

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

Sec. 5. Appropriations and allocations.
The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative 0063

Initiative: Appropriates funds for the increase in the employers' contribution due to the provision that allows judges to include as earnable compensation imputed salary based upon cost-of-living adjustments that were not funded in fiscal year 2003-04 and fiscal year 2004-05.

GENERAL FUND	2007-08	2008-09
Personal Services	\$188,147	\$195,672
GENERAL FUND TOTAL	\$188,147	\$195,672

Courts - Supreme, Superior, District and Administrative 0063

Initiative: Deappropriates, on a one-time basis, funds no longer needed in the 2008-09 biennium.

GENERAL FUND	2007-08	2008-09
Personal Services	(\$188,147)	(\$195,672)
GENERAL FUND TOTAL	(\$188,147)	(\$195,672)

See title page for effective date.

CHAPTER 450

S.P. 666 - L.D. 1850

An Act To Improve Efficiency and Effectiveness of Early Intervention and Early Childhood Special Education for Children from Birth to Eight Years of Age through Improved Oversight, Accountability and Interagency Coordination

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

PART A

Sec. A-1. 20-A MRSA §7209, sub-§4, ¶B,
as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

B. To develop statewide policies and procedures for carrying out federal and state laws and rules

relating to child find, early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age; ~~and~~

Sec. A-2. 20-A MRSA §7209, sub-§4, ¶C,
as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

C. To provide training in federal and state laws, regulations, rules and policies relating to child find as provided in 20 United States Code, Section 1412 (a) (3), early intervention services and the provision of a free, appropriate public education to children from birth to under 6 years of age and to conduct regular file reviews to determine compliance with federal and state laws, regulations, rules and policies and conduct training and provide technical assistance where deficiencies are found; ~~and~~

Sec. A-3. 20-A MRSA §7209, sub-§4, ¶D is enacted to read:

D. To report annually to the council and to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs on the performance of the Child Development Services System. This report may include information on any expansions of the connections of child find and service delivery with school administrative units, with the Department of Health and Human Services and with medical providers. This report may include information on any expansion of the connection of child find with nurse midwives. This report may include information on the number of children screened in the programs in Title 22, sections 1532, 8824 and 8943, the number of such children referred to the Child Development Services System who were found eligible for early intervention and the number of such children referred to the Child Development Services System who were found ineligible for early intervention. This report may also include information on annual performance over at least a 5-year period of each individual regional site and of the entire Child Development Services System; may benchmark performance against state and national standards; may include information about performance in child find, service delivery, service coordination, eligibility and exit data for children leaving the Child Development Services System; and may describe strategies that the Child Development Services System has undertaken to maximize the usage of a broad base of community resources including private providers, public schools, resources from other agencies and other available resources serving children and families. The report must be publicly posted on the website of the department.

Sec. A-4. 20-A MRSA §7209, sub-§8, ¶F, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age or coordinate an individualized education program for a child 3 years of age to under 6 years of age unless an individualized family service plan is preferred; ~~and~~

Sec. A-5. 20-A MRSA §7209, sub-§8, ¶G, as enacted by PL 2005, c. 662, Pt. A, §30, is amended to read:

G. Designate local personnel for training to commit funds for free, appropriate public education. Personnel who commit funds for free, appropriate public education must be trained and certified by the state intermediate educational unit established under subsection 3. The board of directors of a regional site shall determine and designate which trained and certified personnel may commit funds; ~~and~~

Sec. A-6. 20-A MRSA §7209, sub-§8, ¶H is enacted to read:

H. Ensure that children from birth until 6 years of age who are referred to the Child Development Services System also receive appropriate referrals for support outside of the system, including appropriate public and private programmatic resources, regardless of the child's eligibility for early intervention or free, appropriate public education.

Sec. A-7. 22 MRSA §1532, as enacted by PL 1983, c. 848, §2, is amended to read:

§1532. Detection of cognitive disability

The department ~~may~~ shall require hospitals, maternity homes and other maternity services to test newborn infants, or to cause them to be tested, for the presence of metabolic abnormalities ~~which~~ that may be expected to result in subsequent ~~mental deficiencies~~ cognitive disabilities. The department shall ~~promulgate~~ adopt rules to define this requirement and the approved testing methods, materials, procedure and testing sequences. Reports and records of those making these tests may be required to be submitted to the department in accordance with departmental rules. The department may, on request, offer consultation, training and evaluation services to those testing facilities. The department shall adopt rules according to which it shall in a timely fashion refer newborn infants with confirmed metabolic abnormalities to the Child Development Services System as defined in Title 20-A, section 7001, subsection 1-A. The department shall also adopt rules according to which it shall in a timely fashion refer a newborn infant to the Child

Development Services System if at least 6 months have passed since an initial positive test result of a metabolic abnormality without the specific nature of the metabolic abnormality's having been confirmed. The department and the Department of Education shall execute an interagency agreement to facilitate all referrals in this section. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the Child Development Services System may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the Child Development Services System shall supply to the department aggregate data at least annually on the number of children referred to the Child Development Services System under this section who are found eligible for early intervention services and on the number of children found not eligible for early intervention services. In addition, the department shall supply data at least annually to the Child Development Services System on how many children in the metabolic abnormality detection program were screened and how many were found to have a metabolic disorder. The ~~provisions of this section shall~~ requirement in this section that a newborn infant be tested for the presence of metabolic abnormalities that may be expected to result in subsequent cognitive disability does not apply to a child if the parents of a ~~that~~ child object to ~~them~~ on the grounds that the test conflicts with their religious tenets and practices.

Sec. A-8. 22 MRSA §8824, sub-§1-A is enacted to read:

1-A. Referral to Child Development Services System. The department shall adopt rules according to which it shall in a timely fashion refer children identified in subsection 1 as having a high likelihood of having a hearing impairment to the Child Development Services System. The rules must also describe the timetables under which the department shall refer to the Child Development Services System children identified by the department in accordance with subsection 1 as having possible hearing impairment but for whom hearing impairment has been neither confirmed nor disconfirmed by 6 months of age. The Department of Education and the Department of Health and Human Services shall execute an interagency agreement under section 7213 to facilitate the referrals in this subsection. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the Child Development Services System may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of

quality assurance and improvement, the Child Development Services System shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred under this subsection who are found eligible for early intervention services and on the number of children found not eligible for early intervention services.

Sec. A-9. 22 MRSA §8943, as enacted by PL 1999, c. 344, §1, is amended to read:

§8943. Central registry

The department shall establish and maintain a central registry for cases of birth defects to accomplish the purposes of this chapter and facilitate research on birth defects. The submission of information to and distribution of information from the central registry are subject to the requirements of this chapter and other provisions of law. Information that directly or indirectly identifies individual persons contained within the registry is confidential and must be distributed from the registry in accordance with rules adopted by the department. The department shall adopt rules according to which it will in a timely fashion refer to the Child Development Services System children with confirmed birth defects who may be eligible for early intervention. The department and the Department of Education shall execute an interagency agreement to facilitate the referrals under this section. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the Child Development Services System may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the Child Development Services System shall supply to the department aggregate data at least annually on the number of children referred under this section who were found eligible for early intervention services and on the number of children found not eligible for early intervention services. In addition, the department shall supply data at least annually to the Child Development Services System on how many children had data entered into the registry. For a child whose parent or legal guardian objects on the basis of sincerely held religious belief, the department may not require the reporting of information about that child to the central registry or enter into the central registry information regarding birth defects of a that child whose parent or legal guardian objects on the basis of sincerely held religious beliefs.

PART B

Sec. B-1. Training and support to regional site boards. The Department of Education shall develop and present to the Joint Standing Committee on

Education and Cultural Affairs and to the state interagency coordinating council described in the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1441 a plan for improving training and support to Child Development Services System regional site boards of directors. The Department of Education shall present the plan no later than 7 days after the effective date of this Act.

Sec. B-2. Unmet needs monitoring. To assess the continued provision of free, appropriate public education to children after transition to public school, the Department of Education shall develop a plan to review unmet needs in school administrative units monthly or bimonthly and implement a pilot plan among no fewer than 6 school administrative units, including a mix of small, medium and large districts. The department shall, no later than January 31, 2008, present the pilot plan to the Joint Standing Committee on Education and Cultural Affairs.

Sec. B-3. Data linkage. The steering committee of the Maine Education Policy Research Institute in the University of Maine System may include a targeted research project to the fiscal year 2007-08 work plan to permit the principal investigators of the Maine Education Policy Research Institute to provide such technical assistance as may be required to complete the investigation outlined in this section. Upon the approval of the steering committee of the Maine Education Policy Research Institute, the principal investigators of the Maine Education Policy Research Institute may conduct a review of the necessary technical and legal advances that would enable data linkage to facilitate research projects that would involve linkage of personally identifiable health and MaineCare data and personally identifiable education data in a way that would be in compliance with federal privacy law and regulation, including the federal Family Educational Rights and Privacy Act of 1974, 20 United States Code, Section 1232g (2006) and the federal Health Insurance Portability and Accountability Act of 1996, 42 United States Code, Sections 1320d to 1320d-8 (2006). The Maine Education Policy Research Institute may consult with the Office of the Attorney General and with the Office of Policy and Legal Analysis for advice on identifying which, if any, state laws, rules or policies would have to be changed to enable or facilitate such studies within the bounds of federal law and regulation. This report may include a design of a pilot study to test the technical advances outlined in this section and may also investigate the possibility of data linkage for assessing the effectiveness and efficiency of delivery of early intervention, education and health and human services to individuals with disabilities. The report may describe data linkage with a broad range of research questions. The report may address how to use data linkage studies to assess the effectiveness and efficiency of delivery of early intervention, education and health and human

services to individuals with disabilities, including the number of case managers per child. A goal of such work is that the Department of Education and the Department of Health and Human Services work together to determine how data systems can be designed to facilitate analysis of data across departments.

If the steering committee of the Maine Education Policy Research Institute approves the inclusion of a targeted research project as outlined in this section to the fiscal year 2007-08 work plan, the principal investigators of the Maine Education Policy Research Institute shall deliver a report on or before January 31, 2008 to the Joint Standing Committee on Education and Cultural Affairs.

Sec. B-4. Transition policy. The Department of Education shall develop, in consultation with school administrative units and Child Development Services System regional sites, a policy that articulates a consistent method for transition of children from the Child Development Services System to school administrative units. This policy must articulate the transmittal of records of children both previously and currently served by the Child Development Services System.

Sec. B-5. Interagency agreement. The Department of Education and the Department of Health and Human Services shall revise the interdepartmental agreement. The agreement must articulate the responsibilities for appropriate referrals to the Child Development Services System from the metabolic screening program under the Maine Revised Statutes, Title 22, section 1532, from the newborn hearing screening program under Title 22, section 8824 and from the central registry for birth defects under Title 22, section 8943. The agreement must also articulate clear definitions of the roles and responsibilities of the respective departments and their regional service delivery systems in implementing a high-quality early childhood system consistent with the requirements of Parts B and C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., as amended.

See title page for effective date.

CHAPTER 451

H.P. 1296 - L.D. 1860

An Act To Implement the Recommendations of the Task Force To Engage Maine's Youth Regarding Successful School Completion

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

Sec. 1. 20-A MRSA §257, sub-§4 is enacted to read:

4. Department of Education diploma. The commissioner shall issue a Department of Education diploma as defined in section 5161, subsection 2 to a student who is unable to obtain a locally awarded diploma due to disruption of education resulting from homelessness, unplanned psychiatric hospitalization, unplanned hospitalization for a medical emergency, foster care placement, youth development center placement or some other out-of-district placement that is not otherwise authorized by either an individualized education plan or other education plan or a superintendent's agreement developed in accordance with section 5205, subsection 2.

The diploma must be issued to students who have successfully demonstrated achievement of the content standards of the system of learning results established pursuant to section 6209 in addition to any other diploma requirements applicable to secondary students as set forth in their school work recognition plan as defined in section 5161, subsection 6.

Sec. 2. 20-A MRSA §4722, sub-§3, as amended by PL 2005, c. 662, Pt. A, §9, is further amended to read:

3. Satisfactory completion. A diploma may be awarded to secondary school students who have satisfactorily completed all diploma requirements in accordance with the academic standards of the school administrative unit and this chapter. All secondary school students must work toward achievement of the content standards of the system of learning results established pursuant to section 6209. Children with disabilities, as defined in section 7001, subsection 1-A, who successfully meet the content standards of the system of learning results in addition to any other diploma requirements applicable to all secondary school students, as specified by the goals and objectives of their individualized education plans, may be awarded a high school diploma. Career and technical students may, with the approval of the commissioner, satisfy the 2nd-year math and science, the 2nd-year social studies and the fine arts requirements of subsection 2 through separate or integrated study within the career and technical school curriculum.

Students who experience education disruption, as defined in section 5001-A, subsection 4, paragraph F, who successfully demonstrate achievement of the content standards of the system of learning results in addition to any other diploma requirements applicable to secondary school students as set forth in their school work recognition plans as defined in section 5161, subsection 6 must, with the approval of the commissioner, be awarded a Department of Education diploma as defined in section 5161, subsection 2.