

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 1250

H.P. 798

House of Representatives, March 21, 2023

**An Act Regarding Paying Providers Sufficiently, Maintaining Short
Waiting Lists and Creating a Cause of Action for Aggrieved Persons
in the System of Care for Clients with Intellectual Disabilities or
Autism**

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

A handwritten signature in black ink that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative OSHER of Orono.
Cosponsored by Senator BAILEY of York and
Representatives: COPELAND of Saco, CRAVEN of Lewiston, GOLEK of Harpswell,
RISEMAN of Harrison, SHAGOURY of Hallowell, STOVER of Boothbay, Senator:
INGWERSEN of York.

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

2 **Sec. 1. 34-B MRSA §5003-A, sub-§2, ¶G**, as amended by PL 2021, c. 321, §4, is
3 further amended by amending subparagraph (3) to read:

4 (3) The commissioner shall inform the joint standing committee of the Legislature
5 having jurisdiction over human resources matters about areas where increased
6 cooperation by other departments is necessary in order to improve the delivery of
7 services to persons with intellectual disabilities or autism; ~~and~~

8 **Sec. 2. 34-B MRSA §5003-A, sub-§2, ¶H**, as enacted by PL 2021, c. 321, §5, is
9 amended to read:

10 H. Post quarterly reports on the department's publicly accessible website, for each
11 home and community-based services waiver from the United States Department of
12 Health and Human Services, Centers for Medicare and Medicaid Services in which the
13 State participates, data on how many persons were served and how many were on the
14 waiting list for services. The department shall post this information by prioritization
15 category when applicable and shall include one or more indicators of the length of time
16 that persons are on the waiting list;

17 **Sec. 3. 34-B MRSA §5003-A, sub-§2, ¶I** is enacted to read:

18 I. Ensure that payments to providers of services and supports are consistent with
19 efficiency, economy and quality of care and are sufficient to enlist enough providers
20 so that care and services are available to persons with intellectual disabilities, autism,
21 brain injury or other related conditions at least to the extent that such care and services
22 are available to the general population in the State; and

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

24 J. Ensure that waiting lists are sufficiently short so that care and services are available
25 to persons with intellectual disabilities, autism, brain injury or other related conditions
26 at least to the extent that such care and services are available to the general population
27 of the State.

28 **Sec. 5. 34-B MRSA §5003-A, sub-§8** is enacted to read:

29 **8. Cause of action.** Notwithstanding Title 14, chapter 741, a person with an
30 intellectual disability, autism, a brain injury or another related condition aggrieved by a
31 violation in the performance of responsibilities under subsections 1 to 6 may bring a civil
32 action to enforce rights granted or protected by subsections 1 to 6 against the department
33 and any person who is alleged to have committed the violation.

34 A. An action under this subsection must be commenced in Superior Court in the county
35 where the alleged violation occurred or where the plaintiff or defendant resides.

36 B. Any relief granted by the court under this subsection is limited to declaratory or
37 injunctive relief.

38 C. The court does not have jurisdiction over an action filed under this subsection if the
39 plaintiff has commenced federal judicial or administrative proceedings under Section
40 503 or 504 of the federal Rehabilitation Act of 1973, 29 United States Code, Section
41 793 or 794, as amended, or federal regulations promulgated under those sections, or
42 under the federal Americans with Disabilities Act of 1990, 42 United States Code.

