

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)

**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**

**January 5, 1994 to April 14, 1994**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 14, 1994**

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

---

---

**J.S. McCarthy Company**  
**Augusta, Maine**  
**1993**

**CHAPTER 736**

**H.P. 1370 - L.D. 1854**

**An Act to Provide Funding to the  
Maine Criminal Justice Commission**

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

**Whereas,** the Maine Criminal Justice Commission has been given a number of statutory duties; and

**Whereas,** the commission is not able to have staff to help it meet its objectives and obligations; 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 §3358, sub-§7,** as enacted by PL 1991, c. 417, §1, is amended to read:

**7. Funding.** The commission is authorized to seek, accept and expend outside sources of funding to carry out the commission's activities. ~~Expenditures may not be incurred that have an impact on the General Fund.~~

**Sec. 2. Appropriation.** The following funds are appropriated from the General Fund to carry out the purposes of this Act.

**1994-95**

**MAINE CRIMINAL  
JUSTICE COMMISSION**

**Maine Criminal Justice  
Commission**

All Other	\$20,000
Provides funds for staffing and costs associated with the Maine Criminal Justice Commission.	

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

Effective April 20, 1994.

**CHAPTER 737**

**H.P. 1284 - L.D. 1732**

**An Act to Establish a System of  
Performance-based Agreements for  
the Provision of Certain  
Social Services**

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

**Sec. 1. 5 MRSA §20005-A** is enacted to read:

**§20005-A. Performance-based contracts**

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the director shall manage all funds available for the provision of alcohol or other drug abuse services in accordance with the provisions of this section.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding written document between 2 or more parties, including such documents as are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided.

**2. Performance-based contract.** The director shall ensure that all agreements to purchase alcohol or other drug abuse services entered into on or after July 1, 1995 are performance-based contracts.

**3. Rules.** The director shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless

guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

**Sec. 2. 22 MRSA §12-A** is enacted to read:

**§12-A. Performance-based contracts**

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of social services in accordance with the provisions of this section.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding written document between 2 or more parties, including such documents as are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided.

**2. Performance-based contract.** The commissioner shall ensure that all agreements to purchase social services entered into on or after July 1, 1997 are performance-based contracts.

**3. Rules.** The commissioner shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

**Sec. 3. 34-B MRSA §1208-A** is enacted to read:

**§1208-A. Performance-based contracts**

In addition to other applicable requirements and unless precluded by other restrictions on the use of funds, the commissioner shall manage all funds available for the provision of human services in accordance with the provisions of this section.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding written document between 2 or more parties, including such documents as are commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement, purchase of service or state aid.

B. "Performance-based contract" means an agreement for the purchase of direct client services employing a client-centered, outcome-oriented process that is based on measurable performance indicators and desired outcomes and includes the regular assessment of the quality of services provided.

**2. Performance-based contract.** The commissioner shall ensure that any agreement with the board of the regional authority for Region V established pursuant to Public Law 1991, chapter 781, Part C entered into on or after July 1, 1994 is a performance-based contract. The commissioner shall ensure that all agreements to purchase human services entered into on or after July 1, 1997 are performance-based contracts.

**3. Rules.** The commissioner shall adopt rules to implement this section, including, but not limited to, the establishment of program goals, outcome measures, an information management system to collect and manage contract data, a system of ongoing assessment of program effectiveness and hold-harmless guidelines for provider agencies during the first contract period or 12 months, whichever is greater.

**Sec. 4. Regional mental health authority board.** The regional mental health authority board for Region V established pursuant to Public Law 1991, chapter 781, Part C shall implement a performance-based system of agreements for the provision of direct client services within the region according to the following schedule.

1. On or after July 1, 1994, the regional mental health authority board for Region V shall enter into an agreement with the Department of Mental Health and Mental Retardation that is performance-based in nature.

2. The year from July 1, 1994 to June 30, 1995 is a planning and development year to allow for staff training, identification of services to be phased in first and development of desired outcomes and performance indicators.

3. The year from July 1, 1995 to June 30, 1996 is a partial implementation year, requiring performance-based agreements for a significant number of selected categories of services or client populations.

4. On July 1, 1996, the regional mental health authority board for Region V shall begin full implementation of performance-based agreements across all categories of services and client populations.

5. In implementing this section, the regional mental health authority board shall ensure that hold-harmless provisions are applied to each contractor during the first performance-based contract period or 12 months, whichever is greater.

**Sec. 5. Oversight Committee on Performance-based Contracting.** The Oversight Committee on Performance-based Contracting, referred to in this section as the "committee," is established.

**1. Membership.** The committee consists of the following 17 members:

A. The 13 members of the former Administrative Costs Task Force established pursuant to Private and Special Law 1993, chapter 48, who must be appointed to the committee in the same manner as they were appointed to that task force, except that members of that task force who no longer meet the criteria under which they were appointed to that task force may not be appointed to the committee, and their replacements must be appointed in the same manner as the original appointments;

B. One representative of the Department of Corrections appointed by the Governor;

C. One member of the Joint Select Committee on Corrections appointed jointly by the President of the Senate and the Speaker of the House of Representatives; and

D. Two representatives of the public who are consumers of social services, at least one of whom is a primary consumer, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives.

At least one of the legislative members appointed by the President of the Senate and one of the legislative members appointed by the Speaker of the House of Representatives must be from the minority party.

Any necessary appointments, including any vacancies in the membership of the Administrative Costs Task Force must be filled by the appropriate appointing authority no later than 30 days following the effective date of this Act. The Executive Director of the Legislative Council must be notified by all appointing authorities once the selections have been made. The President of the Senate and the Speaker of the House of Representatives shall jointly appoint the chair of the committee. Members may serve as long as eligi-

ble for the position to which appointed. Vacancies must be filled by the appropriate appointing authority within 30 days.

**2. Duties of committee; responsibility of departments.** The committee is responsible for oversight, coordination and evaluation of the implementation of performance-based agreement systems for the provision of direct client services by the state departments provided in this Act, including establishing departmental goals for the provision of social services, identifying appropriate outcome measures for those goals, creating an information management system to track services provided to clients and setting up a system to assess the effectiveness with which the services are provided.

The schedule for implementation of performance-based agreement systems for the provision of services must be in accordance with sections 1 to 4 of this Act. In addition, the committee shall apply an intermediate schedule of implementation for the Department of Human Services and Department of Mental Health and Mental Retardation, other than services provided through the mental health authority board for Region V, as follows.

A. The year from July 1, 1994 to June 30, 1995 is a preplanning year to allow for staff training and a liaison function among the affected departments.

B. The year from July 1, 1995 to June 30, 1996 is a development year to identify the services to be phased in first and to develop the desired outcomes and performance indicators.

C. The year from July 1, 1996 to June 30, 1997 is a partial implementation year, requiring performance-based agreements for a significant number of selected categories of service or client groups.

D. On July 1, 1997, there must be full implementation of performance-based agreements across all service categories.

In carrying out its duties, the committee shall ensure that the performance-based systems of agreements for the provision of social services developed by the state departments provide for a shared responsibility among all affected constituencies, including consumers, providers, Legislators and affected state agencies, especially in development of goals and outcome measures; a technical assistance component to assist the departments; a monitoring system, including an information management system, to evaluate whether programs are having the desired results; sufficient flexibility to meet the agreed-upon outcomes; a hold-harmless provision for provider agencies during the

first contract period or for 12 months, whichever is greater; and sufficient time for affected persons and groups to adjust to an outcome-oriented approach.

The committee shall study the feasibility of and make recommendations regarding the implementation of a system of performance-based contracting in the Department of Corrections.

The committee shall complete its work by January 1, 1999. The committee shall meet as necessary to complete its duties and is authorized to use grants and other funds obtained from private organizations, the Federal Government and other non-General Fund sources. The committee may request assistance in carrying out its duties from qualified individuals or organizations inside or outside of State Government. The committee may request staffing assistance from the Department of Human Services and the Department of Mental Health and Mental Retardation.

The state departments and the mental health authority board of Region V shall meet with and report to the committee as determined necessary by the committee to coordinate implementation of this Act.

**3. Compensation not authorized.** Members of the committee may not receive compensation or reimbursement for expenses.

**4. Report; legislation.** The committee shall submit a final report, together with any necessary implementing legislation, to the First Regular Session of the 119th Legislature no later than December 1, 1998. The report must include an assessment of the effectiveness of the performance-based agreement system and recommendations on whether it should be continued, including whether its application should be narrowed or broadened to include other state departments or categories of contracted-for services. During its existence, the committee is authorized to submit legislation to any regular session of the Legislature.

See title page for effective date.

---



---

## CHAPTER 738

H.P. 1330 - L.D. 1793

### An Act to Implement the Recommendations of the Health and Social Services Transition Team

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

**Whereas,** recent efforts to restructure health and social services have not achieved sufficient consensus; and

**Whereas,** those efforts were not guided by a set of fundamental principles held by the citizens of the State; and

**Whereas,** the status quo is not acceptable and efforts to reform the system must continue; and

**Whereas,** those efforts must begin with a broad process of public participation; and

**Whereas,** those efforts must begin as soon as possible to give the Governor-elect the benefit of the results of that process before the Governor-elect takes office; 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:**

#### PART A

**Sec. A-1. Health and social services broadly defined.** Health and social services include, but are not limited to, the following:

1. Preventive, acute and long-term health services, including physical and mental health;
2. Substance abuse services;
3. Developmental, physical and other disability services;
4. Protective services for children and adults;
5. Services for people who are poor, including income assistance, shelter, food and employment assistance;
6. Juvenile justice services; and
7. Other family services, including adoption and child care.

**Sec. A-2. Health and social services policy principles.** The goal of the State is to achieve a health and social services system that embodies the following policy principles.

1. The service system should use local, natural points of entry into comprehensive services.