

MAINE STATE LEGISLATURE

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LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

1986-87

CONSERVATION, DEPARTMENT OF

Maine State Parks Development Fund	
Capital Expenditures	\$25,000
Provides funds to establish the Maine State Parks Develop- ment Fund.	

Effective July 16, 1986.

CHAPTER 711

S.P. 943 - L.D. 2367

**AN ACT to Protect the Public Health in
Relation to Acquired Immune Deficiency
Syndrome.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Legislature finds that Acquired Immune Deficiency Syndrome is a serious and growing viral epidemic in the United States; and

Whereas, the Legislature further finds that AIDS Related Complex and other medical conditions which a person contracts as a result of the probable causative agent of AIDS is a serious and growing medical problem in the United States; and

Whereas, the Legislature finds and declares that it is imperative to protect the individuals who have or are suspected of having AIDS, ARC or other related medical conditions; and

Whereas, the Department of Human Services has primary responsibility for coordinating the State's policies with respect to AIDS; and

Whereas, the Legislature finds it imperative to facilitate an exchange of information between the citizens of Maine and the Department of Human Services in order to effectively coordinate the State's policies with respect to AIDS; and

Whereas, a test or tests are available to indicate exposure to the probable causative agent of AIDS; and

Whereas, the incidence of AIDS caused by the exchange of bodily fluids is a serious and a growing problem; and

Whereas, it is imperative that donations of blood be tested for the presence of the antibodies to the causative agent of AIDS to safeguard against the possibility of transmitting the disease by transfusion; and

Whereas, the Legislature finds and declares it is a desired goal to discourage individuals in high-risk groups, as defined by the Bureau of Health, who may be exposed to AIDS from donating blood or exchanging bodily fluids in order to safeguard against transmitting the disease; and

Whereas, the Legislature finds and declares a need to protect the privacy of the individuals who are the subject of blood testing for antibodies to the causative agents of AIDS; and

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

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

Sec. 1. 5 MRSA §12004, sub-§10, ¶A, sub-¶(37-A) is enacted to read:

(37-A)	<u>Human Services</u>	<u>Committee to</u>	<u>Expenses</u>	<u>5 MRSA §17002</u>
		<u>Advise the</u>	<u>Only</u>	
		<u>Department of</u>		
		<u>Human Services</u>		
		<u>on AIDS</u>		

Sec. 2. 5 MRSA Pt. 20 is enacted to read:

PART 20

PUBLIC HEALTH

CHAPTER 501

MEDICAL CONDITIONS

§17001. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Antibody to HTLV-III. "Antibody to HTLV-III" means the specific immunoglobulin produced by the body's immune system in response to the HTLV-III virus.

2. Health care provider. "Health care provider" means any appropriately licensed, certified or registered provider of mental or physical health care, either in the public or private sector or any business establishment providing health care services.

3. HTLV-III. "HTLV-III" means the human T-cell lymphotropic virus-type III, identified as the causative agent of Acquired Immune Deficiency Syndrome or AIDS.

4. HTLV-III antigen. "HTLV-III antigen" means the specific immune-recognizable marker proteins of the HTLV-III virus.

5. HTLV-III infection. "HTLV-III infection" means the state wherein the HTLV-III virus has invaded the body and is being actively harbored by the body.

6. Person. "Person" means any natural person, firm, corporation, partnership or other organization, association or group, however organized.

7. Seropositivity. "Seropositivity" means the presence of antibody to HTLV-III virus as detected by appropriate laboratory tests.

8. Viral positivity. "Viral positivity" means demonstrated presence of HTLV-III virus.

§17002. Committee to Advise the Department of Human Services on AIDS

The Committee to Advise the Department of Human Services on AIDS, as established by section 12004, subsection 10, shall consist of not less than 26 members nor more than 30 members to include representation of: One allopathic physician from nominees submitted by the Maine Medical Association; one osteopathic physician from nominees submitted by the the Maine Osteopathic Association; one nursing home administrator from nominees submitted by the Maine Health Care Association; one funeral director from nominees submitted by the Maine Funeral Directors Association; one social worker from nominees submitted by the Maine Chapter of the National Association of Social Workers; one public school administrator from a local school district from nominees submitted by the Maine Superintendents Association; one nurse from nominees submitted by the Maine State Nurses Association; one representative from nominees submitted by the Maine Hospice Council; one teacher from nominees submitted by the Maine Teachers Association; 2 members of the high risk community; one insurance industry representative; one employee of a community mental health center; one dentist from nominees submitted by the Maine Dental Association; one state employee from nominees submitted by the Maine State Employees Association; 2 members of the public, including one parent of a school-age child; the Commissioner of Human Services or his designee who shall serve during the commissioners term of office; one psychologist from nominees submitted by the Maine Psychological Association; one state employee from nominees submitted by the American Federation of State, County and Municipal Employees; one member representing hospitals from nominees submitted by the Maine Hospital Association; one member representing public health professionals from nominees submitted by the Maine Public Health Association; one representative of a nonprofit hospital or medical service organization; one substance abuse counselor; one member of the clergy; and 2 Legislators, one representative appointed by the Speaker of the House of Representatives and one Senator appointed by the President of the Senate. The members, except for those specifically designated in this paragraph, shall be appointed by the Governor for their competence and experience in connection with these fields.

1. Membership. The term of office of each member shall be 3 years; provided that of the members first appointed, 1/3 shall be appointed for a term of one year, 1/3 for terms of 2 years and 1/3 for terms of 3 years. The Governor shall designate a chairman and vice-chairman to serve at the pleasure of the Gover-

nor. The chairman shall be the presiding member of the committee. All vacancies shall be filled for the balance of the unexpired term in the same manner as original appointments. The members of the committee shall be compensated in accordance with chapter 379.

2. Duties. The committee shall advise the department on:

A. Content and dissemination of educational materials;

B. Crises that may develop;

C. Coordination of services to persons with AIDS, AIDS Related Complex or viral positivity;

D. Coordination of services for family and other persons providing care and support to persons with AIDS, AIDS Related Complex or viral positivity; and

E. AIDS related policy and proposed rules.

3. Meetings. The advisory committee shall meet at least 4 times a year and more frequently if needed to respond to the duties of this committee as specified in subsection 2. Special meetings may be called by the chairman and shall be called at the request of the State Epidemiologist, the Director of the Bureau of Health, the Director of Disease Control, the Director of Sexually Transmitted Diseases or by 3 or more members of the committee.

§17003. Confidentiality of test

No person may disclose the results of a test for the presence of an antibody to HTLV-III, a test that measures the HTLV-III antigen, except as follows:

1. Subject of test. To the subject of the test;

2. Designated health care provider. To the subject's designated health care provider in the treatment of AIDS;

3. Authorized person. To a person or persons to whom the test subject has authorized disclosure in writing, except that the disclosure may not be used to violate any other provision of this chapter;

4. Certain health care providers. A health care provider who procures, processes, distributes or uses

a human body part donated for a purpose may, without obtaining consent to the testing, test for the presence of an antibody to HTLV-III in order to assure medical acceptability of the gift for the purpose intended;

5. Research facility. The department, a laboratory certified or a health care provider, blood bank, blood center or plasma center may, for the purpose of research and without first obtaining written consent to the testing, subject any body fluids or tissues to a test for the presence of an antibody to HTLV-III if the testing is performed in a manner by which the identity of the test subject is not known and may not be retrieved by the researcher;

6. Bureau of Health. To the Bureau of Health, to carry out its duties as provided in Title 22, section 3, 7 and 42 and chapter 251; or

7. Other agencies. To other agencies responsible for the custodial care of individuals, such as the Department of Corrections and the Department of Mental Health and Mental Retardation.

§17004. Restrictions upon revealing HTLV-III antibody test results

No insurer, nonprofit hospital or medical services organization or nonprofit health care plan may request any person to reveal whether the person has obtained a test for the presence of antibodies to the HTLV-III virus, a test to measure the virus or the results of such tests taken prior to an application for insurance coverage.

This section is repealed on October 1, 1987.

§17005. Coordination of services to persons with AIDS, AIDS Related Complex and viral positivity

1. Policy; services. It shall be the policy of the State to provide to persons who test positive for the HTLV-III virus or have been diagnosed as having AIDS or Aids Related Complex services of departments and agencies, including, but not limited to, the Department of Educational and Cultural Service, the Department of Mental Health and Retardation, the Department of Human Services and the Department of Corrections.

2. Coordination of services. A person designated by the Commissioner of Human Services shall insure

coordination of new and existing services so as to meet the needs of persons with AIDS, Aids Related Complex and viral positivity and identify gaps in programs.

The committee established in section 12004, subsection 10, shall work with the person designated in this chapter to insure the coordination of services to meet the needs of persons with AIDS, ARC and viral positivity.

§17006. Civil liability

Any person violating sections 17003 and 17004 is liable to the subject of the test for actual damages and costs plus a civil penalty of up to \$1,000 for a negligent violation and up to \$5,000 for an intentional violation.

Any person may bring an action for injunctive relief for a violation of sections 17003 and 17004 in addition to or instead of the penalties provided in this section. The applicant for injunctive relief under this section shall not be required to give security as a condition upon the issuance of the injunction.

Sec. 3. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1985-86</u>	<u>1986-87</u>
<u>HUMAN SERVICES, DEPARTMENT OF</u>		
Bureau of Health Positions		(1)
Personal Services		\$ 17,850
All Other		<u>65,000</u>
TOTAL		\$82,850
Provides funds for one public health nurse and continued dissemination of educational materials in fiscal year 1987.		

1985-861986-87LEGISLATURE

Committee to Advise the Department of Human Services on AIDS

All Other	\$8,000
Provides funds for the travel expenses of the commission members, 4 full committee meetings and 4 sub-committee meetings.	

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 16, 1986.

CHAPTER 712

S.P. 921 - L.D. 2297

AN ACT to Obtain Information from the
Consumer Advisory Board, the
Commissioner of Mental Health and
Mental Retardation and the Mental
Health Advisory Council.

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

Sec. 1. 34-B MRSA §1209, sub-§7, as enacted by PL 1983, c. 459, §7, is amended to read:

7. Duties. The council shall act in an advisory capacity to the commissioner in the development of the state mental health plan and in the appointment of a Director of the Bureau of Mental Health. In addition, the council shall report annually to the joint standing committee of the Legislature having jurisdiction over human resources as part of a regu-