

131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

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S.P. 338

In Senate, February 21, 2023

An Act to Create a Separate Department of Child and Family Services

Reference to the Committee on Health and Human Services suggested and ordered printed.

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DAREK M. GRANT Secretary of the Senate

Presented by Senator TIMBERLAKE of Androscoggin. Cosponsored by Representative DILL of Old Town and Senators: BALDACCI of Penobscot, BENNETT of Oxford, HICKMAN of Kennebec, NANGLE of Cumberland, STEWART of Aroostook, Representatives: LYMAN of Livermore Falls, MORRIS of Turner, PRINGLE of Windham.

1	Be it enacted by the People of the State of Maine as follows:
2	PART A
3 4	Sec. A-1. 2 MRSA §6, sub-§1, as amended by PL 2011, c. 657, Pt. Y, §1, is further amended to read:
5 6	1. Range 91. The salaries of the following state officials and employees are within salary range 91:
7	Commissioner of Transportation;
8	Commissioner of Agriculture, Conservation and Forestry;
9	Commissioner of Administrative and Financial Services;
10	Commissioner of Education;
11	Commissioner of Environmental Protection;
12	Executive Director of Dirigo Health;
13	Commissioner of Public Safety;
14	Commissioner of Professional and Financial Regulation;
15	Commissioner of Labor;
16	Commissioner of Inland Fisheries and Wildlife;
17	Commissioner of Marine Resources;
18	Commissioner of Corrections;
19	Commissioner of Economic and Community Development;
20	Commissioner of Defense, Veterans and Emergency Management; and
21	Executive Director, Workers' Compensation Board-; and
22	Commissioner of Child and Family Services.
23	Sec. A-2. 22-B MRSA is enacted to read:
24	TITLE 22-B
25	CHILD AND FAMILY SERVICES
26	<u>SUBTITLE 1</u>
27	DEPARTMENT OF CHILD AND FAMILY SERVICES
28	<u>CHAPTER 1</u>
29	DEPARTMENTAL ORGANIZATION AND OPERATION
30	SUBCHAPTER 1

1	GENERAL PROVISIONS
2	§101. Definitions
3 4	As used in this Title, unless the context otherwise indicates, the following terms have the following meanings.
5 6	1. Commissioner. "Commissioner" means the Commissioner of Child and Family <u>Services.</u>
7	2. Department. "Department" means the Department of Child and Family Services.
8	SUBCHAPTER 2
9	ORGANIZATION
10	§201. Department established
11 12	1. Establishment. The Department of Child and Family Services is established as a cabinet-level department.
13 14 15	2. Departmental responsibilities. The department has responsibility for child and family services, including but not limited to child welfare, children's behavioral health and early childhood services.
16	§202. Programs and services of department
17 18 19 20 21 22	1. Services for children and families. Within available funds, the department shall provide supportive, preventive, protective, public health and intervention services to children and their families. The department shall endeavor to assist families in providing for the developmental health and safety needs of their children, while respecting the rights and preferences of the children and their families. The department shall provide the programs and services as specified in this section and otherwise by law:
23	A. Child welfare services;
24	B. Head Start and child care services;
25	C. Maternal and child health services, including home visiting programs;
26 27	D. Parentage establishment and child support enforcement services:
27	E. Residential and long-term care services for children with disabilities;
28 29	<u>F. Services for children with special health care needs;</u>G. Services for children with developmental disabilities; and
29 30	H. Activities to transition children's services to adult services.
31 32 33 34 35	2. Delivery of programs and services. The department shall deliver programs and services through a coordinated and efficient administrative structure and an integrated delivery system that focuses on meeting the needs of individuals and families. The department shall use a combination of state employees and contracts with private agencies to deliver programs and services.

1 2 3	3. Oversight and coordination. The department shall oversee and coordinate the programs and services delivered under this section in order to ensure minimal duplication of services, maximize federal funds and provide efficient, equitable and timely services.
4 5 6	4. Pilot projects. The department shall develop pilot projects and demonstration projects required by law and shall apply for any authorization necessary to undertake such projects.
7	<u>§203. Commissioner</u>
8 9	<u>The department is under the control and supervision of the Commissioner of Child and</u> <u>Family Services, who reports directly to the Governor.</u>
10 11 12 13	1. Appointment. The Governor shall appoint the commissioner, subject to review by the joint standing committee of the Legislature having jurisdiction over child welfare matters and confirmation by the Senate. The commissioner serves at the pleasure of the Governor.
14 15	2. Vacancy; deputy commissioner. A vacancy in the office of the commissioner must be filled as follows.
16 17	A. Any vacancy of the commissioner's position must be filled in accordance with Title 5, section 1.
18 19 20	B. The commissioner shall appoint one of the department's deputy commissioners to perform the duties of the commissioner, in addition to the duties of that deputy commissioner, during the commissioner's temporary absence or disability.
21	§204. Powers and duties of commissioner
22 23 24 25 26 27 28 29 30	The commissioner has all of the powers and duties necessary to carry out the mission and responsibilities of the department. The commissioner has the power to distribute the functions and duties given to the commissioner under this Title, Title 22 and Title 34-B among the various offices of the department so as to integrate the work properly and to promote the most effective and efficient administration of the department. Wherever in this Title, Title 5, Title 22 or Title 34-B powers and duties are given to the commissioner or the department, these must be assumed and carried out by the offices that the commissioner designates, and these powers and duties may in turn be delegated to subordinates by those office directors with the approval of the commissioner.
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1	4. Appointments. All deputy commissioners and office directors are appointed by
2	the commissioner and serve at the pleasure of the commissioner. Deputy commissioners
3	and office directors appointed pursuant to this subsection must have educational
4	gualifications and professional experience directly related to the functions of and services
5	provided by the relevant unit or office.
6	5. Grievance procedures. The commissioner shall establish procedures for hearing
7	grievances of children who receive behavioral health services. The procedures must
8	include the opportunity for a timely hearing before a state hearing examiner or an
9	independent hearing examiner. The commissioner may contract for the services of the
10	hearing examiner, who shall conduct adjudicatory proceedings pursuant to the Maine
11	Administrative Procedure Act.
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12	<u>6. Children's residential care facilities.</u> The commissioner shall approve all programs for the provision of behavioral health services to children's residential care
13	facilities, as defined in Title 22, section 8101, subsection 4, and shall participate in licensure
14	of these programs in accordance with Title 22, section 8104.
16	7. Report. The commissioner shall, no later than July 1st and December 6th of each
17	year, submit a report to the joint standing committee of the Legislature having jurisdiction
18	over health and human services matters with an overview of the unmet needs of children
19	in the State, including previously unidentified needs and barriers to providing services.
20	§205. Federal funds and commodities
21	The commissioner, with the consent and approval of the Governor, is authorized and
22	empowered to accept any allotments of federal funds and commodities, to manage and
23	dispose of the same in whatever manner required by federal law and to put into effect the
24	United States Social Security Act and any amendments of that Act and of other federal acts
25	relating to public welfare.
26	Sec. A-3. Effective date. This Part takes effect July 1, 2024.
27	PART B
28	Sec. B-1. Transition. Notwithstanding the Maine Revised Statutes, Titles 22, 22-A
29	and 34-B, the following provisions apply to the reassignment of the duties and
30	responsibilities related to child and family services and child welfare within the Department
31	of Health and Human Services to the Department of Child and Family Services.
32	1. The Department of Child and Family Services is created and established by law.
33	All references to, responsibilities of and authority conferred upon the Department of Health
34	and Human Services related to child and family services and child welfare are deemed to
35	refer to and vest in the Department of Child and Family Services created by this Act. The
36	Department of Child and Family Services is the successor in every way to the powers,
37	duties and functions related to child and family services and child welfare as assigned in
38	Titles 22, 22-A and 34-B to the Department of Health and Human Services as they pertain
39	to services provided to adults, children and families under this Act.
40	2. Notwithstanding the provisions of Title 5, all accrued expenditures, assets,
41	liabilities, balances of appropriations, allocations, transfers, revenues or other available
42	funds in an account or subdivision of an account of the Department of Health and Human
43	Services that pertain to the duties of the Department of Child and Family Services as set

- forth in this Act must be transferred to the proper accounts of the Department of Child and
 Family Services by the State Controller or by financial order upon the request of the State
 Budget Officer and with the approval of the Governor.
- All rules of the Department of Health and Human Services as they pertain to the
 duties of the Department of Child and Family Services as set forth in this Act that are in
 effect on the effective date of this Act remain in effect until rescinded, revised or amended.
- All contracts, agreements and compacts of the Department of Health and Human
 Services as they pertain to the duties set forth in this Act that are in effect on the effective
 date of this Act remain in effect until they expire or are altered by the parties involved in
 the contracts or agreements. The Department of Child and Family Services is the successor
 agency for all federal block grants and programs administered under the United States
 Social Security Act, as amended, and any other federal programs, grants and contracts that
 relate to child and family services and child welfare.
- 5. All records of the Department of Health and Human Services as they pertain to the
 duties set forth in this Act must be transferred to the Department of Child and Family
 Services as necessary to implement this Act.
- All property and equipment of the Office of Child and Family Services within the
 Department of Health and Human Services pertaining to the duties set forth in this Act are
 transferred to the Department of Child and Family Services as necessary to implement this
 Act.
- 7. Employees of the Department of Child and Family Services who were employees of
 the Department of Health and Human Services immediately prior to the effective date of
 this Act retain all their employee rights, privileges and benefits, including sick leave,
 vacation and seniority, provided under the Civil Service Law or collective bargaining
 agreements. The Department of Administrative and Financial Services, Bureau of Human
 Resources shall provide assistance to the affected departments and shall assist with the
 orderly implementation of this subsection.
- 8. By January 31, 2024, the Commissioner of Child and Family Services shall submit a report, including recommendations and any necessary legislation, to the Governor and the joint standing committee of the Legislature having jurisdiction over child welfare matters regarding the establishment and implementation of the Department of Child and Family Services.
- 33 Sec. B-2. Conflicts and inconsistencies. If the Commissioner of Child and Family 34 Services finds a conflict or inconsistency between provisions in the Maine Revised Statutes, Titles 22, 22-A and 34-B or rules adopted under those titles, the commissioner 35 36 shall attempt to resolve that conflict or inconsistency by interpreting the laws or rules 37 together to give effect to the intent of the Legislature or agency, as the case may be. If the commissioner determines rulemaking is required to resolve a conflict or inconsistency, the 38 commissioner may adopt rules as authorized under Title 22-B, section 204, subsection 2. 39 In adopting rules under this section, the commissioner has sole discretion to determine 40 whether an emergency exists. The commissioner shall notify the members of the joint 41 42 standing committee of the Legislature having jurisdiction over child welfare matters prior to adopting any emergency rule under this section. 43

1 Sec. B-3. Legislation; schedule. The Commissioner of Child and Family Services, 2 and designees selected by the commissioner, shall work with the joint standing committee 3 of the Legislature having jurisdiction over child welfare matters and staff from the Office of Policy and Legal Analysis and the Office of the Revisor of Statutes to review those parts 4 5 of the Maine Revised Statutes governing the Department of Health and Human Services, including but not limited to Titles 22, 22-A, 22-B and 34-B. The purpose of the review is 6 7 to develop legislation to consolidate existing law into Title 22-B, to update Title 22-B and 8 to correct any errors and inconsistencies in law that result from this Act. By November 30, 9 2024, the commissioner and the committee shall agree on the format and organization of Title 22-B. By November 30, 2024, the commissioner shall submit the legislation 10 developed pursuant to this section to the First Regular Session of the 132nd Legislature. 11

12 Sec. B-4. Interim meetings; authorized. The joint standing committee of the Legislature having jurisdiction over child welfare matters is authorized to meet as needed, 13 14 but shall meet at least 3 times, during the 2023 legislative interim to carry out its responsibilities to oversee planning, service delivery and implementation issues related to 15 the establishment of the Department of Child and Family Services. At these meetings, the 16 17 Commissioner of Child and Family Services shall brief the committee on planning issues, 18 progress, challenges and the timeline for implementation. The committee shall provide 19 opportunities for consumers, providers and advocates to speak to the committee. The committee may submit legislation to the Second Regular Session of the 131st Legislature 20 based on these meetings. 21

Sec. B-5. Budget. The Department of Administrative and Financial Services, Bureau
 of the Budget shall work with employees of the Department of Health and Human Services
 with regard to the duties transferred to the Department of Child and Family Services as set
 forth in this Act to develop the budget for the Department of Child and Family Services.

Sec. B-6. Federal approval. If the Commissioner of Child and Family Services determines that federal approval will not be obtained for any part of this Act that requires federal approval, the commissioner shall notify the joint standing committee of the Legislature having jurisdiction over child welfare matters, the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the Executive Director of the Legislative Council.

32 SUMMARY

This bill creates a new Department of Child and Family Services and transfers the functions of the Department of Health and Human Services that relate to child and family services and child welfare to the new department. The Department of Child and Family Services will have a commissioner appointed by the Governor and confirmed by the Legislature as is the current Commissioner of Health and Human Services. The bill also establishes provisions for transferring functions to the new department.