

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

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FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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Augusta, Maine
2009

bilities, including the adoption of rebuttable presumptions, and how those procedures are working in those states;

4. Whether misuse of the protection from abuse process is happening and, if so, why and to what extent the misuse is occurring and whether there are problems with the process itself that lead participants to the conclusion that the process is biased, unfair or inconsistently applied; and

5. A review of the training provided to the judiciary and guardians ad litem concerning domestic abuse and parental rights and responsibilities; and be it further

Sec. 2. Participation. Resolved: That the commission shall invite interested parties to participate in the study, including but not limited to: the Family Law Advisory Commission; the Maine Coalition to End Domestic Violence; the Maine Guardian Ad Litem Institute; the Family Law Section of the Maine State Bar Association; the judicial branch; the Maine Association of Criminal Defense Lawyers; and any others the commission determines helpful to the study; and be it further

Sec. 3. Report; legislation. Resolved: That the commission shall submit a report to the Joint Standing Committee on Judiciary no later than February 1, 2010. The report must summarize the activities of the commission, identify the participants in the study under section 1 and include recommendations for action by the legal profession, the judicial branch, advocates for victims of domestic violence, law enforcement and prosecutors. The report may include recommendations for further data collection, research and analysis to address the subjects that are included in the study. The report may include recommended legislation. The Joint Standing Committee on Judiciary may report out legislation to the 124th Legislature in 2010 based on the report.

See title page for effective date.

CHAPTER 121

S.P. 351 - L.D. 929

Resolve, Regarding the Classification of Wildlife Management District 2

Sec. 1. District classification. Resolved: That under rules adopted by the Commissioner of Inland Fisheries and Wildlife the classification of Wildlife Management District 2 must be the same as that of Wildlife Management District 3 for purposes of moose hunting. Rules adopted under this section are

routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 122

H.P. 864 - L.D. 1245

Resolve, To Improve the Continuity of Care for Individuals with Behavioral Issues in Long-term Care

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

Whereas, citizens of the State who are elderly and who develop behavioral issues due to dementia or other reasons are receiving inappropriate treatment, often at significant emotional costs to themselves and at significant financial cost to the State; and

Whereas, the long-term care facilities that provide care to these individuals lack the resources to serve the persons they are caring for; and

Whereas, there exist policies and best practices that could improve the treatment of these individuals and that can be made reasonably available within existing resources; 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

Sec. 1. Implementation of recommendations. Resolved: That the Department of Health and Human Services, referred to in this resolve as "the department," shall continue its efforts to implement the recommendations contained in its report to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 61. The department shall report to the Joint Standing Committee on Health and Human Services by February 1, 2010 on the department's progress. In implementing these recommendations, the department shall:

1. Redirect its services to adult MaineCare members to focus on earlier intervention so as to treat challenging behaviors at an earlier stage;

2. Identify individuals for earliest possible intervention and provide support and training to nursing facility staff in regard to managing the challenging behaviors of these individuals;

3. Provide support and training to in-state long-term care facilities that accept individuals who have been placed outside the State and who are returning to the State;

4. Convene an integrated team to develop a means to prevent placement outside the State and to assist in developing appropriate placements for individuals in in-state facilities;

5. Review each out-of-state placement annually to assess the individual's functional and behavioral status to determine if the individual may be returned safely to an in-state facility;

6. Educate long-term care facility staff regarding the obligations of the facilities under licensing rules governing transfer and discharge requirements; and

7. Review current contracts and practices regarding geropsychiatric units to determine if the geropsychiatric units are being properly used; and be it further

Sec. 2. Reimbursement. Resolved: That the department shall work with interested parties to undertake a review of the current reimbursement system used to establish payment for individuals in long-term care facilities to determine if current reimbursement is adequate and reasonable for the provision of high-quality care for individuals with behavioral issues. The department shall report its findings to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 3. Standardized transfer protocol; improved discharge planning. Resolved: That the department shall work with representatives of the long-term care ombudsman program established pursuant to the Maine Revised Statutes, Title 22, section 5106, subsection 11-C, hospitals, nursing facilities and residential care facilities to improve the transparency and coordination of services between hospital discharge planning and long-term care facility admission to provide patients and their families with a more coordinated, efficient and patient-friendly process that meets the specific needs of individual patients, including behavioral health needs. The department shall develop and implement a standardized transfer protocol, including improving the support offered to a long-term care facility when a hospital has determined that an individual is ready to be discharged back to the long-term care facility, and consider the following:

1. The hospital discharge planning process and methods to provide at the outset all patients with a summary of patients' rights during the discharge process, including the right to await transition out of hospital care until satisfactory placement can be found at a nursing facility, residential care facility or other long-term care facility or with a home health care provider, based on the patient's medical needs;

2. Methods for providing patients in the hospital discharge planning process with a comprehensive list of patient resources and contact information for guidance and support during the discharge process, including contact information for the long-term care ombudsman program and the Department of Health and Human Services, Bureau of Elder and Adult Services, as well as a copy of the most recent report from the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services on the federal ranking system for nursing facilities providing care for Medicare and Medicaid recipients in those areas where the patient resides or wishes to reside; and

3. A hospital discharge planning process in cases where the patient has behavioral health issues that ensures the involvement or consultation with representatives from the Department of Health and Human Services, Bureau of Elder and Adult Services, and Office of Adult Mental Health Services to improve the coordination, planning and efficiency of the discharge process for the patient.

The department shall report on implementation of the protocol, as well as provide proposed recommendations for changes that would improve the hospital discharge planning process, to the Joint Standing Committee on Health and Human Services by February 1, 2010. The Joint Standing Committee on Health and Human Services is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature; and be it further

Sec. 4. Alternative funding sources. Resolved: That the department shall undertake a review of existing and potential payment sources for assessments and treatments that are currently unavailable to individuals with behavioral issues because the individuals do not have a diagnosis of severe and persistent mental illness. The department shall submit a report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 5. Levels of care. Resolved: That the department shall work with interested parties to explore the need for a supplementary level of care to accommodate the needs of individuals with behavioral issues who, because of the severity of their behaviors, are not appropriate candidates for return to an existing long-term care facility but who no longer require an acute hospital setting. The department shall submit its report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 6. Coordination. Resolved: That the department shall conduct the work required by this resolve within existing resources and to the extent possible shall coordinate it with similar work address-

ing similar issues for any other population group. The department shall facilitate the exchange of information and communication among workgroups with the goal of maximizing department workload and fiscal efficiencies as well as the impact and effectiveness of approaches or solutions proposed or developed within the work process. A description of coordination efforts must be included in any report required by this resolve.

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

Effective June 10, 2009.

CHAPTER 123

H.P. 468 - L.D. 654

Resolve, To Review Statutes, Rules and Policies Regarding Mental Retardation, Pervasive Developmental Disorders and Other Cognitive and Developmental Disorders

Sec. 1. Review and report. Resolved: That the Department of Health and Human Services shall complete its work conducted pursuant to Resolves 2007, chapter 78 regarding the review of laws, rules and policies regarding services, definitions, limitations, eligibility and levels of care for adults with mental retardation, pervasive developmental disorders and other cognitive and developmental disorders. The department shall complete its evaluation of the need for changes in law, rule or policy to ensure fairness and equity in the provision of services and evaluate the need for additional resources to meet previously unidentified needs. By January 15, 2010, the department shall report to the Joint Standing Committee on Health and Human Services on its progress in the review and any recommended changes in law. The Joint Standing Committee on Health and Human Services is authorized to submit legislation related to recommendations of the working group to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 124

S.P. 552 - L.D. 1477

Resolve, Authorizing the Finance Authority of Maine To Oversee an Obligation Owed to the State by Lincoln Paper and Tissue, LLC

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

Whereas, the Finance Authority of Maine has the necessary expertise and commercial lending experience to effectively manage and administer a promissory note relating to an indebtedness from Lincoln Paper and Tissue, LLC; and

Whereas, it is necessary to act swiftly to allow the Finance Authority of Maine to oversee this obligation to ensure that the operations of the mill properties are properly overseen; 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

Sec. 1. Assignment of rights, title, interest in promissory note. Resolved: That the Commissioner of Environmental Protection is authorized to assign to the Finance Authority of Maine all of the rights, title and interest in and to a promissory note with a maturity date of May 26, 2009 and all related documents relating to an indebtedness from Lincoln Paper and Tissue, LLC in the original amount of \$860,000 and all interest accrued thereon. Upon such assignment, the promissory note is an obligation owed to the Finance Authority of Maine, which may be administered, collected or compromised as determined by the Finance Authority of Maine.

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

Effective June 10, 2009.

CHAPTER 125

H.P. 1041 - L.D. 1486

Resolve, To Establish a Transition Adjustment for Fiscal Year 2009-10

Sec. 1. Transition adjustment for fiscal year 2009-10. Resolved: That, notwithstanding any provision of law to the contrary, the Commissioner of Education shall establish a transition adjustment to minimize the adverse fiscal impact that may be experienced by some municipalities as a result of unique changes in "property fiscal capacity" as defined in the Maine Revised Statutes, Title 20-A, section 15672, subsection 23. A municipality is eligible for this adjustment if the municipality experiences: