

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 779

S.P. 338

In Senate, February 21, 2023

An Act to Create a Separate Department of Child and Family Services

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 TIMBERLAKE of Androscoggin.
Cosponsored by Representative DILL of Old Town and
Senators: BALDACCI of Penobscot, BENNETT of Oxford, HICKMAN of Kennebec,
NANGLE of Cumberland, STEWART of Aroostook, Representatives: LYMAN of Livermore
Falls, MORRIS of Turner, PRINGLE of Windham.

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

2 **PART A**

3 **Sec. A-1. 2 MRSA §6, sub-§1**, as amended by PL 2011, c. 657, Pt. Y, §1, is further
4 amended to read:

5 **1. Range 91.** The salaries of the following state officials and employees are within
6 salary range 91:

- 7 Commissioner of Transportation;
- 8 Commissioner of Agriculture, Conservation and Forestry;
- 9 Commissioner of Administrative and Financial Services;
- 10 Commissioner of Education;
- 11 Commissioner of Environmental Protection;
- 12 Executive Director of Dirigo Health;
- 13 Commissioner of Public Safety;
- 14 Commissioner of Professional and Financial Regulation;
- 15 Commissioner of Labor;
- 16 Commissioner of Inland Fisheries and Wildlife;
- 17 Commissioner of Marine Resources;
- 18 Commissioner of Corrections;
- 19 Commissioner of Economic and Community Development;
- 20 Commissioner of Defense, Veterans and Emergency Management; ~~and~~
- 21 Executive Director, Workers' Compensation Board; and
- 22 Commissioner of Child and Family Services.

23 **Sec. A-2. 22-B MRSA** is enacted to read:

24 **TITLE 22-B**

25 **CHILD AND FAMILY SERVICES**

26 **SUBTITLE 1**

27 **DEPARTMENT OF CHILD AND FAMILY SERVICES**

28 **CHAPTER 1**

29 **DEPARTMENTAL ORGANIZATION AND OPERATION**

30 **SUBCHAPTER 1**

1 **GENERAL PROVISIONS**

2 **§101. Definitions**

3 As used in this Title, unless the context otherwise indicates, the following terms have
4 the following meanings.

5 **1. Commissioner.** "Commissioner" means the Commissioner of Child and Family
6 Services.

7 **2. Department.** "Department" means the Department of Child and Family Services.

8 **SUBCHAPTER 2**

9 **ORGANIZATION**

10 **§201. Department established**

11 **1. Establishment.** The Department of Child and Family Services is established as a
12 cabinet-level department.

13 **2. Departmental responsibilities.** The department has responsibility for child and
14 family services, including but not limited to child welfare, children's behavioral health and
15 early childhood services.

16 **§202. Programs and services of department**

17 **1. Services for children and families.** Within available funds, the department shall
18 provide supportive, preventive, protective, public health and intervention services to
19 children and their families. The department shall endeavor to assist families in providing
20 for the developmental health and safety needs of their children, while respecting the rights
21 and preferences of the children and their families. The department shall provide the
22 programs and services as specified in this section and otherwise by law:

23 A. Child welfare services;

24 B. Head Start and child care services;

25 C. Maternal and child health services, including home visiting programs;

26 D. Parentage establishment and child support enforcement services;

27 E. Residential and long-term care services for children with disabilities;

28 F. Services for children with special health care needs;

29 G. Services for children with developmental disabilities; and

30 H. Activities to transition children's services to adult services.

31 **2. Delivery of programs and services.** The department shall deliver programs and
32 services through a coordinated and efficient administrative structure and an integrated
33 delivery system that focuses on meeting the needs of individuals and families. The
34 department shall use a combination of state employees and contracts with private agencies
35 to deliver programs and services.

1 **3. Oversight and coordination.** The department shall oversee and coordinate the
2 programs and services delivered under this section in order to ensure minimal duplication
3 of services, maximize federal funds and provide efficient, equitable and timely services.

4 **4. Pilot projects.** The department shall develop pilot projects and demonstration
5 projects required by law and shall apply for any authorization necessary to undertake such
6 projects.

7 **§203. Commissioner**

8 The department is under the control and supervision of the Commissioner of Child and
9 Family Services, who reports directly to the Governor.

10 **1. Appointment.** The Governor shall appoint the commissioner, subject to review by
11 the joint standing committee of the Legislature having jurisdiction over child welfare
12 matters and confirmation by the Senate. The commissioner serves at the pleasure of the
13 Governor.

14 **2. Vacancy; deputy commissioner.** A vacancy in the office of the commissioner
15 must be filled as follows.

16 A. Any vacancy of the commissioner's position must be filled in accordance with Title
17 5, section 1.

18 B. The commissioner shall appoint one of the department's deputy commissioners to
19 perform the duties of the commissioner, in addition to the duties of that deputy
20 commissioner, during the commissioner's temporary absence or disability.

21 **§204. Powers and duties of commissioner**

22 The commissioner has all of the powers and duties necessary to carry out the mission
23 and responsibilities of the department. The commissioner has the power to distribute the
24 functions and duties given to the commissioner under this Title, Title 22 and Title 34-B
25 among the various offices of the department so as to integrate the work properly and to
26 promote the most effective and efficient administration of the department. Wherever in
27 this Title, Title 5, Title 22 or Title 34-B powers and duties are given to the commissioner
28 or the department, these must be assumed and carried out by the offices that the
29 commissioner designates, and these powers and duties may in turn be delegated to
30 subordinates by those office directors with the approval of the commissioner.

31 **1. Administration.** The commissioner shall administer the department in accordance
32 with the requirements of this Title and shall fulfill the duties prescribed to the commissioner
33 by state and federal law.

34 **2. Rulemaking.** The commissioner shall adopt rules to implement this Title. Rules
35 adopted pursuant to this subsection are routine technical rules, as defined in Title 5, chapter
36 375, subchapter 2-A, unless otherwise specified.

37 **3. Employees.** The commissioner may employ personnel as necessary to carry out the
38 work of the department. All personnel of the department are under the immediate
39 supervision, direction and control of the commissioner. Department personnel must be
40 employed subject to the Civil Service Law, except for positions subject to appointment by
41 the commissioner under subsection 4.

1 forth in this Act must be transferred to the proper accounts of the Department of Child and
2 Family Services by the State Controller or by financial order upon the request of the State
3 Budget Officer and with the approval of the Governor.

4 3. All rules of the Department of Health and Human Services as they pertain to the
5 duties of the Department of Child and Family Services as set forth in this Act that are in
6 effect on the effective date of this Act remain in effect until rescinded, revised or amended.

7 4. All contracts, agreements and compacts of the Department of Health and Human
8 Services as they pertain to the duties set forth in this Act that are in effect on the effective
9 date of this Act remain in effect until they expire or are altered by the parties involved in
10 the contracts or agreements. The Department of Child and Family Services is the successor
11 agency for all federal block grants and programs administered under the United States
12 Social Security Act, as amended, and any other federal programs, grants and contracts that
13 relate to child and family services and child welfare.

14 5. All records of the Department of Health and Human Services as they pertain to the
15 duties set forth in this Act must be transferred to the Department of Child and Family
16 Services as necessary to implement this Act.

17 6. All property and equipment of the Office of Child and Family Services within the
18 Department of Health and Human Services pertaining to the duties set forth in this Act are
19 transferred to the Department of Child and Family Services as necessary to implement this
20 Act.

21 7. Employees of the Department of Child and Family Services who were employees of
22 the Department of Health and Human Services immediately prior to the effective date of
23 this Act retain all their employee rights, privileges and benefits, including sick leave,
24 vacation and seniority, provided under the Civil Service Law or collective bargaining
25 agreements. The Department of Administrative and Financial Services, Bureau of Human
26 Resources shall provide assistance to the affected departments and shall assist with the
27 orderly implementation of this subsection.

28 8. By January 31, 2024, the Commissioner of Child and Family Services shall submit
29 a report, including recommendations and any necessary legislation, to the Governor and
30 the joint standing committee of the Legislature having jurisdiction over child welfare
31 matters regarding the establishment and implementation of the Department of Child and
32 Family Services.

33 **Sec. B-2. Conflicts and inconsistencies.** If the Commissioner of Child and Family
34 Services finds a conflict or inconsistency between provisions in the Maine Revised
35 Statutes, Titles 22, 22-A and 34-B or rules adopted under those titles, the commissioner
36 shall attempt to resolve that conflict or inconsistency by interpreting the laws or rules
37 together to give effect to the intent of the Legislature or agency, as the case may be. If the
38 commissioner determines rulemaking is required to resolve a conflict or inconsistency, the
39 commissioner may adopt rules as authorized under Title 22-B, section 204, subsection 2.
40 In adopting rules under this section, the commissioner has sole discretion to determine
41 whether an emergency exists. The commissioner shall notify the members of the joint
42 standing committee of the Legislature having jurisdiction over child welfare matters prior
43 to adopting any emergency rule under this section.

