

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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
1995

in carrying out the purposes of the Maine Juvenile Code; or

Sec. 4. 15 MRSA §3309-A, sub-§4 is enacted to read:

4. Juvenile adjudicated of gross sexual assault. After adjudication and before disposition when a juvenile is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1, the court shall order the juvenile to undergo a diagnostic evaluation at the Maine Youth Center.

Sec. 5. 15 MRSA §3313, sub-§3 is enacted to read:

3. Statement of reasons accompanying disposition for juvenile adjudicated of murder or a Class A, Class B or Class C crime. In a disposition for a juvenile crime that if committed by an adult would be murder or a Class A, Class B or Class C crime, the court shall state on the record and in open court the court's reasons for ordering or not ordering placement of the juvenile in a secure institution.

Sec. 6. 15 MRSA §3314, sub-§1, ¶E, as enacted by PL 1977, c. 520, §1, is repealed and the following enacted in its place:

E. The court may require the juvenile to make restitution for any damage to the victim or other authorized claimant as compensation for economic loss upon reasonable conditions that the court determines appropriate. For the purposes of this paragraph, the definitions in Title 17-A, section 1322 and the provisions of Title 17-A, section 1324 apply.

Sec. 7. Effective date. Sections 2 to 4 of this Act take effect January 1, 1997.

See title page for effective date, unless otherwise indicated.

CHAPTER 691

S.P. 654 - L.D. 1704

An Act Redefining the Community Services Structure of the Mental Health System

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

Whereas, the community mental health system is changing in response to the demands of society and the needs of recipients of mental health services; and

Whereas, it is imperative that new community-based structures be formed and operative by early fall, 1996, in order for necessary services to be available to persons in need of those services; 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 §2005-A, sub-§4, ¶¶A and B, as amended by PL 1995, c. 560, Pt. L, §6, are further amended to read:

A. The commissioner shall hold at least one informational meeting at least ~~3 months~~ 30 days before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions.

B. The commissioner shall require any interested party to submit a notice of intent to bid at least ~~3 months~~ 30 days before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract.

Sec. 2. 22 MRSA §12-A, sub-§4, ¶¶A and B, as enacted by PL 1995, c. 402, Pt. B, §2, are amended to read:

A. The commissioner shall hold at least one informational meeting at least ~~3 months~~ 30 days before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions.

B. The commissioner shall require any interested party to submit a notice of intent to bid at least ~~3 months~~ 30 days before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain

minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract.

Sec. 3. 34-B MRSA §1204, sub-§2, paragraph C, as repealed and replaced by PL 1995, c. 560, Pt. K, §15, is amended to read:

C. The commissioner shall appoint the following officials to serve at the commissioner's pleasure:

- (1) Associate Commissioners;
- (2) Superintendent, Augusta Mental Health Institute;
- (3) Superintendent, Bangor Mental Health Institute;
- (4) Superintendent, Pineland Center;
- (5) Director, Mental Retardation Facility;
- (6) Director, Elizabeth Levinson Center;
- (7) Assistant to the Commissioner for Public Information;
- (8) Assistant to the Commissioner;
- (9) Director, Bath Children's Home. This subparagraph is repealed on July 1, 1996;
- (10) Regional Directors, who shall report directly to the commissioner; and
- (11) Director, Office of Substance Abuse.

The Director of the Office of Substance Abuse must be reviewed by the joint standing committee of the Legislature having jurisdiction over human resource matters prior to taking office.

Sec. 4. 34-B MRSA §1207, sub-§1, ¶B, as amended by PL 1989, c. 7, Pt. N, §3, is further amended to read:

B. Information may be disclosed if necessary to carry out any of the statutory functions of the department, the hospitalization provisions of chapter 3, subchapter IV, the purposes of sections 3607 and 3608, the purposes of Title 22, section 3554, the purposes of United States Public Law 99-319, dealing with the investigatory function of the independent agency designated with advocacy and investigatory functions under United States Public Law 88-164, Title I, Part C or United States Public Law 99-319, or the purposes of Title 18-A, section 5-601, subsection (b), ~~where when~~ the Department of Human Services is requested by the Department of Mental Health ~~and~~ Mental Retardation ~~and~~

Substance Abuse Services to act as public guardian or public conservator;

Sec. 5. 34-B MRSA §1208-A, sub-§4, ¶¶A and B, as affected by PL 1995, c. 560, Pt. K, §81, are amended to read:

A. The commissioner shall hold at least one informational meeting at least ~~3 months~~ 30 days before the due date for submission of the notice of intent to bid. Any informational meeting must be advertised in newspapers of general circulation stating the location, date, time and purpose of the meeting. At the meeting the commissioner shall provide detailed information to any interested party about the contract to be bid or rebid, provide notice of anticipated major changes from any previous contract and respond to questions.

B. The commissioner shall require any interested party to submit a notice of intent to bid at least ~~3 months~~ 30 days before the date bids will be accepted as a precondition to submitting a formal bid. The notice of intent must contain minimal requirements that demonstrate a prospective bidder's competence and ability to comply with the requirements of the contract.

Sec. 6. 34-B MRSA §3604, sub-§5 is enacted to read:

5. Exclusion. Beginning October 1, 1996, an entity that applies for the award or renewal of a grant or contract for the provision of mental health services must be a participating member of the quality improvement council or the local service network, as defined in section 3607, for the region of the State subject to that grant or contract or an interested party assisting a council pursuant to section 3607, subsection 8.

Sec. 7. 34-B MRSA §§3607, 3608 and 3609 are enacted to read:

§3607. Quality improvement councils

The department shall establish 9 quality improvement councils to oversee the delivery of mental health services to children and adults under the authority of the department.

1. Definitions. As used in this section and sections 3608 and 3609, unless the context otherwise indicates, the following terms have the following meanings.

A. "Community members" means persons who represent the composition of the community at large.

B. "Consumer" means a recipient or former recipient of publicly funded mental health services.

C. "Council" means a quality improvement council approved by the commissioner pursuant to subsection 2, paragraph D.

D. "Family member" means a relative, guardian or household member of an adult consumer.

E. "Network" means a local service network established pursuant to section 3608.

F. "Parent" means a parent or a person who has acted in that capacity or assumed that role for a consumer under 18 years of age.

G. "Regional director" means a regional director appointed pursuant to section 1204, subsection 2, paragraph C, subparagraph (10).

H. "Service provider" or "provider" means a person or organization providing publicly funded mental health services to consumers or family members.

2. Councils established. There is established an approved quality improvement council in each area designated in subsection 3, referred to in this section as "area council," and for the Augusta Mental Health Institute and the Bangor Mental Health Institute, referred to in this section as "institute council." The councils operate under the authority of the department. Each council consists of the initial members chosen pursuant to paragraph B, the members subsequently chosen pursuant to council bylaws, the members of the network established pursuant to section 3608 and any advisory committees established pursuant to subsection 8.

A. The councils shall assist the department and providers with systems planning and needs assessment at the local level and community education and quality improvement activities that must be implemented at the local level. Through the program evaluation teams the councils shall perform program assessment.

B. Each area council consists of 24 members whose membership takes into consideration local geographic factors. The membership on each council consists of 4 adult consumers, 4 family members, 4 parents, 6 community members and 6 service providers. Any resident of a council area may make recommendations regarding initial membership on the local area council to the commissioner, who shall make the appointments by June 1, 1996. The commissioner or a designee of the commissioner shall convene the first meeting of each council by June 15, 1996.

C. Each institute council consists of 16 members whose membership takes into consideration local

geographic factors. The membership on each council consists of 4 consumers, 4 family members, 4 community members and 4 providers. Any resident or former resident of the Augusta Mental Health Institute or the Bangor Mental Health Institute, any family member of a resident or former resident, any community member in the Augusta or Bangor region and any service provider at those institutes may make recommendations regarding membership on the institute councils to the commissioner, who shall make the initial appointments by June 1, 1996. The commissioner or a designee of the commissioner shall convene the first meeting of each council by June 15, 1996.

D. The councils shall adopt bylaws that establish the terms and qualifications of membership, the selection of members succeeding the initial members and the internal governance and rules. The commissioner shall approve the bylaws of each council prior to designating it as an approved council.

E. Under the supervision of each council, a program evaluation team of nonprovider members shall review each program funded by the department on a periodic basis. The results of the review must be reported to the council and the regional director for the department and must be considered in funding decisions by the department.

3. Areas. An area council shall operate in each of the following geographic areas:

A. Aroostook County;

B. Hancock County, Washington County, Penobscot County and Piscataquis County;

C. Kennebec County and Somerset County;

D. Knox County, Lincoln County, Sagadahoc County and Waldo County;

E. Androscoggin County, Franklin County and Oxford County;

F. Cumberland County; and

G. York County.

4. Accountability. Each area council is accountable to the regional director. The institute councils are accountable to the director of facility management within the department.

5. Duties. By October 1, 1996, each council shall submit to the department a plan for the development, coordination and implementation of a local mental health system for the delivery of services to

children and adults under the authority of the department and to their families. This plan must be updated every 2 years. The department shall determine required elements of the plan, including but not limited to the following:

A. Case management, including advocacy activities and techniques for identifying and providing services to consumers at risk. Case management services must be independent of providers whenever possible;

B. Medication management, outpatient therapy, substance abuse treatment and other outpatient services;

C. In-home flexible supports, home-based crisis assistance, mobile outreach, respite and inpatient capacity and other crisis prevention and resolution services;

D. Housing, in-home support services, tenant training and support services, home ownership options and supported housing; and

E. Rehabilitation and vocational services, including transitional employment, supported education and job finding and coaching.

6. Regional directors; responsibilities. Each regional director is responsible for the operation of the area councils within the region and for dispute resolution within those area councils. Each regional director shall receive reports from the councils, consider the recommendations of the councils and report periodically to the commissioner on their performance.

7. Institute council directors; responsibilities. The director of facility management within the department is responsible for the operation of the councils of the Augusta Mental Health Institute and the Bangor Mental Health Institute and for dispute resolution within those institute councils. The director shall receive reports from the councils, consider the recommendations of the councils and report periodically to the commissioner on their performance.

8. Public outreach. Each council shall solicit the participation of interested consumers, families, parents, community members and service providers to serve on the council, the network or advisory committees.

9. Participation. State-operated direct service programs shall participate in the activities of the councils.

§3608. Local service networks

The department shall establish networks to participate with the area councils, as defined in section

3607, subsection 2, in the delivery of mental health services to children and adults under the authority of the department. A network consists of persons and organizations providing mental health services under contract or grant from the department in the corresponding area specified in section 3607, subsection 3.

1. Responsibilities. Each network shall perform the following responsibilities:

A. Deliver and coordinate 24-hour crisis response services accessible through a single point of entry to adults with mental illness and to children and adolescents with severe emotional disturbance and their families;

B. Ensure continuity, accountability and coordination regarding service delivery;

C. Participate in a uniform client data base;

D. In conjunction with the regional director and the area council, conduct planning activities; and

E. Develop techniques for identifying and providing services to consumers at risk.

2. Accountability. Each network is accountable to the area council and the regional director.

3. Public outreach. Each network shall solicit the participation of interested providers to serve on the area council, the network or advisory committees.

4. Participation. State-operated direct service programs shall participate in the activities of the networks.

§3609. Statewide quality improvement council

Each council shall designate a member and an alternate to serve on a statewide quality improvement council to advise the commissioner on issues of system implementation that have statewide impact. The commissioner shall appoint other members to serve on the council.

Sec. 8. PL 1995, c. 395, Pt. H, §9 is amended to read:

Sec. H-9. Appropriation and position transfers. Notwithstanding the Maine Revised Statutes, Title 5, section 1585 or any other provision of law, the Commissioner of Mental Health and Mental Retardation as an interim strategy to downsize the Augusta Mental Health Institute and the Pineland Center is authorized by financial order to transfer positions authorized by the Legislature between accounts within the same fund and to transfer available balances of appropriations and allocations between line categories and accounts within the same fund, as the positions and funds become available

through the downsizing of the Augusta Mental Health Institute and the Pineland Center, in order to achieve provisions of the consent decree plans. ~~Positions and funding from the Augusta Mental Health Institute budget must be transferred as needed for reassignment to support and establish geographical Local Mental Health Authority Districts within the Division of Mental Health, Community Program and necessary services consistent with the AMHI Consent Decree Plan.~~ Positions and funding from the Pineland Center budget must be transferred as needed to ensure the adequate provision of community and crisis supports for Pineland Center residents. The transfer of positions and funding is authorized in order to comply with the consent decree plans consistent with the substantially detailed plan submitted to and reviewed by the Joint Standing Committee on Appropriations and Financial Affairs.

Sec. 9. Board abolished. The Southern Maine Regional Mental Health Board is abolished on June 30, 1996.

Sec. 10. First option. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall give first option to the members of the Southern Maine Regional Mental Health Board when appointing the initial members of the area councils, pursuant to the Maine Revised Statutes, Title 34-B, section 3607, subsection 2, for that region of the State.

Sec. 11. Report. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters by January 1, 1997 and by January 1, 1998 on the operation of quality improvement councils as established in the Maine Revised Statutes, Title 34-B, section 3607 and local service networks as established in Title 34-B, section 3608 and shall include recommendations for improving the operations and any legislation necessary to accomplish those purposes.

Sec. 12. Reinvestment of funds. Notwithstanding any other provision of law, revenue received by the Department of Mental Health, Mental Retardation and Substance Abuse Services from Maximus-related initiatives must be dedicated for use by the department and used as follows by the department: 50% for children's services and 50% for services required by the consent decree in the matter of Paul Bates, et al., versus Melodie Peet, et al., Kennebec County docket number CV-89-88. Funds must be deposited in the appropriate Other Special Revenue account for achieving these purposes. Allotment of these funds may be made by financial order upon the recommendation of the State Budget Officer and with the approval of the Governor.

Sec. 13. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1996-97

MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES, DEPARTMENT OF Mental Health Services - Children

All Other \$500

Provides funds to establish a base allocation in the event Maximus-related revenues are received to provide additional services to children.

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

Effective April 11, 1996.

CHAPTER 692

S.P. 712 - L.D. 1812

An Act to Extend Health Care Coverage for Parents Leaving the Aid to Families with Dependent Children Program

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

Sec. 1. 22 MRSA §3741-G, as repealed and replaced by PL 1995, c. 418, Pt. A, §10, is amended to read:

§3741-G. Transitional medical assistance

The department shall administer a program to provide transitional eligibility for medical assistance to families whose average gross monthly earnings, minus such costs for child care as is necessary for employment, do not exceed 185% of the federal poverty guidelines in accordance with the Family Support Act and this section.

1. Earnings; hours worked; loss of disregards. In order to receive transitional Medicaid as the result of increased earnings, number of hours worked or the loss of disregards, a family must have received AFDC for at least 3 of the last 6 months.

2. Work search. The department shall apply for a waiver from the federal Department of Health and Human Services to provide transitional Medicaid