

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

FIRST SPECIAL SESSION

July 11, 1991 to July 18, 1991

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 9, 1991

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
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J.S. McCarthy Company
Augusta, Maine
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST SPECIAL SESSION

of the

ONE HUNDRED AND FIFTEENTH LEGISLATURE

JULY 11, 1991 to JULY 18, 1991

Provides funds for materials and general operating expenses required to manufacture the special veteran license plates and emblems.

Sec. 3. Effective date. This Act takes effect January 1, 1992.

Effective January 1, 1992.

CHAPTER 601

S.P. 90 - L.D. 175

An Act Related to the Office of Substance Abuse

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

Sec. 1. 5 MRSA §12004-G, sub-§15-A, as enacted by PL 1989, c. 503, Pt. A, §16, is amended to read:

15-A.	Driver Edu-	\$75/Day	22 § MRSA
Human	cation and Eval-		\$7207
Services	uation Pro-		§20078
Substance	gram Programs		
Abuse	Appeals Board		

Sec. 2. 5 MRSA §20002, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

§20002. Purpose

The purposes of this Act are:

1. Integrated and comprehensive approach. To adopt an integrated approach to the problem of substance alcohol and other drug abuse and to focus all the varied resources of the State on developing a comprehensive and effective range of substance alcohol and other drug abuse prevention and treatment activities and services; and

2. Single administrative unit. To establish a single administrative unit within State Government, accountable directly to the Governor, with responsibility for planning, developing, implementing and, coordinating and evaluating all of the State's substance alcohol and other drug abuse prevention and treatment activities and services.

Sec. 3. 5 MRSA §20003, sub-§1, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

1. Alcoholic. "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that the person's health is substantially impaired or endan-

gered or the person's social or economic function is substantially disrupted.

Sec. 4. 5 MRSA §20003, sub-§§4 and 6, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

4. Community service provider. "Community service provider" means a provider of alcohol or drug abuse treatment, including, but not limited to, need evaluation.

6. Department. "Department" means the Department of Human Services Executive Department.

Sec. 5. 5 MRSA §20003, sub-§§13 to 16, as enacted by PL 1989, c. 934, Pt. A, §3, are repealed.

Sec. 6. 5 MRSA §20005, sub-§§1, 2, 5, 6, 7 and 12, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

1. State Government. Establish the overall plans, policies, objectives and priorities for all state substance alcohol and other drug abuse prevention and treatment functions, except the prevention of drug traffic and the State Employee Assistance Program established pursuant to Title 22, chapter 254-A;

2. Comprehensive plan. Develop and provide for the implementation of a comprehensive state plan for alcohol and drug abuse. Any plan developed by the office must be subject to public hearing prior to implementation;

5. Budget. Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The office shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget;

6. Contracts and licensing. Through the director:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services; and

B. Establish operating and treatment standards, and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, pursuant to section 20024.

The director may delegate contract and licensing duties under this subsection to the Department of Human Services,

the Department of Corrections or the Department of Mental Health and Mental Retardation, as long as that delegation ensures that contracting for substance alcohol and other drug abuse services provided in community settings are consolidated within the Department of Human Services, that contracting for substance alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for substance alcohol and other drug abuse services delivered within mental health and mental retardation facilities are consolidated within the Department of Mental Health and Mental Retardation;

The director may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The director may not issue requests for proposals for existing contract services until the director has adopted rules in accordance with the Maine Administrative Procedure Act to ensure: that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified; and the protection of the consumer of services in such a way that any change in provider is accomplished in a manner that fully protects the consumer;

7. Uniform requirements. Develop, use and require the use of uniform contracting, information gathering and reporting formats by any state-funded substance alcohol and other drug abuse program programs. To the extent feasible, information must maintain compatibility with federal information sharing standards. Contracting standards must include measurable performance-based criteria on which funding allocations are, in part, based;

12. Rules. Adopt rules, in accordance with the Maine Administrative Procedure Act, necessary to carry out the purposes of this chapter and approve any rules adopted by state agencies for the purpose of implementing alcohol or drug abuse prevention or treatment programs.

All state agencies must comply with rules adopted by the office regarding uniform substance alcohol and other drug abuse contracting requirements, formats, schedules, data collection and reporting requirements; and

Sec. 7. 5 MRSA §20005, sub-§§12-A and 12-B are enacted to read:

12-A. Training programs. Provide or assist in the provision of training programs for all persons in the field of treating alcoholics and drug abusers, persons engaged in the prevention of alcohol and other drug abuse or any other organization or individual in need of or requesting training or other educational information related to alcohol or other drug abuse;

12-B. Motor vehicle operator programs. Administer and oversee the operation of the State's programs related to the abuse of alcohol by motor vehicle operators; and

Sec. 8. 5 MRSA §20006, first and 2nd ¶¶, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

The Governor shall appoint, subject to confirmation by the joint standing committee of the Legislature having jurisdiction over health and institutional services, a full-time director of the Office of Substance Abuse who shall serve at the pleasure of the Governor and have a salary fixed by the Governor.

The director must be qualified by training and experience in the field of substance alcohol and other drug abuse prevention and treatment. The director shall exercise the powers of the office and is responsible for the execution of its duties. The director may:

Sec. 9. 5 MRSA §20006, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. Investigate. Conduct investigations and studies of any alcohol or drug abuse program or community service provider operating under the control of the office or providing treatment under this chapter through a contract with the office under section 20008, that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or federal funds, as necessary; and

Sec. 10. 5 MRSA §20008, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. Treatment. The office shall provide for adequate and appropriate treatment for alcoholics ~~and intoxicated persons,~~ drugs abusers, drug addicts and drug-dependent persons admitted under sections 20043 to ~~20046~~ 20044. Treatment may not be provided at a correctional institution, except for inmates.

Sec. 11. 5 MRSA §20008, sub-§4 is enacted to read:

4. Contract with facilities. The office shall contract with approved treatment facilities whenever possible. The administrator of any treatment facility may receive for observation, diagnosis, care and treatment in the facility any person whose admission is applied for under any of the procedures in this subchapter.

Sec. 12. 5 MRSA §20008, last ¶, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

Sec. 13. 5 MRSA §20009, sub-§1, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

1. Biennial plan. By January 15, 1991, and biennially thereafter, with the advice and consultation of the Maine Council on Alcohol and Drug Abuse Prevention and Treatment, a comprehensive plan containing statements of measurable goals to be accomplished during the coming biennium and establishing performance indicators by which progress toward accomplishing those goals will be measured; and

Sec. 14. 5 MRSA §20021, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

§20021. Public awareness

The office shall create and maintain a program to increase public awareness of the impacts and prevalence of alcohol and drug abuse. The public awareness program must include promotional and technical assistance to local governments, schools and public and private non-profit organizations interested in alcohol and drug abuse prevention.

Sec. 15. 5 MRSA §20022, first and 2nd ¶¶, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

As part of its comprehensive prevention and treatment program, the office shall ~~support and coordinate the activities of~~ operate an information clearinghouse ~~within the Department of Human Services and oversee, support and coordinate a resource center within the Department of Educational and Cultural Services~~ Education. ~~Together, the~~ The information clearinghouse and resource center constitute a comprehensive reference center of information related to the nature, ~~abuse,~~ prevention and treatment of alcohol and ~~drugs~~ other drug abuse. In fulfillment of the requirement of this section, the resource center may be located within the Department of Education and may operate there pursuant to a memorandum of agreement between the office and the department. ~~The office shall ensure that the information clearinghouse and resource center do not perform duplicative services or functions.~~ Information must be available for use by the general public, political subdivisions, public and private nonprofit agencies and the State.

Functions of the information clearinghouse and resource center may include, but are not limited to:

Sec. 16. 5 MRSA §20023, first ¶, as amended by PL 1989, c. 700, Pt. B, §§46 and 48 and enacted by c. 934, Pt. A, §3, is further amended to read:

To the fullest extent possible, the Commissioner of Education shall coordinate all elementary and secondary school alcohol and drug abuse education programs administered by the Department of Education and funded under the federal Drug-Free Schools and Communities Act of 1986 with programs administered by the office. The Commissioner of Education shall partici-

pate in planning, budgeting and evaluation of ~~substance~~ alcohol and other drug abuse programs, in cooperation with the Substance Abuse Advisory Group, and ensure that alcohol and drug abuse education programs administered by the Department of Education that involve any community participation are coordinated with available treatment services.

Sec. 17. 5 MRSA §20023, 2nd ¶, as amended by PL 1989, c. 700, Pt. B, §48, is further amended to read:

The Commissioner of Education, in cooperation with the Substance Abuse Advisory Group, shall prepare a plan to ensure the coordination and consolidation of ~~substance~~ alcohol and other drug abuse education programs and must present the plan to the director by January 1, 1992. The plan must be consistent with requirements of the federal Drug-Free Schools and Communities Act of 1986 and this chapter.

Sec. 18. 5 MRSA §20024, first ¶, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The office ~~may~~ shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. The office shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities.

Sec. 19. 5 MRSA §20024, as enacted by PL 1989, c. 934, Pt. A, §3, is amended by adding at the end a new paragraph to read:

Procedures to decertify any facility or to refuse certification are governed by the Maine Administrative Procedure Act.

Sec. 20. 5 MRSA §§20041 to 20044, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

§20041. Evaluation

1. Data collection; sources. The office shall collect data and use information from other sources to evaluate or provide for the evaluation of the impact, quality and value of alcohol and drug abuse prevention activities, treatment facilities and other ~~substance~~ alcohol and other drug abuse programs.

2. Content of evaluation. Any evaluation of treatment facilities must include, but is not limited to, administrative adequacy and capacity, policies and treatment planning and delivery. Alcohol and drug abuse prevention and treatment services authorized by this Act and by the following federal laws and amendments that relate to drug abuse prevention must be evaluated:

A. The Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982);

B. The Community Mental Health Centers Act, 42 United States Code, Section 2688 et seq. (1982);

C. The Public Health Service Act, 42 United States Code, Section 1 et seq. (1982);

D. The Vocational Rehabilitation Act, 29 United States Code, Section 701 et seq. (1982);

E. The Social Security Act, 42 United States Code, Section 301 et seq. (1982); and

F. The federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982) and similar Acts.

§20042. Standards

~~Except as provided in section 20008, the~~ The office shall contract for treatment services only with approved treatment facilities.

§20043. Acceptance for treatment of alcoholics, drug abusers, drug addicts and drug-dependent persons

The office shall adopt rules for acceptance of persons into a treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics ~~and intoxicated persons,~~ drug abusers, drug addicts and drug-dependent persons.

In establishing rules, the office must be guided by the following standards.

1. **Voluntary basis.** ~~Patients~~ People must be treated on a voluntary basis.

2. **Initial assignment.** A ~~patient~~ person must be initially assigned or transferred to outpatient or intermediate treatment, unless the ~~patient~~ person is found to require ~~inpatient~~ residential treatment.

3. **Denial of treatment.** A person may not be denied treatment solely because that person has withdrawn from treatment against medical advice on a prior occasion or has relapsed after earlier treatment.

4. **Individualized treatment plan.** An individualized treatment plan must be prepared and maintained on a current basis for each patient.

5. **Coordinated treatment.** Provision must be made for a continuum of coordinated treatment services, so that a person who leaves a facility or a form of treatment has available and may utilize other appropriate treatment.

6. **Denial of treatment services.** A person, firm or corporation licensed by the ~~Department of Human Services~~ Office of Substance Abuse as an approved alcohol or drug treatment facility under Title ~~22~~ 22, section ~~7245~~ 20005 to provide shelter or detoxification services, and that receives any funds administered by the office, may not deny treatment to any person because of that person's inability or failure to pay any assessed fees.

7. **Community-based.** Treatment must be provided in the least restrictive setting possible and in the person's home community wherever possible.

8. **Diagnosing.** Diagnosing of a person's mental capabilities, psychological or personality composition, or other nonalcohol-related or drug-related conditions or mental states may not be conducted until detoxification is complete and the person is judged to be medically no longer under the influence of a chemical or substance of abuse.

§20044. Voluntary treatment of alcoholics, drug abusers, drug addicts and drug-dependent persons

1. **Voluntary treatment.** An alcoholic, drug abuser, drug addict or drug-dependent person may apply for voluntary treatment directly to an approved ~~public~~ public treatment facility. ~~If the proposed patient is a minor or an incompetent person, that person, a parent, a legal guardian or other legal representative may make the application.~~

2. **Determination.** A person who comes voluntarily or is brought to an approved treatment facility for residential care and treatment must be examined immediately by a licensed physician. That person may then be admitted or referred to another health facility based upon the physician's recommendation. Subject to rules adopted by the office, the administrator in charge of an approved ~~public~~ public treatment facility may determine who ~~shall~~ may be admitted for treatment. If a person is refused admission to an approved ~~public~~ public treatment facility, the administrator, subject to rules adopted by the office, shall refer the person to another approved ~~public~~ public treatment facility for treatment if possible and appropriate.

3. **Outpatient or intermediate treatment.** If a ~~patient~~ person receiving ~~inpatient~~ residential care leaves an approved ~~public~~ public treatment facility, that ~~patient~~ person must be encouraged to consent to appropriate outpatient or intermediate treatment. ~~If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic who requires help, the office shall arrange for assistance in obtaining supportive services and residential facilities.~~

4. **Discharge.** If a ~~patient~~ person leaves an approved ~~public~~ public treatment facility, ~~with or against the advice of the administrator in charge of the facility, the office shall make reasonable provisions for that patient's transportation to another facility or to the patient's home.~~

If and that person does not have a home, the patient must be assisted in obtaining shelter. ~~If the patient is a minor or an incompetent person, the request for discharge from an inpatient facility must be made by a parent, legal guardian or other legal representative or by the minor or incompetent, if the minor or incompetent was the original applicant.~~

Sec. 21. 5 MRSA §20045, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

Sec. 22. 5 MRSA §20046, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

Sec. 23. 5 MRSA §20049, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

Sec. 24. 5 MRSA §20050, sub-§1, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

1. Payment. If treatment is provided by an approved ~~public~~ treatment facility and the patient has not paid the charge for that treatment, the treatment facility is entitled to any payment received by the patient or to which the patient may be entitled because of the services rendered, and from any public or private source available to the treatment facility because of the treatment provided to the patient.

Sec. 25. 5 MRSA §20061, sub-§3, ¶¶B and C, as enacted by PL 1989, c. 934, Pt. A, §3, are amended to read:

B. At least 4 members must be officials of public or private nonprofit community-level agencies who are actively engaged in drug abuse prevention or treatment in those public or private nonprofit community agencies ~~or members of the regional alcohol and drug abuse councils located throughout the State.~~

C. Five members must be the ~~executive directors~~ presidents, or their designees, of the 5 regional alcohol and drug abuse councils located throughout the State.

Sec. 26. 5 MRSA §20063, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. Serve as advisory council. The council shall serve as the advisory council on behalf of the State to the state agencies as required by the federal regulations governing administration of the Drug Abuse Office and Treatment Act of 1972, 21 United States Code, Section 1101 et seq. (1982), as amended; and the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Public Law 91-616 (1982), as amended; and other Acts of the United States as appropriate. The council shall advise on state and federal plans, policies, programs and other activities relating to drug abuse and drug dependence in the State. The council shall submit its recommendations and com-

ments on the state plan, and any plan revisions, and reports to federal or state agencies and to the Legislature. Statements at variance with or in addition to those of the office must be attached to the plan or reports upon submission by the office to agencies of the Federal Government, to the Legislature and to state agencies.

Sec. 27. 5 MRSA §20063, sub-§7 is enacted to read:

7. Report. By February 1, 1992 and each year thereafter, the council shall present a report to the Governor, the Legislature, the Judicial Council and the director assessing the State's substance abuse services and describing the activities of the council and its recommendations.

Sec. 28. 5 MRSA c. 521, sub-c. V is enacted to read:

SUBCHAPTER V

DRIVER EDUCATION AND EVALUATION PROGRAMS

§20071. Definitions

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

1. Alcohol-related or drug-related motor vehicle incident. "Alcohol-related or drug-related motor vehicle incident" means a conviction or administrative action resulting in the suspension of a motor vehicle operator's license for a violation under Title 29, section 1311-A; Title 29, former section 1312, subsection 10-A; Title 29, former section 1312-B; Title 29, former section 1312-C; Title 29, section 1312-B; or Title 29, section 2241-G, subsection 2, paragraph B, subparagraph (2).

2. Client. "Client" means a person who is required to complete an alcohol and other drug education, evaluation and treatment program for an alcohol-related or drug-related motor vehicle offense.

3. Community-based service provider. "Community-based service provider" means a provider of either the treatment component or the evaluation component, or both, of the alcohol and other drug education, evaluation and treatment program certified under section 20075 or a program approved by the office.

4. Completion of treatment. "Completion of treatment," for the purpose of recommendation by the office to the Secretary of State concerning restoration of the driver's license to the client, means that the individual has responded to treatment to the extent that there is a substantial probability that the individual will not be operating under the influence. This substantial probability may be shown by:

A. An acknowledgement by the client of the extent of the client's alcohol or drug problem;

B. A demonstrated ability to abstain from the use of alcohol and drugs; and

C. A willingness to seek continued voluntary treatment or to participate in an appropriate self-help program, or both, as necessary.

5. Multiple offender. "Multiple offender" means a client who has more than one alcohol-related or drug-related motor vehicle incident within a 6-year period.

§20072. Driver Education and Evaluation Programs

The Driver Education and Evaluation Programs are established in the Office of Substance Abuse and shall administer the alcohol and other drug education, evaluation and treatment programs as provided in this chapter. The office shall certify to the Secretary of State:

1. Completion of Driver Education and Evaluation Programs. Those individuals who have satisfactorily completed a program prescribed by section 20073; and

2. Completion of Nondriver Education and Evaluation Program. Those individuals who have satisfied the requirement for completion of treatment as defined in section 20071 by means other than a program prescribed by section 20073.

§20073. Program components

I. First offenders; adult. The alcohol and other drug education, evaluation and treatment program required for clients without a previous alcohol-related or drug-related motor vehicle offense consists of education, assessment, evaluation and treatment components. All first offender clients are required to complete the education and assessment components unless otherwise provided by this subchapter. The evaluation and treatment components may be required if necessary. The components are as follows:

A. The education component, consisting of at least 9 hours of information using films, lectures and discussion and designed to educate the client about the effects of alcohol and other drugs on behavior, especially behavior involving the operation of a motor vehicle;

B. The assessment component, using an assessment instrument, the client's driving record for the 6-year period prior to the most recent alcohol-related or drug-related motor vehicle incident and an interview designed to make a preliminary assessment regarding the extent of a client's alcohol or other drug use or abuse or potential for abuse. A client may be referred for further evaluation based on the results of the preliminary assessment;

C. The evaluation component, designed to identify abusers of alcohol and other drugs. If the evaluation indicates that treatment for alcohol or other drug abuse is needed, the client must be referred to the appropriate alcohol or other drug treatment service; and

D. The treatment component, provided by a community-based service provider, designed to address the client's specific problem with or abuse of alcohol or other drugs.

2. Multiple offender program offered to first offenders. If the office determines that a first offender must have an evaluation as described in subsection 1, paragraph C, the first offender may choose a private evaluation or participation in the multiple offender residential intervention program described in subsection 4, paragraph A.

3. First offenders under 21 years of age. First offenders under 21 years of age shall attend the driver education and evaluation programs for teenagers as established by this subsection. The driver education and evaluation programs for teenagers consists of the following elements.

A. The education component is a program of at least 10 hours during which clients receive education, especially designed for the age group, on substance use, abuse and addiction. Education is provided through a group discussion process, which includes segments on values clarification, peer pressure and decision making.

B. The assessment component is designed to make a preliminary assessment regarding the extent of a client's alcohol or other drug use or abuse or potential for abuse. A client may be referred for further evaluation based on the results of the client's preliminary assessment.

C. The evaluation component is designed to identify abusers of alcohol and other drugs. If the evaluation indicates that treatment for alcohol or other drug abuse is needed, the client must be referred to the appropriate alcohol or other drug treatment service.

D. The treatment component is designed to address the client's specific problem with or abuse of alcohol or other drugs.

4. Multiple offenders; adult. The education, evaluation and treatment program required for adult multiple offenders consists of the following components:

A. A rigorous, highly structured, residential intervention program, consisting of at least 22 hours, using films, lectures, group discussion and individual sessions, designed to educate the client on the effects of substance use, abuse and addiction and an evaluation using assessment instruments, data collection and

self-assessment, designed to create an acceptance and commitment by the client for treatment; and

B. A treatment program provided by a community-based service provider, designed to address the client's specific alcohol or other drug problem and abuse, using a treatment plan based on the completion of treatment guidelines adopted by the office, if additional treatment is necessary.

The office may require completion of the first offender program to satisfy the requirements of the multiple offender program if an approved multiple offender program is unavailable for the client. In such cases, the fee schedule of the first offender program applies.

5. Multiple offenders under 21 years of age. Multiple offenders under 21 years of age shall attend the alcohol and other drug education, evaluation and treatment program for adult offenders under subsection 4.

§20074. Separation of evaluation and treatment functions

A Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance abuse facility approved or licensed by the office providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in programs under this subchapter. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom may not be employed by the same agency as the practitioner or counselor conducting the evaluation.

§20075. Certification; recertification

All providers of the evaluation, intervention and treatment components of the program must be certified by the office. The certification period for individual providers is 3 years and 2 years for agencies. The office shall adopt rules requiring continuing education for recertification.

§20076. Fees

1. First offender program. The office may charge a registration fee, not to exceed \$105, to clients for the education and assessment components of the program. This fee must be transferred to the General Fund. The client is responsible for the costs of the evaluation and treatment components. The office may waive all or part of the fee for clients who provide sufficient evidence of inability to pay.

2. Multiple offender program. This subsection applies to multiple offenders and first offenders who choose to participate in the multiple offender residential intervention program in accordance with this subchapter. The fees and costs for the multiple offender program are as follows.

A. The office may charge a registration fee, not to exceed \$350, to clients for the expenses of the intervention program, including the initial evaluation. This fee must be transferred to the General Fund.

B. The client is responsible for any costs associated with 2nd and subsequent evaluations or treatments that are not a part of the cost in paragraph A.

C. The office may waive all or part of the fee for clients who provide sufficient evidence of inability to pay.

§20077. Report

Beginning in 1992, the director shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over human resource matters regarding the office's activities under this subchapter. A copy of the report must be sent to the Executive Director of the Legislative Council.

§20078. Board of appeals

The Driver Education and Evaluation Programs Appeals Board, established by Title 5, section 12004-G, subsection 15-A, is referred to as the "board" in this subchapter and is governed by this section.

1. Qualifications. Each member of the board must have training, education, experience and demonstrated ability in successfully treating clients with substance abuse problems. Board members may not hold a current certificate to provide driver education, evaluation and treatment services during their terms of appointment.

2. Appointment; term; removal. The board consists of 3 members appointed by the Governor for 2-year terms, except that, initially, 2 members are appointed for 2-year terms and one member for a one-year term. A vacancy occurring prior to the expiration of a term must be filled by an appointment for the unexpired term. Members may be removed by the Governor for cause.

3. Facilities; staff. The director shall provide adequate facilities for the board and staff support.

4. Chair; rules. The board shall elect annually a chair from its members. The director shall adopt rules to carry out this section.

5. Compensation. Each member of the board is entitled to compensation in accordance with Title 5, chapter 379.

6. Appeal from decision. A Driver Education and Evaluation Programs client may appeal to the board as follows.

A. The client may appeal a failure to certify completion of treatment pursuant to section 20072, subsection 2.

B. The client may appeal an evaluation decision referring the client to treatment or a completion-of-treatment decision pursuant to section 20073. A client may appeal under this paragraph only after the client has sought a 2nd opinion of the need for treatment or of satisfactory completion of treatment.

7. Appeal procedure and action. An appeal is heard and decided by one board member. The board may affirm or reverse the decision of the treatment provider or agency, require further evaluation, make a finding of completion of treatment or make an alternate recommendation. The board, after due consideration, shall make a written decision and transmit that decision to the Driver Education and Evaluation Programs and the client who appealed the case. The decision of the board is final agency action for purposes of judicial review pursuant to Title 5, chapter 375, subchapter VII.

8. Repeal. This section and Title 5, section 12004-G, subsection 15-A are repealed July 1, 1992.

Sec. 29. 22 MRSA c. 1602, sub-cc. I and II-A, as amended, are repealed.

Sec. 30. 29 MRSA §1312-B, sub-§2, ¶D-1, as amended by PL 1987, c. 791, §19, is further amended to read:

D-1. In addition to the penalties provided under paragraphs C and D, the court shall order the defendant to participate in the alcohol and other drug education, evaluation and treatment program for multiple offenders administered by the ~~Department of Human Services~~ Office of Substance Abuse, as defined in ~~Title 22, chapter 1602~~ Title 5, chapter 521. The court may waive the multiple offender intervention program under ~~Title 22, section 7203, subsection 3;~~ Title 5, section 20073, subsection 4, paragraph A, if the court finds that the defendant has completed a residential treatment program, or its equivalent, subsequent to the date of the offense.

Sec. 31. 29 MRSA §1313-A, sub-§3, ¶¶A to C, as enacted by PL 1985, c. 331, are amended to read:

A. Satisfactory completion of the Driver Education and Evaluation ~~Program~~ Programs of the ~~Department of Human Services~~ Office of Substance Abuse;

B. When required, satisfactory completion of a substance abuse treatment program or rehabilitation program approved or licensed by the ~~Department of Human Services~~ Office of Substance Abuse; and

C. When required, attendance for 2 years at an after-care program approved by the ~~Department of Human Services~~ Office of Substance Abuse.

Sec. 32. Transition. Employees of the Office of Alcohol and Drug Abuse Prevention who are transferred to the Office of Substance Abuse are subject to the provisions of this Act.

1. The employees retain their accrued fringe benefits, including vacation and sick leave, health and life insurance and retirement benefits.

2. The employees who are members of collective bargaining units on the effective date of this Act remain as members in their respective bargaining units and retain all rights, privileges and benefits provided by their collective bargaining agreements with respect to state service.

3. The employees who are members of collective bargaining units may remain as members of the Maine State Retirement System.

4. The Bureau of Human Resources shall assist the Office of Substance Abuse with the orderly implementation of the provisions of this section.

5. All existing contracts, agreements and compacts in effect in the Division of Driver Education Evaluation Programs or the Office of Alcohol and Drug Abuse Prevention on the effective date of this Act continue in effect.

6. All positions in the Department of Human Services, Office of Alcohol and Drug Abuse Prevention, with the exception of the Director of the Office of Alcohol and Drug Abuse and Prevention, are transferred to the Office of Substance Abuse. The director is reclassified as a Comprehensive Health Planner II and assigned to the Department of Human Services in order to maintain the department's ability to provide prevention services and intervene with or treat the persons served by the department who are affected by alcohol and other drugs.

7. All records, property and equipment previously belonging to the Department of Human Services, Division of Driver Education Evaluation Programs or Office of Alcohol and Drug Abuse Prevention are the property of the Office of Substance Abuse as of the effective date of this Act.

8. All forms, licenses, contracts, letterheads and similar items existing on the effective date of this Act bearing the name "Division of Driver Education Evaluation Programs," "Office of Alcohol and Drug Abuse Prevention," or that make reference to these names may be used by the Office of Substance Abuse until existing supplies of those items are exhausted.

9. All rules and procedures adopted by the Division of Driver Education Evaluation Programs or the Office of Alcohol and Drug Abuse Prevention remain in effect until rescinded, revised or amended.

10. All unexpended balances in all accounts of the Department of Human Services, Division of Driver Education Evaluation Programs or the Office of Alcohol and Drug Abuse Prevention are transferred to the Office of Substance Abuse. Notwithstanding the Maine Revised Statutes, Title 5, accrued expenditures, assets, liabilities, balances of appropriations, allocations, transfers, revenues or other available funds in an account or subdivision of an account of the Department of Human Services used for the purchase of substance abuse services must be transferred to the proper accounts by the State Controller upon the request of the State Budget Officer and with the approval of the Governor.

11. The Office of Substance Abuse is responsible for all administrative and financial functions that were previously performed on the office's behalf by the Department of Human Services. The Director of the Office of Substance Abuse has the authority to employ administrative and financial staff within the resources available from the federal Alcohol, Drug Abuse and Mental Health Services Block Grant.

Sec. 33. Recommendations. The Office of Substance Abuse created in the Maine Substance Abuse Prevention and Treatment Act and any other state agency affected by the provisions of that Act shall determine the best method of resolving any legal, fiscal, personnel or operational conflict created as a result of that Act and shall report to the Second Regular Session of the 115th Legislature for approval by January 1, 1992.

Sec. 34. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1991-92	1992-93
EXECUTIVE DEPARTMENT		
Office of Substance Abuse		
Positions	(1.0)	(1.0)
Personal Services	\$45,762	\$48,919
All Other	28,125	29,280
TOTAL	<u>\$73,887</u>	<u>\$78,199</u>
Provides for the transfer of funds and related functions from the Office of Alcohol and Drug Abuse Prevention, including one Social Services Program Specialist position.		
Driver Education and Evaluation Programs - Office of Substance Abuse		
Positions	(13.0)	(13.0)
Personal Services	\$338,953	\$484,178

All Other	343,993	481,369
TOTAL	<u>\$682,946</u>	<u>\$965,547</u>
Provides for the transfer of funds and the Driver Education and Evaluation Programs from the Department of Human Services to the Office of Substance Abuse.		
EXECUTIVE DEPARTMENT TOTAL	<u>\$756,833</u>	<u>\$1,043,746</u>
HUMAN SERVICES, DEPARTMENT OF		
Alcoholism and Drug Abuse Prevention - Human Services		
Positions	(-1.0)	(-1.0)
Personal Services	(\$37,421)	(\$48,317)
Provides for the deappropriation of funds through the elimination of the Director of the Office of Alcohol and Drug Abuse Prevention position.		
Alcoholism and Drug Abuse Prevention - Human Services		
Positions	(-1.0)	(-1.0)
Personal Services	(\$45,762)	(\$48,919)
All Other	(28,125)	(29,280)
TOTAL	<u>(\$73,887)</u>	<u>(\$78,199)</u>
Provides for the deappropriation of funds due to the transfer of the functions of the Office of Alcohol and Drug Abuse Prevention to the Executive Department, Office of Substance Abuse.		
Driver Education and Evaluation Programs		
Positions	(-13.0)	(-13.0)
Personal Services	(\$338,953)	(\$484,178)
All Other	(343,993)	(481,369)
TOTAL	<u>(\$682,946)</u>	<u>(\$965,547)</u>
Provides for the deappropriation of funds due to the transfer of the Driver Education and Evaluation Programs to the Executive Department, Office of Substance Abuse.		
Administration - Human Services		
Positions	(1.0)	(1.0)
Personal Services	\$33,867	\$44,124
Provides funding for the demotion of the Director of the Office of Alcoholism and Drug Abuse Planning to a		

Comprehensive Health
Planner II position.

Division of Driver Education
Evaluation Programs

Personal Services (\$1,500)

Deappropriates funds as a
result of the sunset provision
for the Driver Education
Evaluation Programs Appeals
Board.

DEPARTMENT OF HUMAN
SERVICES

TOTAL (\$760,387) (\$1,049,439)

TOTAL APPROPRIATIONS (\$3,554) (\$5,693)

Sec. 35. Allocation. The following funds are
allocated from Federal Block Grant funds to carry out
the purposes of this Act.

EXECUTIVE DEPARTMENT
1991-92 1992-93

Office of Substance Abuse

Positions (3.0) (3.0)
Personal Services \$86,066 \$121,863
All Other 63,236 77,207

Provides for the allocation of
funds due to the transfer of
the Office of Alcohol and
Drug Abuse Prevention from
the Department of Human
Services.

EXECUTIVE DEPARTMENT
TOTAL \$149,302 \$199,070

HUMAN SERVICES, DEPARTMENT
OF

Alcoholism and Drug Abuse
Prevention - Human Services

Positions (-3.0) (-3.0)
Personal Services (\$86,066) (\$121,863)
All Other (63,236) (77,207)

Provides for the transfer of
funds and functions from the
Office of Alcohol and Drug
Abuse Prevention to the
Executive Department, Office
of Substance Abuse.

DEPARTMENT OF HUMAN
SERVICES

TOTAL (\$149,302) (\$199,070)

TOTAL ALLOCATIONS \$-0- \$-0-

Effective October 17, 1991.

CHAPTER 602

H.P. 579 - L.D. 830

An Act Regarding Subsidies to Public Schools for
Home School Students

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

Sec. 1. 20-A MRSA §5001-A, sub-§3, ¶A, as
repealed and replaced by PL 1989, c. 537, is amended to
read:

A. Equivalent instruction alternatives are as follows.

(1) A person ~~shall be~~ is excused from attend-
ing a public day school if the person obtains
equivalent instruction in:

(a) A private school approved for at-
tendance purposes pursuant to section
2901;

(b) A private school recognized by the
department as providing equivalent in-
struction;

(c) A manner approved by the commis-
sioner pursuant to subparagraph (3); or

(d) Any other manner arranged for by
the school board and approved by the
commissioner.

(2) A student ~~shall be~~ is credited with attend-
ance at a private school only if a certificate
showing the name, residence and attendance
of the person at the school, signed by the per-
son or persons in charge of the school, has
been filed with the school officials of the ad-
ministrative unit in which the student resides.

(3) A person who wishes to obtain approval
of equivalent instruction under rules established
by the commissioner for equivalent instruction
through home instruction shall simultaneously
submit a completed application for approval
to the local board and to the commissioner.
~~The local board shall provide for review of the
application. The purpose of local review shall
only be to facilitate cooperation between local
educators and students receiving equivalent in-
struction and to permit local boards and edu-
cators to provide initial review of the applica-
tion for completion of information required by
state rules. The local board may review the
application and submit comments on the ap-
plication to the commissioner within 30 days
of receipt of the application. Within 30 60~~