

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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

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Augusta, Maine
2002

ment and the private sector. The Maine Development Foundation shall serve as the council's fiscal agent, providing regular financial reports to the council on funds received and expended and an annual audit. The Maine Development Foundation shall seek funds and accept gifts to support the council's objectives.

5. Staff support. The Maine Development Foundation shall provide staff support to fulfill the requirements of this section.

6. Report. Beginning in January 2003, the council shall report annually to the Legislature and the joint standing committee of the Legislature having jurisdiction over education matters. The council shall report on implementation of its long-term plan and recommended changes to the long-term plan.

Sec. 3. Initial members. The initial members of the Maine Higher Educational Attainment Council established in the Maine Revised Statutes, Title 20-A, section 10401 must be appointed by September 1, 2002.

Sec. 4. Appropriations and allocations. The following appropriations and allocations are made.

MAINE DEVELOPMENT FOUNDATION

Maine Development Foundation

Initiative: Provides funds for the State's share of supporting the Maine Higher Educational Attainment Council.

General Fund	2001-02	2002-03
All Other	\$0	\$40,000

MAINE DEVELOPMENT FOUNDATION

DEPARTMENT TOTALS	2001-02	2002-03
GENERAL FUND	\$0	\$40,000
DEPARTMENT TOTAL -		
ALL FUNDS	\$0	\$40,000

LEGISLATURE

Legislature

Initiative: Provides funds for the per diem and expenses of legislative members serving on the Maine Higher Educational Attainment Council.

General Fund	2001-02	2002-03
Personal Services	\$0	\$660
All Other	0	2,560
Total	\$0	\$3,220

LEGISLATURE

DEPARTMENT TOTALS	2001-02	2002-03
GENERAL FUND	\$0	\$3,220
DEPARTMENT TOTAL -		
ALL FUNDS	\$0	\$3,220

SECTION TOTALS	2001-02	2002-03
GENERAL FUND	\$0	\$43,220
SECTION TOTAL -		
ALL FUNDS	\$0	\$43,220

See title page for effective date.

CHAPTER 659

H.P. 1563 - L.D. 2068

An Act Relating to the Treatment of Persons with Mental Illness Who are Incarcerated

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

PART A

Sec. A-1. Examination of "ride-along" program. The Department of Behavioral and Developmental Services shall examine the efficiency and effectiveness of its "ride-along" program, in which specially trained intensive case managers ride along with police officers to assist in dealing with crisis situations involving persons with mental illness. The department shall attempt to quantify the results of the program and determine whether the expenditures on this program are the most effective use of resources in addressing the needs of persons with mental illness in their interaction with law enforcement. The examination must clearly identify the goals of the program and assess whether the program is meeting those goals. The department shall report the results of its examination together with any recommendations to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than January 30, 2003, which may report out legislation in response to the report to the First Regular Session of the 121st Legislature.

PART B

Sec. B-1. 22 MRSA §3174-CC is enacted to read:

§3174-CC. Medicaid eligibility during incarceration

The department shall establish procedures to ensure that a person receiving federally approved Medicaid services prior to incarceration does not lose Medicaid eligibility as a result of that incarceration, even if Medicaid coverage is limited during the period of incarceration. Nothing in this section requires or permits the department to maintain an incarcerated

person's Medicaid eligibility if the person no longer meets eligibility requirements.

PART C

Sec. C-1. Improvement of access to inpatient beds. The Commissioner of Behavioral and Developmental Services shall develop memorandums of agreement with the Department of Corrections and county jail administrators to establish procedures and policies that improve access to inpatient beds at a state mental health institution for people with mental illness transferred from the Department of Corrections or county jails.

PART D

Sec. D-1. 15 MRSA §2211-A, sub-§10 is enacted to read:

10. Reincarceration planning. For each person hospitalized pursuant to this section, the Department of Behavioral and Developmental Services, in consultation with the sheriff or other person responsible for the local or county correctional facility and before the person is transferred back to the correctional facility, shall develop a written treatment plan describing the recommended treatment to be provided to the person.

Sec. D-2. 34-A MRSA §3069, sub-§3 is enacted to read:

3. Reincarceration planning. For each person hospitalized pursuant to this section, the Department of Behavioral and Developmental Services, in consultation with the chief administrative officer of the correctional facility and before the person is transferred back to the correctional facility, shall develop a written treatment plan describing the recommended treatment to be provided to the person.

PART E

Sec. E-1. Examination of treatment of incarcerated mentally ill persons. The Department of Corrections and the Maine Jail Association shall examine and develop ways of treating incarcerated persons with mental illness in the least restrictive setting possible that does not compromise security. The department and the Maine Jail Association shall report the results of this examination and any actions taken together with any recommendations to the joint standing committee of the Legislature having jurisdiction over criminal justice matters no later than January 30, 2003. The joint standing committee may report out legislation in response to the report to the First Regular Session of the 121st Legislature.

PART F

Sec. F-1. 30-A MRSA §1556, sub-§1, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

1. Furlough authorized. The sheriff may establish rules for and permit a prisoner under the final sentence of a court a furlough from the county jail in which the prisoner is confined. Furlough may be granted for not more than 3 days at one time in order to permit the prisoner to visit a dying relative, to obtain medical services or for any other reason consistent with the rehabilitation of an inmate or prisoner ~~which~~ that is consistent with the laws or rules of the sheriff's department. Furlough may be granted for a period longer than 3 days if ~~medically~~ medically required to provide treatment for a physical or mental condition of the prisoner, including a substance abuse condition, as determined by a qualified licensed professional.

Sec. F-2. 30-A MRSA §1660, sub-§2, as enacted by PL 2001, c. 171, §15, is amended to read:

2. Information on releases. The report required in this section must include the following information for each county corrections facility about releases of inmates from the facility pursuant to sections 1605, 1606 and 1659 during the prior calendar year:

A. The total number of inmates who were granted the privilege of release;

B. The number of inmates that were granted the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

- (1) Employment;
- (2) Participation in public works-related projects;
- (3) Participation in a home-release monitoring program; and
- (4) All other purposes;

C. The number of inmates who requested and were denied the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

- (1) Employment;
- (2) Participation in public works-related projects;
- (3) Participation in a home-release monitoring program; and

(4) All other purposes;
 D. With respect to each inmate who was granted the privilege of release and who subsequently had the privilege revoked:

- (1) The total number of such inmates;
- (2) The purpose for which the release was granted;
- (3) The entity that revoked the privilege;
- (4) The reasons for the revocation; and
- (5) Whether the revocation was appealed and the result of that appeal; and

E. Any other information that the Commissioner of Corrections believes appropriate to accurately inform the Legislature about sheriffs' handling of release decisions.

Sec. F-3. 30-A MRSA §1660, sub-§3 is enacted to read:

3. Information on furloughs. The report must include the following information for each county corrections facility about inmates furloughed from the facility pursuant to section 1556 for treatment for mental conditions during the prior calendar year:

- A. The total number of such furloughs;
- B. The longest, shortest and average length of such furloughs; and
- C. The type of facilities or care to which the inmates were furloughed.

PART G

Sec. G-1. 34-B MRSA §1222 is enacted to read:

§1222. County jail mental illness treatment pilot programs

The department, together with the Department of Corrections, shall convene a stakeholder group, which must include at a minimum representatives of mental health providers, county jail facilities, advocacy groups, persons with mental illness who are or have been incarcerated in jail and families of persons with mental illness who are or have been incarcerated in jail. The stakeholder group shall design a pilot program to provide increased mental health services to county jail populations. The pilot program must be based on best practices approaches that are supported by research and include collaboration agreements among county jails, community mental health providers, the department and the Department of

Corrections. The pilot program must also include mechanisms for evaluating program success. The pilot program must augment and not supplant any existing mental health or county jail efforts to meet the needs of persons with mental illness.

Once agreement on program design is reached by the stakeholder group and an agreement on program content, focus and function is signed by all stakeholders, the department, in cooperation with the Department of Corrections, shall act as the program and fiscal oversight agent and make available through one or more contracts funds for the pilot program. The department shall seek Medicaid or other available funds to support this effort wherever possible.

By January 30, 2003, the department and the Department of Corrections shall provide a report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters on the success of the pilot program.

Sec. G-2. Appropriations and allocations. The following appropriations and allocations are made.

BEHAVIORAL AND DEVELOPMENTAL SERVICES, DEPARTMENT OF

Mental Health Services - Community

Initiative: Provides funds for the county jail mental illness treatment pilot program to fund contract services.

General Fund	2001-02	2002-03
All Other	\$0	\$65,000

PART H

Sec. H-1. Use of medications to treat mentally ill inmates. The Department of Corrections formulary of medications to treat persons with mental illness must be comparable to the formulary used by the State's mental health institutions. The department shall adopt policies to ensure that the most effective such medications are available and used and that clinical care needs, not cost, govern the use of medications. The department shall provide, no later than January 30, 2003, a report to the joint standing committee of the Legislature having jurisdiction over criminal justice matters of its actions pursuant to this section.

PART I

Sec. I-1. 34-A MRSA §1402, sub-§5, as amended by PL 1991, c. 314, §19, is further amended to read:

5. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients as described in section 1203. The commis-

sioner shall establish a separate grievance process for addressing complaints by prisoners about their medical and mental health treatment.

See title page for effective date.

CHAPTER 660

H.P. 1602 - L.D. 2103

An Act Regarding Essential Programs and Services

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

Sec. 1. 20-A MRSA c. 606-B is enacted to read:

CHAPTER 606-B

ESSENTIAL PROGRAMS AND SERVICES

§15671. Essential programs and services

Essential programs and services are those educational resources that are identified in this chapter for all students to meet the standards in the 8 content standard subject areas of the system of learning results established in chapter 222. In order to achieve this system of learning results, school funding based on essential programs and services must be available in all schools on an equitable basis. Essential programs and services utilize resources including federal funds that are currently provided or could be adapted to implement a system of learning results, as well as additional resources that are also needed to ensure that these programs and services are available to all students. These essential programs and services must provide the basis for the system of school funding no later than 2007-08. School funding must be adequate to fully provide for all of the staffing and other material resource needs of the essential programs and services identified by the Legislature.

1. State and local partnership. The State and each local school administrative unit are jointly responsible for contributing to the cost of the components of essential programs and services described in this chapter. The state contribution to the cost of the components of essential programs and services, exclusive of federal funds that are provided and accounted for in the cost of the components of essential programs and services, must be made in accordance with this subsection:

A. The level of the state share of funding attributable to the cost of the components of essential programs and services must be at least 50% of eligible state and local General Fund education

costs statewide, no later than fiscal year 2007-08; and

B. Beginning in fiscal year 2003-04 and in each fiscal year until fiscal year 2007-08, the level of the state share of funding attributable to the cost of the components of essential programs and services must increase toward the 50% level of eligible state and local General Fund education costs.

Beginning in fiscal year 2003-04 and in each fiscal year thereafter, the commissioner shall use the funding level determined in accordance with this section as the basis for a recommended funding level for the state share of the cost of the components of essential programs and services.

2. Per-pupil guarantee amounts. A per-pupil guarantee represents the amount of funds that is to be made available for each subsidizable pupil. Three per-pupil guarantee amounts must be calculated, reflecting grade level cost differences: one for kindergarten to grade 5, one for grades 6 to 8 and one for grades 9 to 12. These per-pupil guarantees must be modified as appropriate for special student populations. The per-pupil guarantee represents the annual cost of staffing and material resources that are appropriately allocated on a per-pupil basis. Categories of staffing and resources are as follows:

A. School personnel, including regular and special subject teachers, educational technicians, guidance, library, health services, school administration, support or clerical staff and substitute teachers;

B. Supplies and equipment;

C. Specialized services, including professional development, instructional leadership support, student assessment, technology and cocurricular and extracurricular programs; and

D. School administrative unit services, including system administration and operation and maintenance of plant.

3. Specialized student populations. In recognition that educational needs can be more costly for some student populations than for others, modified per-pupil guarantee amounts or weighted pupil counts must be calculated for specialized student populations. The specialized student populations to be addressed are:

A. Special education students;

B. Limited English proficiency students;

C. Economically disadvantaged students; and