

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

One Hundred and Seventh Legislature

AT THE

1ST SPECIAL SESSION

JANUARY 19, 1976 TO APRIL 29, 1976

AND

2ND SPECIAL SESSION

JUNE 14, 1976

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 164, SUBSECTION 6.

PORTLAND LITHOGRAPH COMPANY
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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature
AT THE FIRST SPECIAL SESSION
January 19, 1976 to April 29, 1976
AND THE SECOND SPECIAL SESSION
June 14, 1976

Supplementary to the Acts and Resolves of the Regular Session

[supplied from page 3097 of volume]

of section 2 of this Act which shall become effective July 1, 1977. Sections 6 to 10 of this Act shall take effect when approved.

Emergency clause. This Act shall become effective when approved except as otherwise indicated.

Effective April 12, 1976

CHAPTER 747

AN ACT Providing for Protective and Supportive Services for Mentally Retarded Persons.

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

Sec. 1. 34 MRSA § 2061, as enacted by P.L. 1967, c. 535, § 1, is repealed and the following enacted in place thereof:

§ 2061. Bureau of Mental Retardation

There is established within the Department of Mental Health and Corrections a Bureau of Mental Retardation which shall be responsible for:

1. Institutions. The direction of mental retardation programs in the institutions of the department;

2. Community based services. Ensuring that mentally retarded persons residing in any community residential facility including nursing homes, boarding homes, foster homes, group homes or halfway houses licensed by the Department of Human Services are provided with, insofar as possible, residential accommodations and access to habilitative services appropriate to their needs but not replacing or limiting the right to treatment by spiritual means alone through prayer if such is requested by the patient, or by his next of kin or guardian;

3. State-wide system. The planning, promotion, coordination and development of a complete and integrated state-wide system of mental retardation services; and

4. Liaison. Serving as liaison, coordinator and consultant to the several state departments in order to develop the state-wide system of mental retardation services.

Sec. 2. 34 MRSA § 2062, as enacted by P.L. 1967, c. 535, § 1, is repealed and the following enacted in place thereof:

§ 2062. Director of Mental Retardation

1. Appointment; qualifications. The commissioner shall appoint, subject to the Personnel Law, a Director of Mental Retardation who shall be a qualified specialist in the field of mental retardation with administrative and organizational experience and ability. However, a person who is being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, may not be ordered evaluated, unless a court has determined that he is, as a result of mental disorder, a danger to himself or others.

2. Duties. The director shall carry out duties assigned to him by the commissioner in accordance with the responsibilities of the Bureau of Mental Retardation as provided in section 2061.

Sec. 3. 34 MRSA §§ 2065-2069 are enacted to read:

§ 2065. Legislative purpose

The purpose of sections 2065 to 2069 is to provide protective and supportive services to those persons who are incapacitated by reason of mental retardation and who, with some assistance, are capable of living and functioning in society.

§ 2066. Definitions

As used in sections 2065 to 2069, unless the context indicates otherwise, the following terms shall have the following meanings.

1. Incapacitated person. The term "incapacitated person" means any person who is impaired by reason of mental retardation to the extent that he lacks sufficient understanding or capacity to make, communicate or implement responsible decisions concerning his person or property.

2. Protective services. The term "protective services" means services the object of which is to protect an incapacitated person from himself and from others. These services shall consist of evaluation of the need for service and mobilization on the person's behalf of appropriate existing services. These services shall include, but need not be limited to, arrangements for appropriate living quarters, obtaining financial benefits to which the person is entitled, securing medical services, supplies and legal services. In those situations where exploitation, prevention of injury, protection of the person and his property and serving the necessities or amenities of life are at issue, these protective services shall include seeking the appointment of a public or private guardian for the incapacitated person. However, a person who is being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, may not be ordered evaluated, unless a court has determined that he is, as a result of mental disorder, a danger to himself or others.

3. Supportive services. The term "supportive services" means services the objective of which is to make it possible for an incapacitated person to become rehabilitated or self-sufficient to the maximum extent possible. These supportive services shall include, but need not be limited to, counseling, transportation, assistance in obtaining adequate housing, medical and psychiatric care and nutritional services.

4. **Ward.** The term "ward" means a person for whom the bureau has been duly appointed guardian pursuant to Title 18, chapter 501, subchapter III-A.

§ 2067. **Responsibility and role of bureau**

1. **Responsibility.** The bureau is authorized to respond to complaints concerning and requests for assistance from or on behalf of all incapacitated persons. Services provided by the bureau shall be protective or supportive in nature.

2. **Role.** The role of the bureau shall be primarily that of supervision and coordination.

3. **Acquiescence and consultation.** With the exception of seeking the appointment of a guardian, protective or supportive services shall be initiated only:

A. With the acquiescence of the incapacitated person; and

B. After consultation, insofar as possible, with the family or the guardian of the incapacitated person.

§ 2068. **Payment for services**

The bureau may pay for protective and supportive services to incapacitated persons from its own resources by mobilizing available community resources or by purchase of services from voluntary or state agencies.

To the extent that assets are available to incapacitated persons or wards, the cost of services shall be borne by the estate of persons receiving the services.

§ 2069. **Rules**

1. **Rules promulgated.** The bureau shall promulgate rules for the administration of sections 2065 to 2068.

2. **Public hearing.** The bureau shall hold a public hearing prior to adopting these rules. Notice of the public hearing shall be published once, within 14 to 30 days before the hearing, in the state paper and in other newspapers or journals of general circulation adequate to provide reasonable notice to the public affected thereby.

3. **Rules amended or repealed.** Rules may be amended or repealed at any time by the bureau after like notice and hearing of the portions amended or repealed.

Effective July 29, 1976

CHAPTER 748

AN ACT Relating to Costs in Contested Cases and Depositions
in Probate Court.