is enacted to read:

17 **2-B. Person with substance use disorder.** "Person with substance use disorder"
18 means a person who, due to the use of alcohol or a drug, has a clinical and significant
19 functional impairment, including a health problem or a disability or an inability to meet
20 major responsibilities at work, home or school. A substance use disorder may be mild,
21 moderate or severe as determined by the diagnostic criteria met by the person.

22 **Sec. 5. 17-A MRSA §1801, sub-§2-C** is enacted to read:

23 **2-C. Recovery.** "Recovery" means a process of change through which a person with
24 substance use disorder improves the person's health and wellness, lives a self-directed life
25 and strives to reach the person's full potential.

26 **Sec. 6. 17-A MRSA §1801, sub-§2-D** is enacted to read:

27 **2-D. Recovery residence.** "Recovery residence" means a shared living residence for
28 persons recovering from substance use disorder that is focused on peer support, provides
29 to its residents an environment free of alcohol and illegal drugs and assists its residents by
30 connecting the residents to support services or resources in the community that are
31 available to persons recovering from substance use disorder.

32 **Sec. 7. 17-A MRSA §1801, sub-§2-E** is enacted to read:

33 **2-E. Recovery support services.** "Recovery support services" means services that
34 recognize that recovery is a process of change through which a person improves the
35 person's health and wellness, lives a self-directed life and strives to reach the person's full
36 potential, including, but not limited to, safe housing, transportation, peer mentoring and
37 coaching and assistance with and access to employment services. "Recovery support
38 services" may include services provided in an integrated medication-assisted treatment
39 setting, in a separate facility that is staffed by persons in recovery and that provides services
40 such as mentoring, education and resource provision or in a recovery residence.

1 **Sec. 8. 17-A MRSA §1809, sub-§1**, as enacted by PL 2019, c. 113, Pt. A, §2, is
2 amended to read:

3 **1. Authority of probation officer.** If a probation officer has probable cause to believe
4 that a person on probation has violated a condition of that person's probation, that officer
5 may arrest the person or cause the person to be arrested for the alleged violation, except
6 that this subsection does not apply to a violation of a condition of probation that is solely a
7 violation of a condition imposed pursuant to section 1807, subsection 2, paragraph I. If the
8 probation officer cannot, with due diligence, locate the person, the officer shall file a
9 written notice of this fact with the court that placed the person on probation. Upon the
10 filing of that written notice, the court shall issue a warrant for the arrest of that person.

11 **Sec. 9. 17-A MRSA §1812, sub-§4**, as enacted by PL 2019, c. 113, Pt. A, §2, is
12 amended to read:

13 **4. Failure to comply with requirement of probation.** If the alleged violation does
14 not constitute a crime and the court finds by a preponderance of the evidence that the person
15 on probation has inexcusably failed to comply with a requirement imposed as a condition
16 of probation, it may revoke probation, except that this subsection does not apply to a
17 violation of a condition of probation imposed pursuant to section 1807, subsection 2,
18 paragraph I.

19 **Sec. 10. 17-A MRSA §1812, sub-§6**, as enacted by PL 2019, c. 113, Pt. A, §2, is
20 amended to read:

21 **6. Authority of court finding violation of probation.** Upon a finding of a violation
22 of probation, the court may vacate all, part or none of the suspension of execution as to
23 imprisonment or fine specified when probation was granted, considering the nature of the
24 violation and the reasons for granting probation. The remaining portion of the sentence for
25 which suspension of execution is not vacated upon the revocation of probation remains
26 suspended and is subject to revocation at a later date. During the service of that portion of
27 the sentence imposed for which the suspension of execution was vacated upon revocation,
28 the running of the period of probation must be interrupted and resumes again upon release.
29 If the court finds a violation of probation but vacates none of the suspended sentence, the
30 running of the period of probation resumes upon entry of that final disposition. The court
31 may nevertheless revoke probation and vacate the suspension of execution as to the
32 remainder of the suspended sentence or a portion thereof for any criminal conduct
33 committed during the service of that portion of the sentence for which the suspension of
34 execution was vacated upon revocation. This subsection does not apply to a violation of a
35 condition of probation imposed pursuant to section 1807, subsection 2, paragraph I if there
36 is no alleged violation that constitutes a crime.

37 **Sec. 11. 17-A MRSA §1814**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended
38 to read:

39 **§1814. Additional conditions in lieu of probation revocation proceedings**

40 Whenever a probation officer has probable cause to believe that a person under the
41 supervision of that probation officer has violated a condition of probation but the violation
42 does not constitute a crime, the probation officer, instead of commencing a probation
43 revocation proceeding under section 1809, may offer to the person the option of adding one
44 or more of the following conditions to the person's probation:

1 **1. Participation in public restitution program or treatment program.** The person
2 will participate in a public restitution program or treatment program ~~administered through~~
3 ~~a correctional facility or county jail;~~ or

4 ~~**2. Residence at correctional facility or county jail.**~~ ~~The person will reside at a~~
5 ~~correctional facility or county jail for a period of time not to exceed 90 days.~~

6 **3. Sanctions; referral.** If the condition of probation that the probation officer has
7 probable cause to believe was violated is a condition imposed pursuant to section 1807,
8 subsection 2, paragraph I:

9 A. The person may be required to comply with an additional sanction, but that sanction
10 may not consist of incarceration; or

11 B. The person may be referred to a certified recovery coach, a certified intentional
12 peer support specialist or a qualified recovery support service if participating in
13 recovery work is determined by the probation officer to be likely to be appropriate and
14 of positive value to the person.

15 If the person agrees in writing to the additional conditions under subsection 1 or 2
16 subsection 3, paragraph A, the conditions must be implemented. If the person does not
17 agree or if the person fails to fulfill the additional conditions to the satisfaction of the
18 probation officer, the probation officer may commence probation revocation proceedings
19 under section 1809 or 1810 for the violation that the probation officer had probable cause
20 to believe occurred. If the person fulfills the additional conditions to the satisfaction of the
21 probation officer, the probation officer shall so notify the person in writing and the
22 probation officer may not commence probation revocation proceedings for the violation
23 that the probation officer had probable cause to believe occurred.

24 SUMMARY

25 This bill provides definitions in the Maine Criminal Code chapter regarding probation
26 for the terms "certified intentional peer support specialist," "certified recovery coach,"
27 "integrated medication-assisted treatment," "person with substance use disorder,"
28 "recovery," "recovery residence" and "recovery support services." If a person on probation
29 is subject to conditions requiring the person to refrain from drug use and excessive use of
30 alcohol and the probation officer has cause to suspect a violation of those conditions, but
31 not a violation of law that constitutes a crime, the bill prohibits arrest and revocation of
32 probation for the violation of probation conditions. If a person on probation is subject to
33 conditions requiring the person to refrain from drug use and excessive use of alcohol and
34 the probation officer has cause to suspect a violation of those conditions, but not a violation
35 of law that constitutes a crime, the bill authorizes the probation officer to impose additional
36 conditions in lieu of probation revocation, including referral to a certified recovery coach,
37 a certified intentional peer support specialist or a qualified recovery support service, allows
38 participation in a public restitution program or treatment program regardless of whether the
39 program is administered through a correctional facility or county jail and prohibits the use
40 of incarceration.