

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

the State Treasury. The product or animal may not be sold contrary to the provisions of this chapter, the federal acts or the Federal Food, Drug, and Cosmetic Act. Upon the execution and delivery of a good and sufficient bond guaranteeing that the product or animal will not be sold or otherwise disposed of contrary to the provisions of this chapter or the laws of the United States, the court may direct that the product or animal be delivered to the owner, subject to supervision by authorized representatives of the commissioner to ensure compliance with the applicable laws. If a decree of condemnation is entered against the product or animal and it is released under bond or destroyed, court costs and fees and storage and other proper expenses must be awarded against the person, if any, intervening as claimant of the product or animal.

2. Unimpaired authority. This section does not impair the authority for condemnation or seizure conferred by other provisions of this chapter or other laws.

§2527. Appeal and jurisdiction

1. Appeal. An order issued under section 2512, subsection 1, paragraph C; section 2512, subsection 2, paragraph A, B or C; section 2514, subsection 6; or a decision issued by the commissioner under section 2514, subsection 6 is final unless appealed to Superior Court within 15 days after service. An appeal of any other order or decision of the commissioner may be taken pursuant to Title 5, chapter 375. Review of any order and the determinations upon which it is based must be in the record in the administrative proceeding in which the order was issued.

2. Jurisdiction. The Superior Court has legal and equitable jurisdiction to enforce, prevent and restrain violations of this chapter and has legal and equitable jurisdiction in all other cases arising under this chapter. The Superior Court and District Court are granted jurisdiction to handle criminal matters arising under this chapter and rules.

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

2000-01

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Quality Assurance and Regulation

Positions - Legislative Count	(1,000)
Personal Services	\$57,475

All Other 110,636

Appropriates additional funds for one additional Supervising Inspector position and necessary operating costs to initiate a poultry and meat inspection program.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL

\$168,111

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

2000-01

AGRICULTURE, FOOD AND RURAL RESOURCES, DEPARTMENT OF

Division of Quality Assurance and Regulation

All Other \$100,000

Appropriates one-time funds to establish a poultry and meat inspection pilot program.

Harness Racing Commission

All Other (\$70,000)

Deappropriates funds that are no longer necessary for the payment of certain stipends due to lower than expected proceeds from the harness racing handle.

DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL

\$30,000

See title page for effective date.

CHAPTER 778

H.P. 1138 - L.D. 1623

An Act to Provide Services for Children in Need of Supervision

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order for the Youth in Need of Services Oversight Committee to meet its statutorily imposed appointment and first meeting deadlines; 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. 4 MRSA §152, sub-§4, as amended by PL 1989, c. 415, §1, is further amended to read:

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34, chapter 229, mental retardation certification hearings under Title 34, chapter 229, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted, youth in need of services actions under Title 22, chapter 1071, subchapter XIV and small claims actions under Title 14, chapter 738; ~~and~~

Sec. 2. 22 MRSA c. 1071, sub-c. XIV is enacted to read:

SUBCHAPTER XIV

YOUTH IN NEED OF SERVICES PILOT PROGRAM

§4095. Definitions

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

1. Case manager. "Case manager" means an agent of the department authorized by this subchapter to perform all case management functions for a youth alleged or found to be in need of services. "Case manager" may include community-based agencies contracted by the department and persons employed by those agencies to provide case management services.

2. Court. "Court" means the District Court.

3. Services. "Services" means housing, education, food, medical care, mental health or substance

abuse services or treatment, supervision by a parent or legal guardian and support services, including mediation services, that may assist a youth in need of services or the youth's family or legal guardian.

4. Youth in need of services. "Youth in need of services" means a child under 15 years of age who:

A. Is without proper care or subsistence, education, a home or medical or other care necessary for the child's well-being;

B. Is without or beyond the control of the child's parent or legal guardian; or

C. Is in imminent danger of serious physical, mental or emotional injury or at risk of prosecution for a juvenile offense.

§4096. Youth in Need of Services Pilot Program

1. Youth in Need of Services Pilot Program established. The Youth in Need of Services Pilot Program, referred to in this subchapter as the "program," is established within the department to provide preliminary assessments, safety plans and other services as specified in this subchapter to youth and their families and legal guardians.

§4097. Preliminary assessment; safety plan; other services

1. Preliminary assessment. When a case manager is informed that a youth may be in need of services, the case manager shall make a preliminary assessment within 48 hours, including weekends and holidays, to determine whether the youth is in need of services as defined in this subchapter and whether further action should be taken under subsection 2 or 3.

2. Safety plan. When a case manager determines that a youth is in need of services, the case manager shall immediately develop a safety plan and arrange services for the youth and, if appropriate, for the youth's family or legal guardian.

3. Imminent danger. If a youth is determined by a case manager to be in need of services and is in imminent danger of serious physical, mental or emotional injury or at risk of prosecution for a juvenile offense, the case manager shall attempt to contact the family or legal guardian to begin services to the youth and family or legal guardian, if appropriate, and shall promptly file a petition to commence court proceedings.

A. If the court finds that a youth is in need of services and is in imminent danger of serious physical, mental or emotional injury or at risk of prosecution for a juvenile offense, the court shall order that a service provider offer appropriate

services to the youth and the youth's family or legal guardian if appropriate.

B. In a proceeding brought under this subsection, if the court orders a service provider to offer appropriate services to a youth or the youth's family or legal guardian, the court may not order secure residential placement or inpatient treatment or order a youth to participate in services or enter an order of enforcement or contempt.

4. Treatment by spiritual means. A youth may not be considered to be in need of services under this subchapter solely because treatment is provided by spiritual means by an accredited practitioner of a recognized religious organization. When medical treatment is authorized under this subchapter, treatment by spiritual means by an accredited practitioner of a recognized religious organization may also be considered if requested by a youth or the youth's parent or legal guardian.

5. Reporting. The department shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the number and nature of preliminary assessments, safety plans and court proceedings under this section. The report must include safety plans and court proceedings under this section. The report must include recommendations for policy initiatives, rulemaking and legislative action for youth in need of services.

§4098. Youth in Need of Services Oversight Committee

The Youth in Need of Services Oversight Committee, referred to in this section as the "committee," is established to provide oversight of services provided to or offered for youth in need of services and their families by the State, except that the Children's Mental Health Oversight Committee established pursuant to Title 34-B, section 15004 has responsibility for oversight of youths' mental health.

1. Membership. The committee consists of the following 24 members. The appointing authorities shall make the initial appointments by June 30, 2000. Except as provided in this subsection, all members serve 3-year terms. When a vacancy occurs the appointing authority shall promptly appoint a person to fill the vacancy. The membership consists of the following:

A. Two members of the Senate, appointed by the President of the Senate, who may continue to serve while they are Legislators until they are replaced by new appointments. When making the appointments, the President of the Senate shall give preference to Senators who are members of the joint standing committee of the Leg-

islature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over education and cultural affairs;

B. Three members of the House of Representatives, appointed by the Speaker of the House, who may continue to serve while they are Legislators until they are replaced by new appointments. When making the appointments, the Speaker of the House shall give preference to House of Representatives members who are members of the joint standing committee of the Legislature having jurisdiction over health and human services matters, the joint standing committee of the Legislature having jurisdiction over criminal justice matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs;

C. The commissioner, the Commissioner of Corrections, the Commissioner of Education, the Commissioner of Public Safety and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, or the commissioners' designees, who have authority to participate in full and to make decisions as required of committee members;

D. Three representatives of families whose children receive services from a state agency or reimbursed through a state agency or from an entity under contract with a state agency, 2 of whom are appointed by the President of the Senate and one of whom is appointed by the Speaker of the House. One of the appointments of the President of the Senate to the initial committee must be for 2 years;

E. Three representatives of providers of youth services provided by an entity under contract with a state agency or reimbursed through a state agency, one of whom is appointed by the President of the Senate and 2 of whom are appointed by the Speaker of the House. One of the appointments of the Speaker of the House to the initial committee must be for 2 years;

F. One representative of a statewide organization that advocates for youth, appointed by the President of the Senate;

G. Two representatives of statewide or regional organizations that provide funding and support for services for youth and families, one of whom is appointed by the Speaker of the House and one of whom, representing the Juvenile Justice Advisory Group, established in Title 34-A, section 1209, is appointed by the President of the Senate;

H. One representative of the Maine State Housing Authority designated by the director of the Maine State Housing Authority and one representative of the court designated by the Chief Judge of the court; and

I. Three youths, one appointed by the President of the Senate and 2 appointed by the Speaker of the House, one from each of the 3 regions of the State designated by the department.

2. Duties. The committee shall undertake the following responsibilities with regard to youth in need of services who are receiving or are eligible to receive services from the State or services funded by the State:

A. Oversight, monitoring and review, including:

(1) Receiving reports and advising the Governor and the Executive Department regarding youth health and youth services, including, but not limited to, services for youth in need of services, the Medicaid and Cub Care programs, child welfare services and adoption, foster care and juvenile justice services;

(2) Reviewing and commenting on rules proposed by state agencies that pertain to youth;

(3) Receiving reports from the departments named in this section on the program, including its strengths and weaknesses and its administration, and reports on other initiatives with regard to youth in need of services;

(4) Receiving reports on demonstration programs and pilot projects regarding youth and families and youth health; and

(5) Gathering facts regarding the needs of youth, youth services that are being provided in the State, unmet needs and services needed but not provided, preliminary assessments, safety plans and court action provided under this subchapter and developing and reporting any recommendations to improve the delivery of services to youth and families to the Legislature by October 1st of each year beginning in 2001 and as frequently as the committee determines to be appropriate;

B. Meeting every 2 months or more often, as the committee determines to be necessary. The committee shall elect a secretary from among its members who shall work with staff to keep and to distribute minutes to members and to the joint standing committee of the Legislature having ju-

isdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over education matters, the joint standing committee of the Legislature having jurisdiction over criminal justice matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters; and

C. Reporting to the Legislature at least twice annually on the number of youth in need of services and the status of programs and services for youth and families, service needs and the capacity of state departments, state agencies and community and nonprofit organizations to meet those service needs.

3. Cochairs; meetings. The first named Senator shall serve as Senate chair and the first named Representative shall serve as House chair. The cochairs shall call and convene the first meeting of the committee by June 30, 2000.

4. Confidentiality. Notwithstanding any other provision of state law or rule, committee members and staff to the committee may review in executive session information that is confidential under state law or rule. Information reviewed under this subsection retains its confidentiality and is not public information.

5. Reimbursement. Legislative members are entitled to receive the legislative per diem as defined in Title 3, section 2 and reimbursement of necessary expenses for their attendance at authorized meetings of the committee. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses for their attendance at authorized meetings of the committee.

6. Staff; resources. The department shall provide staffing assistance to the committee and resources necessary to the effective operation of the committee.

7. Public meetings and information. With the exception of information designated as confidential by state or federal law, rule or regulation, the committee is subject to the freedom of access laws under Title 1, chapter 13, subchapter I.

§4099. Repeal

This subchapter is repealed June 30, 2001.

Sec. 3. Homeless Youth Demonstration Project. The Department of Human Services and the Department of Mental Health, Mental Retardation and Substance Abuse Services shall provide financial and staffing support to extend the operation of the Homeless Youth Demonstration Project, created in Resolve 1999, chapter 55, to the Department of Human

Services Region II and to operate the stakeholders' groups in conjunction with and on the same timetable as the stakeholders' groups operating in Regions I and III. Demonstration projects in Region II must include a rural component. The stakeholders' groups must consider and make recommendations regarding preliminary assessments, safety plans, determinations of imminent danger and court-ordered services for youths and their families and legal guardians. The demonstration projects shall work closely with the Youth in Need of Services Oversight Committee, providing information, considering recommendations, reporting on their experiences and working toward coordination of services for youths and their families and legal guardians. By February 1, 2001, the departments named in this section shall report on their evaluation of the demonstration projects and the recommendations of the projects to the Youth in Need of Services Oversight Committee established in the Maine Revised Statutes, Title 22, section 4098.

Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

2000-01

**HUMAN SERVICES,
DEPARTMENT OF**

**Youth in Need of Services Pilot
Program**

All Other \$510,000

Provides for the appropriation of one-time funds to contract with nonprofit agencies for case management and other services associated with the Youth in Need of Services Pilot Program.

Purchased Social Services

All Other (\$510,000)

Provides for the deappropriation of funds due to projected balances related to PC-40 investigation costs and homelessness planning activities. These balances will be transferred to the Youth in Need of Services Pilot Program to provide case management and other services to youth in need.

**DEPARTMENT OF HUMAN
SERVICES** _____
TOTAL \$0

LEGISLATURE

Legislature

Personal Services \$660
All Other 600

Provides funds for the per diem and expenses of legislative members of the Youth in Need of Services Oversight Committee.

LEGISLATURE _____
TOTAL \$1,260

TOTAL APPROPRIATIONS \$1,260

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

Effective May 10, 2000.

CHAPTER 779

S.P. 734 - L.D. 2084

**An Act to Reduce the Release of
Mercury into the Environment from
Consumer Products**

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

Sec. 1. 5 MRSA §12004-I, sub-§24-A is enacted to read:

<u>24-A.</u>	<u>Mercury</u>	<u>Legislative</u>	<u>38 MRSA</u>
<u>Environ-</u>	<u>Products</u>	<u>Per Diem</u>	<u>§1670</u>
<u>ment:</u>	<u>Advisory</u>	<u>and</u>	
<u>Natural</u>	<u>Com-</u>	<u>Expenses</u>	
<u>Resources</u>	<u>mittee</u>	<u>for</u>	
		<u>Legislators</u>	
		<u>and</u>	
		<u>Expenses</u>	
		<u>Only for</u>	
		<u>Certain</u>	
		<u>Members</u>	

Sec. 2. 38 MRSA c. 16-B is enacted to read: