

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Implement Respectful Language Amendments

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

PART A

Sec. A-1. 5 MRSA §20051, sub-§1, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

1. Laws. A county, municipality or other political subdivision may not adopt or enforce a local law, ordinance, regulation or rule having the force of law that includes drinking, being a ~~common drunkard~~ person with alcoholism or being found in an intoxicated condition as one of the elements of an offense giving rise to a criminal or civil penalty or sanction.

Sec. A-2. 14 MRSA §5956, first ¶ is amended to read:

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the administration of a trust, or of the estate of a decedent, an infant, ~~lunatic~~ a person who is legally incompetent or a person who is insolvent may have a declaration of rights or legal relations in respect thereto:

Sec. A-3. 22 MRSA §822, as amended by PL 2005, c. 383, §18, is further amended to read:

§ 822. Reporting

Whenever any physician knows or has reason to believe that any person whom the physician examines or cares for has ~~or is afflicted with any~~ a disease or condition designated as notifiable, that physician shall notify the department and make such a report as may be required by the rules of the department. Reports must be in the form and content prescribed by the department and the department shall provide forms for making required reports.

Sec. A-4. 22 MRSA §1781, first ¶, as enacted by PL 1983, c. 459, §2 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

The Department of Health and Human Services may license any suitable person to establish and keep a private hospital or private house for the reception and treatment of patients who ~~are mentally deranged~~ have mental health diagnoses. The hospital or private house shall ~~be~~ is subject to visitation by the department or any member thereof.

Sec. A-5. 22 MRSA §5107-J, sub-§2, ¶C, as enacted by PL 2003, c. 465, §4, is amended to read:

C. The Governor shall appoint 3 members as follows:

- (1) One person who represents the area agencies on aging;
- (2) One person who represents persons and families afflicted with Alzheimer's disease or dementia; and
- (3) One person who represents a statewide organization representing persons with disabilities.

Sec. A-6. 22 MRSA §8552, sub-§2, ¶A, as enacted by PL 1995, c. 205, §1, is amended to read:

A. The program's written statement of its philosophy and mission that reflect the needs of individuals afflicted with dementia;

Sec. A-7. 34-B MRSA §1402, sub-§2, ¶B, as amended by PL 1995, c. 560, Pt. K, §27, is further amended to read:

B. Provide for informing and advising any indigent person, that person's relatives or friends and the representatives of any charitable agency as to:

- (1) The mental condition of the indigent person;
- (2) The prevention and treatment of the condition;
- (3) The available institutions or other means of caring for the afflicted person; and
- (4) Any other matter relative to the welfare of the person; and

Sec. A-8. 34-B MRSA §9002, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Mental deficiency. "Mental deficiency" means mental deficiency as defined by appropriate clinical authorities to such extent that a person so afflicted is incapable of managing himself and his that person's affairs, but shall may not include mental illness.

Sec. A-9. 34-B MRSA §9002, sub-§4, as enacted by PL 1983, c. 459, §7, is amended to read:

4. Mental illness. "Mental illness" means mental disease to such extent that a person so afflicted requires care and treatment for his that person's own welfare or the welfare of others or of the community.

Sec. A-10. 37-B MRSA §601, as amended by PL 2007, c. 167, §9, is further amended to read:

§ 601. Home established; purpose

There must be public homes for veterans in Maine known as "Maine Veterans' Homes." In addition to the existing 120-bed home located in Augusta, a 120-bed home located in Scarborough, a home not to exceed 40 beds located in Caribou, a home located in Bangor not to exceed 120 beds, of which 40

beds are dedicated to ~~senile-dementia~~ patients with dementia, and a home located in South Paris not to exceed 90 beds, of which 30 beds are dedicated to ~~senile-dementia~~ patients with dementia, may be constructed if federal Veterans' Administration funds are available to meet part of the costs of each facility for construction or operation. In addition, a home located in Machias not to exceed 60 beds may be constructed if federal Veterans' Administration funds or funds from any other state, federal or private source are available to meet part of the costs of the facility for construction or operation, except that the Machias home may not begin operation prior to July 1, 1995 and the construction and funding of the Machias home may not in any way jeopardize the construction, funding or financial viability of any other home. The Maine Veterans' Homes also are authorized to provide nonnursing facility care and services to Maine veterans if approved by appropriate state and federal authorities. The Board of Trustees of the Maine Veterans' Homes shall plan and develop the Machias home and any nonnursing facility care and services using any funds available for that purpose, except for the Augusta facility's funded depreciation account. The Maine Veterans' Homes are authorized to construct community-based outpatient clinics for Maine veterans in cooperation with the United States Department of Veterans Affairs and may construct and operate veterans hospice facilities, veterans housing facilities and other facilities authorized by the Board of Trustees of the Maine Veterans' Homes, using available funds. Any funds loaned to the Maine Veterans' Homes for operating purposes from the funded depreciation accounts of the Maine Veterans' Homes must be reimbursed from any funds received by the Maine Veterans' Homes and available for that purpose. The primary purpose of the Maine Veterans' Homes is to provide support and care for honorably discharged veterans who served on active duty in the United States Armed Forces or who served in the Reserves of the United States Armed Forces on active duty for other than training purposes or are entitled to retired pay under 10 United States Code, Chapter 1223 regardless of the age of such persons.

PART B

Sec. B-1. 3 MRSA §959, sub-§1, ¶F, as amended by PL 2005, c. 397, Pt. C, §3 is further amended to read:

F. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall use the following list as a guideline for scheduling reviews:

(2) Office of Substance Abuse in 2005;

(3) Maine Advisory Committee on ~~Mental Retardation~~Developmental Disability in 2007;

(6) Department of Health and Human Services in 2009;

(7) Board of the Maine Children's Trust Incorporated in 2011;

(9) Maine Developmental Disabilities Council in 2011.

Sec. B-2. 4 MRSA §152, sub-§4, as corrected by RR 2001, c. 2, Pt. A, §2, is amended to read:

4. Exclusive jurisdiction. Original jurisdiction, not concurrent with that of the Superior Court, of mental health commitment hearings under Title 34-B, chapter 3, subchapter 4, ~~mental retardation~~developmental disability certification hearings under Title 34-B, chapter 5, habitual truancy actions under Title 20-A, chapters 119 and 211 under which equitable relief may be granted and small claims actions under Title 14, chapter 738;

Sec. B-3. 5 MRSA §1642, sub-§6, as enacted by PL 1985, c. 96, is amended to read:

6. Social service. "Social service" means any children's, youth, adult or elderly service and alcoholism, community action, developmental disability, drug or substance abuse, home-heating assistance, juvenile, mental health, ~~mental-retardation~~, older Americans, poverty, rehabilitation, transportation, weatherization or other social service that may be defined in the future and that is operated by the departments or the division utilizing state-administered funds, including related health and medical services and income supplementation programs.

Sec. B-4. 5 MRSA §4553-A, sub-§1, ¶B, as enacted by PL 2007, c. 385, §3, is amended to read:

B. Without regard to severity unless otherwise indicated: absent, artificial or replacement limbs, hands, feet or vital organs; alcoholism; amyotrophic lateral sclerosis; bipolar disorder; blindness or abnormal vision loss; cancer; cerebral palsy; chronic obstructive pulmonary disease; Crohn's disease; cystic fibrosis; deafness or abnormal hearing loss; diabetes; substantial disfigurement; epilepsy; heart disease; HIV or AIDS; kidney or renal diseases; lupus; major depressive disorder; mastectomy; ~~mental-retardation~~developmental disability; multiple sclerosis; muscular dystrophy; paralysis; Parkinson's disease; pervasive developmental disorders; rheumatoid arthritis; schizophrenia; and acquired brain injury;

Sec. B-5. 5 MRSA §12004-I, sub-§61, as amended by PL 1989, c. 73, §1, is further amended to read:

61.

	Expenses Only	34-B MRSA §1210
Mental Health and Mental Retardation <u>Developmental</u> <u>Disabilities</u>	Maine Advisory Committee on Mental Retardation <u>Developmental</u> <u>Disabilities</u>	

Sec. B-6. 5 MRSA §12004-I, sub-§66, as amended by PL 2003, c. 417, §1 and affected by §4, is further amended to read:

66.

Expenses Only

34-B MRSA §17001

Maine Developmental
Disabilities Council

Mental Health
and Mental
~~Retardation~~Developmental
Disabilities

Sec. B-7. 5 MRSA §12004-J, sub-§15, as enacted by PL 2007, c. 356, §3 and affected by c. 695, Pt. D, §3, is amended to read:

15.

34-B MRSA §1223

Maine Developmental
Services Oversight
and Advisory Board

Mental Health
and Mental
~~Retardation~~Developmental
Disabilities

Per diem for
noncompensated
members, as specified
by board rule or
policy, and expenses
for all members of the
board

Sec. B-8. 5 MRSA §20005, sub-§6, as amended by PL 2007, c. 116, §§3 and 4, is further amended to read:

6. Contracts and licensing. Through the director:

A. Administer all contracts with community service providers for the delivery of alcohol and drug abuse services;

A-1. Administer all contracts with community service providers for the delivery of gambling addiction counseling services; and

B. Establish operating and treatment standards and inspect and issue certificates of approval for approved treatment facilities, drug abuse treatment facilities or programs, including residential treatment centers, community-based service providers and facilities that are private nonmedical institutions pursuant to section 20024 and subchapter 5.

The commissioner may delegate contract and licensing duties under this subsection to the Department of Health and Human Services, the Department of Corrections or the Department of Education as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in community settings are consolidated within the Department of Health and Human Services, that contracting for alcohol and other drug abuse services delivered within correctional facilities are consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered

The commissioner may not delegate contract and licensing duties if that delegation results in increased administrative costs.

The commissioner may not issue requests for proposals for existing contract services until the commissioner has adopted rules in accordance with the Maine Administrative Procedure Act to ensure that the reasons for which existing services are placed out for bid and the performance standards and manner in which compliance is evaluated are specified and that any change in provider is accomplished in a manner that fully protects the consumer of services.

The commissioner shall establish a procedure to obtain assistance and advice from consumers of alcohol and other drug abuse services regarding the selection of contractors when requests for proposals are issued;

Sec. B-9. 12 MRSA §10853, sub-§7, ¶A, as repealed and replaced by PL 2005, c. 397, Pt. C, §10, is amended to read:

A. Clients of the Department of Health and Human Services who reside in licensed facilities for persons with ~~mental retardation~~developmental disabilities or licensed facilities for the treatment of mental illness;

Sec. B-10. 12 MRSA §10853, sub-§10, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

10. Persons with developmental disabilities. A complimentary license to fish must be issued to any person with ~~mental retardation~~a developmental disability, as defined in Title 34-B, section 5001, subsection 3, upon application to the commissioner. The application must be accompanied by certified evidence that the applicant meets the defined condition. This complimentary license remains effective for the life of the license holder, if the license is not revoked or suspended.

Sec. B-11. 15 MRSA §101-B, sub-§3, as corrected by RR 1995, c. 2, §25 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §7, is further amended to read:

3. Availability of reports. The court may order that observations, interviews and investigative reports regarding the behavior of the defendant made by law enforcement officials be made available to the designated psychiatrist and licensed clinical psychologist of the State Forensic Service for the limited purpose of this examination. If the defendant is incarcerated, an initial examination to determine whether commitment to the custody of the Commissioner of Health and Human Services is necessary must be made within 90 days. If the defendant is incarcerated and it is determined that no long-term observation for the purpose of diagnosis is needed, the defendant's examinations must be completed within 30 days. If the examination by the designees can be completed without admission, a report of the results of the completed examination must be forwarded to the court without delay. If the designated examiners of the Commissioner of Health and Human Services determine that admission to an appropriate institution for the ~~mentally ill or mentally retarded~~persons with developmental disabilities is necessary for complete examination, the examiners shall so notify the court, which may order the defendant committed to the custody of the Commissioner of Health and Human Services to be placed in an appropriate institution

for the mentally ill or ~~the mentally retarded~~persons with developmental disabilities, to be there detained and observed by the superintendent, or the superintendent's delegate, and professional staff for a period of time not to exceed 60 days, for the purpose of ascertaining the mental condition of the defendant. When further detention for observation is determined no longer necessary by the State Forensic Service, the commissioner shall report this fact to the court. The court shall then order the person returned to the appropriate court for disposition; if the court ordering commitment for observation has provided for remand to the county jail following completion of the observation in the commitment order, the sheriff or any one or more of the sheriff's deputies shall execute the remand order upon advice from the commissioner of completion of the observation. A report of the results of the observation must be forwarded promptly to the court by the commissioner. Subsection 1 governs the distribution of reports of examination pursuant to this subsection.

Sec. B-12. 15 MRSA §101-B, sub-§4, ¶A, as amended by PL 2001, c. 634, §1 and PL 2003, c. 689, Pt. B, §7, is further amended to read:

A. Commit the defendant to the custody of the Commissioner of Health and Human Services to be placed in an appropriate institution for the mentally ill or ~~the mentally retarded~~persons with developmental disabilities for observation, care and treatment. At the end of 30 days or sooner, and again in the event of recommitment, at the end of 60 days and one year, the State Forensic Service shall forward a report to the Commissioner of Health and Human Services relative to the defendant's competence to stand trial and its reasons therefor. The commissioner shall without delay file the report with the court having jurisdiction of the case. The court shall without delay set a date for and hold a hearing on the question of the defendant's competence to stand trial and receive all relevant testimony bearing on the question. If the court determines that the defendant is not competent to stand trial, but there does exist a substantial probability that the defendant will be competent to stand trial in the foreseeable future, it shall recommit the defendant to the custody of the Commissioner of Health and Human Services to be placed in an appropriate institution for the mentally ill or ~~the mentally retarded~~persons with developmental disabilities for observation, care and treatment. If the defendant is charged with an offense under Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or 803-A, and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and order the Commissioner of Health and Human Services to commence involuntary commitment proceedings pursuant to Title 34-B, chapter 3, subchapter ~~IV~~4 or chapter 5, subchapter ~~III~~3. If the defendant is charged with offenses not listed in the previous sentence, and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and notify the appropriate authorities who may institute civil commitment procedures for the individual; or

Sec. B-13. 15 MRSA §103, first ¶, as amended by PL 2005, c. 263, §1, is further amended to read:

When a court accepts a negotiated plea of not criminally responsible by reason of insanity or when a defendant is found not criminally responsible by reason of insanity by jury verdict or court finding, the judgment must so state. In those cases the court shall order the person committed to the custody of the

Commissioner of Health and Human Services to be placed in an appropriate institution for the mentally ill or ~~the mentally retarded~~persons with developmental disabilities for care and treatment. Upon placement in the appropriate institution and in the event of transfer from one institution to another of persons committed under this section, notice of the placement or transfer must be given by the commissioner to the committing court.

Sec. B-14. 17-A MRSA §253, sub-§2, ¶J, as corrected by RR 2003, c. 2, §25, is amended to read:

J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with ~~mental retardation~~a developmental disability. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~a developmental disability or is a person with ~~mental retardation~~a developmental disability as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C crime.

Sec. B-15. 17-A MRSA §255-A, sub-§1, ¶Q, as corrected by RR 2003, c. 2, §26, is amended to read:

Q. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with ~~mental retardation~~a developmental disability. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~a developmental disability or is a person with ~~mental retardation~~a developmental disability as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D crime;

Sec. B-16. 17-A MRSA §255-A, sub-§1, ¶R, as corrected by RR 2003, c. 2, §26, is amended to read:

R. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with ~~mental retardation~~a developmental disability and the sexual contact includes penetration. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~a developmental disability or is a person with ~~mental retardation~~a developmental disability as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class C crime;

Sec. B-17. 17-A MRSA §260, sub-§1, ¶I, as amended by PL 2005, c. 450, §3, is further amended to read:

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with ~~mental retardation~~a developmental disability. It is an affirmative defense to prosecution under this paragraph that the actor receives services for ~~mental retardation~~a developmental disability or is a person with ~~mental retardation~~a developmental disability as defined in Title 34-B, section 5001, subsection 3. Violation of this paragraph is a Class D crime;

Sec. B-18. 18-A MRSA §5-601, sub-§(a), as enacted by PL 1979, c. 540, §1, is amended to read:

(a). In any case in which a guardian or conservator may be appointed by the court under this Article, the court may appoint a public guardian or conservator as provided in this Part for persons who are ~~mentally retarded~~with developmental disabilities and for incapacitated persons as defined in section 5-101, paragraph (1), who are in need of protective services.

Sec. B-19. 18-A MRSA §5-601, sub-§(b), as amended by PL 2005, c. 397, Pt. A, §12, is further amended to read:

(b). The Department of Health and Human Services shall act as the public guardian or conservator for persons with ~~mental retardation~~developmental disabilities and for other incapacitated persons in need of protective services.

Sec. B-20. 18-A MRSA §5-606, sub-§(a), as amended by PL 1995, c. 560, Pt. K, §5 and affected by §83 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §§6 and 7, is further amended to read:

(a). When the Department of Health and Human Services is appointed public guardian or conservator of a person with ~~mental retardation~~a developmental disability, the authority of the public guardian or conservator must be exercised by the Commissioner of Health and Human Services and by any persons duly delegated by the commissioner to exercise such authority.

Sec. B-21. 18-A MRSA §5-608, as amended by PL 1995, c. 395, Pt. G, §6 and affected by §20, is further amended to read:

§ 5-608. Determination of need for guardianship of persons with developmental disabilities in institutions and residence facilities

Whenever a ~~mentally retarded~~ minor with a developmental disability has been admitted to a state-operated institution or residence facility for ~~the mentally retarded~~persons with developmental disabilities, and has not been discharged from the institution or residence facility, the head of the institution or residence facility shall, within 6 months prior to the 18th birthday of ~~such mentally retarded~~that person, cause the ~~mentally retarded~~ person with a developmental disability to be examined to ascertain whether such person will, by reason of ~~mental retardation~~a developmental disability, be in need of guardianship on attainment of ~~the mentally retarded~~that person's majority. If, in the opinion of the examiner such need will exist, the institutional or residence facility head may advise in writing the parent, next of kin, or

guardian of such minor of the need to institute proceedings for appointment of a guardian. In the event no guardian has been appointed, or no guardianship proceedings are pending when such minor has attained age 18, or the institutional or residence facility head has determined that nomination of the public guardian is advisable in lieu of petition for guardianship by any of such persons, such institutional or residence facility head shall nominate the public guardian to serve as guardian of ~~such mentally retarded~~the person with a developmental disability.

Prior to release of any ~~mentally retarded~~ person with a developmental disability from a state-operated institution or residence facility for the ~~mentally retarded person's~~, the head of the institution or residence facility shall cause such person to be examined to ascertain whether such person will, by reason of ~~mental retardation~~a developmental disability, be in need of guardianship upon release from such institution or residence facility, and if in the opinion of such examiner such need will exist upon release, the institutional or residence facility head may advise in writing the parent or next of kin of ~~such mentally retarded~~that person of the need to institute proceedings for appointment of a guardian. If neither the parent nor next of kin is willing to institute proceedings for the appointment of a guardian for ~~such mentally retarded~~that person, or the institutional or residence facility head has determined that nomination of the public guardian is advisable in lieu of petition for guardianship by any of such persons, the institutional or residence facility head shall, prior to the release of ~~such mentally retarded~~that person, nominate the public guardian.

Sec. B-22. 18-A MRSA §5-609, as enacted by PL 1979, c. 540, §1, is amended to read:

§ 5-609. No change in rights to services

The appointment of a public guardian or conservator in no way enlarges or diminishes the ward's or protected person's right to services made available to all ~~mentally retarded~~persons with developmental disabilities or incapacitated persons in the State except for the provision of guardianship or conservatorship services as provided under this Article.

Sec. B-23. 18-A MRSA §5-613, sub-§(2), as amended by PL 1993, c. 410, Pt. CCC, §6 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

(2). The Division of ~~Mental Retardation~~Developmental Disabilities or the Department of Health and Human Services is not liable for the costs set out in subsection (1) if the division or the department can demonstrate that the allegedly incapacitated person has assets against which the costs may be assessed or that another more appropriate funding source is available and subject to the court's jurisdiction.

Sec. B-24. 19-A MRSA §701, sub-§3, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

3. Persons under disability. A person who is impaired ~~by reason of~~because the person has a mental illness or ~~mental retardation~~a developmental disability to the extent that that person lacks sufficient understanding or capacity to make, communicate or implement responsible decisions concerning that person's property or person is not capable of contracting marriage. For the purposes of this section:

A. "Mental illness" means a psychiatric or other disease that substantially impairs a person's mental health; and

B. "~~Mental retardation~~Developmental disability" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

Sec. B-25. 20-A MRSA §7001, sub-§1-B, ¶B, as enacted by PL 2005, c. 662, Pt. A, §15, is amended to read:

B. For children at least 3 years of age and under 20 years of age evaluated in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with delays or impairments such that the children need special education:

(1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the intermediate educational unit or school administrative unit, as defined in rules adopted by the department, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; or

(2) A child with at least one of the following:

(a) ~~Mental retardation~~A developmental disability;

(b) Hearing impairment, including deafness;

(c) Speech or language impairment;

(d) Visual impairment, including blindness;

(e) Serious emotional disturbance;

(f) Orthopedic impairment;

(g) Autism;

(h) Traumatic brain injury;

(i) Other health impairment;

(j) Specific learning disabilities;

(k) Deafness and blindness; and

(l) Multiple disabilities.

Sec. B-26. 20-A MRSA §7258, sub-§1-A, as enacted by PL 1997, c. 778, §1 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

1-A. Case manager. Within 2 years before the date that a student with ~~mental retardation~~, a serious emotional disturbance or ~~other~~ developmental ~~disabilities~~ disability will graduate or finish school, the Department of Health and Human Services, in consultation with the pupil evaluation team of the school administrative unit, shall designate a case manager to participate in transition planning for that student. The case manager shall convene an adult services transition team, ensure interagency coordination and access to adult services, serve as a single contact person for the student transitioning into the adult services and attend pupil evaluation team meetings or provide relevant information to the pupil evaluation team for transition planning purposes.

Sec. B-27. 20-A MRSA §7258, sub-§1-B, as enacted by PL 1997, c. 778, §1 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

1-B. Annual report. Beginning January 1, 1999 and annually thereafter, the department, in conjunction with the Department of Health and Human Services, shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters and to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs regarding transition planning for the adult services system and the number of persons 16 years of age or older on waiting lists for services for persons with autism or ~~mental retardation~~ developmental disabilities provided by or under the authority of the department and the Department of Health and Human Services.

Sec. B-28. 20-A MRSA §7804, sub-§1-A, as amended by PL 2007, c. 539, Pt. JJJJ, §8, is further amended to read:

1-A. Grants. The committee, as established in section 7803, may provide funds to support the effective delivery of services to handicapped youth in transition by coordinating existing programs, when possible, and establishing a mechanism for ongoing coordination of programs for handicapped youths in transition at a local or regional level, including local educational agencies, community mental health centers, regional ~~mental retardation~~ developmental disability services, regional rehabilitation programs and other public and private agencies as appropriate. Each project must establish a method to identify unserved and underserved handicapped youths in transition and develop services for these youths.

Sec. B-29. 22 MRSA §42, sub-§1-A, as amended by PL 1983, c. 284, §1, is further amended to read:

1-A. Administration of medication. The administration of medication in boarding care facilities, drug treatment centers, day care facilities, children's homes and nursery schools and group home intermediate care facilities for ~~the mentally retarded~~ persons with developmental disabilities must be in accordance with rules established by the department. In other facilities licensed or approved by the department, excluding those facilities licensed under section 1811, other than group home intermediate care facilities for ~~the mentally retarded~~ persons with developmental disabilities, the department may establish rules for the administration of medication as it ~~deems~~ determines necessary. In establishing rules for each type of facility, the department shall consider, among other factors, the general health of the persons likely to receive medication, the number of persons served by the facility and the number of persons employed at the facility who might be involved in the administration of medication. Any rules for the administration of medication ~~shall~~ must be established in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

Sec. B-30. 22 MRSA §802, sub-§4-A, ¶A, as enacted by PL 2001, c. 185, §2, is amended to read:

A. "Designated health care facility" means a licensed nursing facility, residential care facility, intermediate care facility for ~~the mentally retarded~~ persons with developmental disabilities, multi-level health care facility, hospital or home health agency.

Sec. B-31. 22 MRSA §812, sub-§1, ¶G, as amended by PL 2005, c. 383, §12, is further amended to read:

G. Undergoing a comprehensive medical assessment by the State Forensic Service. The court, in selecting the examination site, shall consider proximity to the court, availability of an examiner and the need to protect the public health. No person may be presented for examination under this subsection without arrangements for examination having first been made by the court, clerk of the court or the petitioner with the State Forensic Service. The opinion of the State Forensic Service must be reported to the court forthwith following the examination.

The court shall order the individual to be further examined by a psychiatrist, neurologist and any additional expert if, based on the report of the State Forensic Service, it appears that:

- (1) The individual suffers from a mental disease or defect that causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; or
- (2) Further observation or examination is required.

If, based on the examinations, the department determines that admission to an appropriate institution for the mentally ill or ~~mentally retarded~~ persons with developmental disabilities is necessary, it shall petition for involuntary hospitalization pursuant to Title 34-B, chapter 3. If the District Court orders the involuntary hospitalization of the individual pursuant to Title 34-B, chapter 3, the petition brought pursuant to section 811 must be dismissed without prejudice. If it is determined that

admission to an appropriate institution for the mentally ill or ~~the mentally retarded~~persons with developmental disabilities is not necessary, the head of the institution where the examinations have taken place shall notify the commissioner or the commissioner's designee, prior to discharging the respondent.

In no event may the period of examination pursuant to this subsection exceed 60 days without further order by the court, which may extend commitment for further observation or examination for an additional 60 days, provided that the court finds facts sufficient to show that the individual suffers from a mental disease or defect that causes the individual to act in such a manner as to endanger others with risk of infection with a communicable disease; and

Sec. B-32. 22 MRSA §1714-A, sub-§1, ¶F, as enacted by PL 1991, c. 9, Pt. G, §4, is amended to read:

F. "Nursing home" means any facility that meets the definition of section 1812-A, including an intermediate care facility for ~~the mentally retarded~~persons with developmental disabilities.

Sec. B-33. 22 MRSA §1812-B, as amended by PL 1983, c. 284, §2, is further amended to read:

§ 1812-B. Hospitals and nursing homes

The administration of medication in facilities licensed under section 1811, except group home intermediate care facilities for ~~the mentally retarded~~persons with developmental disabilities, may be delegated to unlicensed personnel when such personnel have received appropriate training and instruction and the programs of training and instruction have been approved by the State Board of Nursing. The administration of medication in group home intermediate care facilities for ~~the mentally retarded~~persons with developmental disabilities may be performed by unlicensed personnel when these personnel have received appropriate training and instruction and the programs of training and instruction have been approved by the department. Delegation of the administration of medication ~~shall~~may not require the personal presence of the delegating professional nurse at the place where this service is performed, unless that personal presence is necessary to ~~assure~~ensure that medications are safely administered. The board shall issue such rules concerning delegation as it ~~deems~~determines necessary to ~~insure~~ensure the highest quality of health care to the patient. The department shall issue such rules as it ~~deems~~considers necessary to ~~insure~~ensure the highest quality of health care to residents of group home intermediate care facilities for ~~the mentally retarded~~persons with developmental disabilities.

Sec. B-34. 22 MRSA §1826, sub-§2, ¶B, as enacted by PL 1985, c. 291, §1, is amended to read:

B. Each contract or agreement ~~shall~~must contain a complete copy of the department rules establishing residents' rights and ~~shall contain~~ a written acknowledgement that the resident has been informed of those rights. In the case of a ~~mentally retarded~~person with a developmental disability or an otherwise incompetent individual, the written acknowledgement of those rights ~~shall~~must be made by a representative of the resident. No provision in the contract or agreement may negate, limit or otherwise modify any provision of the residents' rights.

Sec. B-35. 22 MRSA §2053, sub-§2-A, as repealed and replaced by PL 1995, c. 179, §1, is amended to read:

2-A. Community health or social service facility. "Community health or social service facility" means a community-based facility that provides medical or medically related diagnostic or therapeutic services, mental health or ~~mental-retardation~~developmental disability services, substance abuse services or family counseling and domestic abuse intervention services, and is licensed by the State.

Sec. B-36. 22 MRSA §3172-B, sub-§1, as amended by PL 1981, c. 493, §2 and PL 1995, c. 560, Pt. K, §82 and affected by §83 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

1. Fund. All moneys received by the department under section 3172 ~~which~~that are generated by services rendered at any of the mental health and ~~mental-retardation~~developmental disability institutions operated by that department ~~shall~~must be credited to the General Fund.

Sec. B-37. 22 MRSA §3172-B, sub-§4, as amended by PL 1979, c. 293, Pt. B, §1, is further amended to read:

4. Budget. Those mental health and ~~mental-retardation~~developmental disability programs receiving legislative approval for funding for fiscal year 1979 ~~shall~~must be considered current services by the Bureau of the Budget.

Sec. B-38. 22 MRSA §3174-I, sub-§2, as amended by PL 1993, c. 410, Pt. FF, §12, is further amended to read:

2. Assessment for mental health diagnosis or developmental disability. The department shall assess every applicant to a nursing facility to screen for ~~mental-retardation~~developmental disability and mental illness in accordance with the Federal Omnibus Budget Reconciliation Act of 1987, Public Law 100-203, Section 4211. Such assessments are intended to increase the probability that any individual who is ~~mentally-retarded~~developmentally disabled or mentally ill will receive active treatment for that individual's ~~mental~~ condition.

Sec. B-39. 22 MRSA §3186, last ¶, as enacted by PL 1987, c. 869, §1, is amended to read:

Principles of reimbursement established for intermediate care facilities for ~~the mentally-retarded~~ persons with developmental disabilities ~~shall~~must be amended to implement the recommendations of the Advisory Committee on Staff Retention. These amendments ~~shall~~ become effective on April 1, 1989.

Sec. B-40. 22 MRSA §3187, as amended by PL 2003, c. 684, §1, is further amended to read:

§ 3187.Principles of reimbursement; rules

The department shall meet annually with providers of community-based intermediate care facilities for ~~the mentally-retarded~~persons with developmental disabilities to review current principles of reimbursement under the federal Social Security Act, Title XIX, 42 United States Code, Chapter 7, and discuss necessary and appropriate changes.

Principles of reimbursement established for intermediate care facilities for ~~the mentally retarded~~ persons with developmental disabilities must ensure maximum flexibility enabling facilities to shift variable cost funds within accounts established pursuant to the principles. These principles may not set any artificial limits on specific variable cost accounts as long as facility totals are met.

Rules regarding principles of reimbursement for intermediate care facilities for ~~the mentally retarded~~ persons with developmental disabilities adopted pursuant to section 3173 are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-41. 22 MRSA §3573, sub-§1, ¶B, as enacted by PL 2003, c. 602, §1, is amended to read:

B. "Mental and physical impairments" include, but are not limited to, the following conditions: ~~mental retardation~~ developmental disability, autism, cerebral palsy, Asperger syndrome, mental illness, Prader-Willi syndrome and epilepsy.

Sec. B-42. 22 MRSA §5104, sub-§5-A, as enacted by PL 1989, c. 329, §9, is amended to read:

5-A. Dependent adult. "Dependent adult" means any adult who is wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, and who would be in danger if that care or support were withdrawn. For the purpose of this Part only, the term "dependent adult" excludes any adult ~~who is mentally retarded~~ with a developmental disability.

Sec. B-43. 22 MRSA §5104, sub-§7-A, as enacted by PL 1989, c. 329, §12, is amended to read:

7-A. Incapacitated adult. "Incapacitated adult" means any adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that the adult lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that individual's person, or to the extent the adult cannot effectively manage or apply that individual's estate to necessary ends. For the purpose of this Part only, the term "incapacitated adult" excludes any adult ~~who is mentally retarded~~ with a developmental disability.

Sec. B-44. 22 MRSA §5106, sub-§11-B, as amended by PL 2003, c. 653, §21, is further amended to read:

11-B. Adult protective services. Administer a program of protective services as provided in chapter 958-A designed to protect incapacitated and dependent adults, other than adults ~~who are mentally retarded~~ with developmental disabilities, from abuse, neglect, exploitation and physical danger. The program is described in the Adult Protective Services Act;

Sec. B-45. 22 MRSA §5310, sub-§9, as enacted by PL 1973, c. 793, §12, is amended to read:

9. Continuing evaluation. Carry on a continuing evaluation of the social services programs and activities affecting ~~Maine's~~ the State's residents, to determine the needs and priorities for types of social services; the types of services available; the number, location and characteristics of people served by each type of service; the amount, type and source of resources supporting types of services, the administrative adequacy and capacity of social service agencies; and the quality and quantity of types of

social services; as well as to determine the value and impact of programs operated by or administered with the assistance of the State and Federal Governments; including social services as authorized by this and the several Acts and amendments to them enacted by the People of the State of Maine; and those authorized by these United States Acts and amendments to them; the federal Social Security Act of 1935, the federal Economic Opportunity Act of 1965, and similar Acts. Such human services to be included, but to which the bureau ~~shall~~may not be limited, are those relating to education, employment and vocational services, income, health, housing, community, mental health, ~~mental retardation~~developmental disability, social, transportation and rehabilitation services for people, except older people. Maintaining statistical information through use of uniform methods, which are reasonable, feasible and economically efficient, ~~shall~~must be specified for use by public and private agencies, organizations and individuals assisted by state or federal funds pursuant to this Part;

Sec. B-46. 22 MRSA §6110, 4th ¶, as repealed and replaced by PL 1975, c. 523, §1, is amended to read:

Services for the ~~Mentally Retarded~~persons with developmental disabilities;

Sec. B-47. 22 MRSA §6111, sub-§4, as amended by PL 1977, c. 317, §3, is further amended to read:

4. Maximum state share of cost. State funds appropriated for priority social services may be used to pay a portion of expenditures under each agreement for each type of social service in an amount not to exceed the maximum percentage for state funds of 100% of the total expenditures for each type of priority social service as specified below. One hundred percent funding ~~shall~~must be available for not more than 2 years consecutively or in total. State funds appropriated for priority social services may be used to pay a portion of expenditures under each agreement for each type of social service in an amount not to exceed the maximum percentage for state funds of the total expenditures for each type of priority social service as specified below when programs have been funded for a total of 2 years, consecutively or in total. The maximum percentage of state funds of the total expenditures for each type of service ~~shall~~may not exceed:

75% for homemaker service;

75% for developmental day care, including family day care;

75% for services for the ~~mentally retarded~~persons with developmental disabilities;

75% for meals for older people;

75% for mental health services;

75% for transportation services;

75% for health and home care needs for the elderly.

Sec. B-48. 22 MRSA §6111, sub-§5, as amended by PL 1981, c. 608, §3, is further amended to read:

5. Maximum use of nonstate resources. State funds paying a portion only of expenditures for priority social services ~~shall bear~~ valid only when "earned" or "matched" by expenditure of nonstate resources ~~which~~that may be cash or in-kind. The expenditure of such resource ~~shall~~must be in an amount at least equal to the minimum percentage for nonstate resources of the total expenditures for each type of priority social services as specified below. The minimum percentage for nonstate resources of the total expenditures for each type of service ~~shall~~must be:

25% for homemaker service;

25% for developmental day care, including family day care;

25% for services for ~~the mentally retarded~~persons with developmental disabilities;

25% for meals for older people;

25% for mental health services;

25% for transportation services;

25% for health and home care needs for the elderly.

Nonstate resources authorized to qualify to earn or match state funds ~~shall~~ include private funds such as gifts, grants, fees for service or contributions; in-kind resources that are actual out-of-pocket expenditures; or actual loss of revenue related directly and essentially as an integral part of the operation of a priority social service; and public revenues such as municipal taxes, a municipal or county amount of federal revenue sharing funds, other appropriate federal resources and state revenue sharing funds and such other public resources as may be received by, generated by or available to a municipal or county government or other political subdivision or quasi-governmental bodies.

Sec. B-49. 22 MRSA §7302, sub-§6, as amended by PL 2001, c. 596, Pt. B, §10 and affected by §25, is further amended to read:

6. Institutional settings. "Institutional settings" means residential care facilities, licensed pursuant to chapter 1664; intermediate care and skilled nursing facilities and units and hospitals, licensed pursuant to chapter 405; and state institutions for individuals who are mentally ill or ~~mentally retarded~~developmentally disabled or who have related conditions.

Sec. B-50. 22 MRSA §7942, sub-§7, as amended by PL 2003, c. 634, §8, is further amended to read:

7. State licensing rules. "State licensing rules" refers to the department's rules governing the licensing and functioning of nursing facilities, intermediate care facilities for persons with ~~mental retardation~~developmental disabilities and assisted living programs or residential care facilities.

Sec. B-51. 22-A MRSA §203, sub-§1, ¶C, as enacted by PL 2003, c. 689, Pt. A, §1, is amended to read:

C. ~~Mental-retardation-and-developmental~~Developmental disability services;

Sec. B-52. 22-A MRSA §206, sub-§4, as enacted by PL 2007, c. 539, Pt. N, §45, is amended to read:

4. Grievance procedures. The commissioner shall establish procedures for hearing grievances of clients who receive mental health services or ~~mental-retardation~~developmental disability services or of children who receive behavioral health services. The procedures must include the opportunity for a timely hearing before a state hearing examiner or an independent fair hearing examiner. The commissioner may contract for the services of the hearing examiner, who shall conduct adjudicatory proceedings pursuant to the Maine Administrative Procedure Act.

Sec. B-53. 22-A MRSA §207, sub-§7, as enacted by PL 2007, c. 539, Pt. N, §46, is amended to read:

7. Contracts with health care servicing entities. The commissioner may enter into contracts with health care servicing entities for the financing, management and oversight of the delivery of mental health, ~~mental-retardation~~developmental disability and substance abuse services to clients pursuant to a state or federally sponsored health program in which the department participates or that the department administers. For the purposes of this subsection, "health care servicing entity" means a partnership, association, corporation, limited liability company or other legal entity that enters into a contract with the State to provide or arrange for the provision of a defined set of health care services; to assume responsibility for some aspects of quality assurance, utilization review, provider credentialing and provider relations or other related network management functions; and to assume financial risk for provision of such services to clients through capitation reimbursement or other risk-sharing arrangements. "Health care servicing entity" does not include insurers or health maintenance organizations. In contracting with health care servicing entities, the commissioner:

A. Shall include in all contracts with the health care servicing entities standards, developed in consultation with the Superintendent of Insurance, to be met by the contracting entity in the areas of financial solvency, quality assurance, utilization review, network sufficiency, access to services, network performance, complaint and grievance procedures and records maintenance;

B. Prior to contracting with any health care servicing entity, must have in place a memorandum of understanding with the Superintendent of Insurance for the provision of technical assistance, which must provide for the sharing of information between the department and the superintendent and the analysis of that information by the superintendent as it relates to the fiscal integrity of the contracting entity;

C. May require periodic reporting by the health care servicing entity as to activities and operations of the entity, including the entity's activities undertaken pursuant to commercial contracts with licensed insurers and health maintenance organizations;

D. May share with the Superintendent of Insurance all documents filed by the health care servicing entity, including documents subject to confidential treatment if the information is treated with the same degree of confidentiality as is required of the department; and

E. May make all necessary rules for the administration of contracts with health care servicing entities. All rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. B-54. 30-A MRSA §1561, sub-§1, ¶E, as enacted by PL 1995, c. 201, §1, is amended to read:

E. Is an inpatient at a state-funded mental health or ~~mental-retardation~~developmental disability facility;

Sec. B-55. 30-A MRSA §4349-A, sub-§1, ¶C, as amended by PL 2001, c. 613, §2, is further amended to read:

C. Areas other than those described in paragraph A or B for the following projects:

(1) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as necessary to remedy a threat to public health or safety or to comply with environmental clean-up laws;

(2) A project related to a commercial or industrial activity that, due to its operational or physical characteristics, typically is located away from other development, such as an activity that relies on a particular natural resource for its operation;

(3) An airport, port or railroad or industry that must be proximate to an airport, a port or a railroad line or terminal;

(4) A pollution control facility;

(5) A project that maintains, expands or promotes a tourist or cultural facility that is required to be proximate to a specific historic, natural or cultural resource or a building or improvement that is related to and required to be proximate to land acquired for a park, conservation, open space or public access or to an agricultural, conservation or historic easement;

(6) A project located in a municipality that has none of the geographic areas described in paragraph A or B and that prior to January 1, 2000 formally requested but had not received from the office funds to assist with the preparation of a comprehensive plan or that received funds to assist with the preparation of a comprehensive plan within the previous 2 years. This exception expires for a municipality 2 years after such funds are received;

(7) A housing project serving the following: individuals with mental illness, ~~mental retardation~~, developmental disabilities, physical disabilities, brain injuries, substance abuse problems or a human immunodeficiency virus; homeless individuals; victims of domestic violence; foster children; or children or adults in the custody of the State. A nursing home is not considered a housing project under this paragraph; or

(8) A project certified to the Land and Water Resources Council established in Title 5, section 3331 by the head of the agency funding the project as having no feasible location within an area described in paragraph A or B if, by majority vote of all members, the Land and Water Resources Council finds that extraordinary circumstances or the unique needs of the agency require state funds for the project. The members of the Land and Water Resources Council may not delegate their authority under this subparagraph to the staffs of their member agencies.

Sec. B-56. 30-A MRSA §4722, sub-§2, ¶C, as amended by PL 1991, c. 511, Pt. B, §1 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

C. Any nursing home or related institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817, except intermediate care facilities for ~~the mentally retarded~~ persons with developmental disabilities and persons with related conditions or the construction, substantial rehabilitation or improvement of homeless shelter facilities that may be related to an institution licensed or subject to license by the Department of Health and Human Services under Title 22, section 1817.

Sec. B-57. 32 MRSA §63-A, sub-§1, as amended by PL 2007, c. 402, Pt. E, §1, is further amended to read:

1. Membership. The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004-A, subsection 23, consists of 7 members appointed by the Governor. The members must be residents of this State. One member must be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members must be public members as defined in Title 5, section 12004-A. Three members must be administrators of nursing homes with not less than 5 years of

active experience in the State. One member must be an administrator of an intermediate care facility for ~~the mentally retarded~~persons with developmental disabilities with not less than 5 years of active practice in that capacity.

Sec. B-58. 34-A MRSA §1206, sub-§1, ¶D, as enacted by PL 1983, c. 459, §6, is amended to read:

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, ~~mental retardation~~developmental disability, poverty, public assistance, rehabilitation, social, substance abuse, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure for the department.

Sec. B-59. 34-A MRSA §3031, sub-§2, ¶A, as amended by PL 1995, c. 462, Pt. D, §6, is further amended to read:

A. A client is exempt from payment of medical and dental services fees and fees for prescriptions, medication or prosthetic devices when the client:

- (1) Receives treatment initiated by facility staff;
- (2) Is a juvenile;
- (3) Is pregnant;
- (4) Is seriously mentally ill or developmentally disabled. For the purposes of this paragraph, "seriously mentally ill" or "developmentally disabled" means a client who, as a result of a mental disorder or developmental disability, exhibits emotional or behavioral functioning that is so impaired as to interfere substantially with the client's capacity to remain in the general prison population without supportive treatment or services of a long-term or indefinite duration, as determined by the facility's psychiatrist or psychologist;
- (5) Is an inpatient at a state-funded mental health or ~~mental retardation~~developmental disability facility;
- (6) Is undergoing follow-up treatment;
- (7) Receives emergency treatment as determined by the facility's medical or dental staff; or

(8) Has less than \$15 in the client's facility account and did not receive additional money from any source for 6 months following the medical or dental service or provision of the prescription, medication or prosthetic device.

Sec. B-60. 34-B MRSA §1208, sub-§1, ¶D, as enacted by PL 1983, c. 459, §7, is amended to read:

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, ~~mental retardation~~, poverty, public assistance, rehabilitation, social, substance abuse, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure by the department.

Sec. B-61. 34-B MRSA §1208, sub-§1, ¶H, as enacted by PL 2003, c. 673, Pt. SSS, §1, is amended to read:

H. "Service provider" means a community agency providing services for children with mental health needs, ~~mental retardation~~developmental disabilities and autism.

Sec. B-62. 34-B MRSA §1208, sub-§7, as enacted by PL 1999, c. 401, Pt. SS, §1 and affected by §4, is amended to read:

7. Community agency staff retention. The commissioner shall, through contracts and service agreements with community agencies, provide funding to retain qualified direct-care workers employed by community ~~mental retardation~~developmental disability services providers.

Sec. B-63. 34-B MRSA §1216, sub-§1, as amended by PL 1995, c. 560, Pt. K, §22, is further amended to read:

1. Responsibilities. The Consumer Advisory Board, as established by the community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me., September 28, 1994), functions as an independent oversight body that carries out responsibilities pursuant to this section, the consent decree and subsequent agreements approved by the United States District Court for the District of Maine. The Consumer Advisory Board may review alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of any person with ~~mental retardation~~a developmental disability or autism who is a client of the department. The Consumer Advisory Board shall promote the normalization and habilitation of persons with ~~mental retardation~~developmental disabilities or autism.

Sec. B-64. 34-B MRSA §1216, sub-§3, as amended by PL 1995, c. 560, Pt. K, §23, is further amended to read:

3. Access to information. With regard to any institution, facility, agency or other provider serving persons with ~~mental retardation~~developmental disabilities or autism who are clients of the department or when any such person resides or participates in work or in a program in an institution, facility, agency or other provider, the Consumer Advisory Board members and staff must be given direct access to all living, work and program areas and to all living, work and program area records,

including, but not limited to, records related to any personal planning process, and must be given access to the personnel, but not personnel records. The chief advocate of the department may release to the Consumer Advisory Board information pertaining to alleged abuse, exploitation or neglect or an alleged dehumanizing practice or violation of rights of a person with ~~mental retardation~~ developmental disability or autism. The Consumer Advisory Board shall keep any confidential information disclosed to it or discovered by it confidential, as required by section 1207.

Sec. B-65. 34-B MRSA §1218, sub-§2, as amended by PL 1995, c. 560, Pt. K, §24, is further amended to read:

2. Developmental disability services. The department shall provide accommodations and services ensuring access for persons who are deaf or hard-of-hearing to ~~mental retardation~~ developmental disability programs funded or licensed by the department. These accommodations and services must include, but are not limited to, the following.

A. The department shall ensure the provision of appropriate assessments for clients who are deaf or hard-of-hearing. Assessments must be performed by a person who is proficient in American Sign Language and must include an assessment of ~~mental retardation~~ developmental disability and an assessment of communication skills, including the capacity to communicate using American Sign Language. The department shall survey the client population to determine which clients are deaf or hard-of-hearing.

B. For purposes of treatment, the department shall ensure the provision of interpreter services by a person proficient in American Sign Language.

C. The department shall ensure that ~~mental retardation~~ developmental disability staff providing direct services to persons who are deaf or hard-of-hearing have education and training in American Sign Language and deaf culture.

D. The department shall provide for the placement in comprehensive community ~~mental retardation~~ developmental disability facilities of telecommunication devices for persons who are deaf or hard-of-hearing.

E. The department shall ensure the provision of support and training for families with members with ~~mental retardation~~ developmental disabilities who are deaf or hard-of-hearing.

F. The department shall establish therapeutic residence options for persons with ~~mental retardation~~ developmental disabilities who are deaf or hard-of-hearing and in need of a residence. The therapeutic residences must be operated in conjunction with existing rehabilitation, education, ~~mental retardation~~ developmental disability treatment and housing resources. The therapeutic residences must be staffed by individuals trained in ~~mental retardation~~ developmental disability treatment and proficient in American Sign Language. Therapeutic residence options must be flexible and allow for individual choice.

G. The department shall designate in each regional office one staff person who is responsible for the coordination of deaf services in that office. The department shall provide ongoing training to regional office staff with the goal of having at least one person in each regional office who is proficient in American Sign Language.

Sec. B-66. 34-B MRSA §1223, sub-§1, as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

1. Composition. The Maine Developmental Services Oversight and Advisory Board, as established by Title 5, section 12004-J, subsection 15 and referred to in this section as “the board,” consists of 15 members appointed by the Governor from a list of nominees proposed by the board pursuant to procedures established in the rules of the board.

A. The board shall submit nominees to the Governor at least 90 days prior to the expected date of each vacancy.

B. In making nominations, the board shall endeavor to ensure adequate representation at all times from different service regions of the State and from interested stakeholder groups, including but not limited to:

- (1) The protection and advocacy agency designated pursuant to Title 5, section 19502;
- (2) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations;
- (3) A nonprofit organization that serves teens and young adults in the State with emotional and intellectual disabilities;
- (4) A statewide coalition that works to support and facilitate the ability of local and statewide self-advocacy organizations to network with each other and with national organizations; and
- (5) The Maine Developmental Disabilities Council.

C. In making the nominations and appointments, the board and the Governor shall endeavor to ensure that at least 8 of the members of the board are persons with mental retardation~~developmental disabilities~~ or autism or family members, guardians or allies of persons with mental retardation~~developmental disabilities~~ or autism who receive services funded by the Department of Health and Human Services. Of these members, at least 4 must be persons with mental retardation~~developmental disabilities~~ or autism, referred to in this section as "self-advocates."

Members of the board must include stakeholders involved in services and supports for persons with ~~mental retardation~~developmental disabilities or autism in the State and other individuals interested in issues affecting persons with ~~mental retardation~~developmental disabilities or autism. Employees of the Department of Health and Human Services may not be appointed as members of the board.

Sec. B-67. 34-B MRSA §1223, sub-§8, as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

8. Oversight and advisory functions. The board shall:

A. Provide independent oversight over programs and services for adults with ~~mental retardation~~developmental disabilities or autism that are provided, authorized, funded or supported by the department or any other agency or department of State Government. The board shall focus on systemic concerns affecting the rights of persons with ~~mental retardation~~developmental disabilities or autism, including but not limited to issues surrounding health and safety, inclusion, identification of needs and desires of persons eligible for services by the department, the timely meeting of the identified needs and effective and efficient delivery of services and supports; and

B. Provide advice and systemic recommendations to the commissioner, the Governor and the Legislature regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with ~~mental retardation~~developmental disabilities or autism.

Sec. B-68. 34-B MRSA §1223, sub-§9, ¶A, as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

A. The board shall hold at least one hearing or other forum each year that is open to the public in order to gather information about the availability, accessibility and quality of services available to persons with ~~mental retardation~~developmental disabilities or autism and their families.

Sec. B-69. 34-B MRSA §1223, sub-§9, ¶D, as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

D. The board shall report at least annually to the Governor and the Legislature on its activities and recommendations regarding policies, priorities, budgets and legislation affecting the rights and interests of persons with ~~mental retardation~~developmental disabilities or autism. The board's annual report must include the board's assessment of its operations and progress in addressing the priorities established pursuant to paragraph C. The board's annual report must be made public and widely disseminated in a manner designed to inform interested stakeholders.

Sec. B-70. 34-B MRSA §1223, sub-§10, as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

10. Access to information. The board is entitled to access to information from the department necessary to carry out its functions. Except as provided in paragraphs B, C, D and E, information provided pursuant to this subsection may not contain personally identifying information about a person with ~~mental retardation~~developmental disabilities or autism.

A. The department shall provide the board, on a schedule to be agreed upon between the board and the department, reports on case management, reportable events, adult protective and rights investigations, unmet needs, crisis services, quality assurance, quality improvement, budgets and other reports that contain data about or report on the delivery of services to or for the benefit of persons with ~~mental retardation~~developmental disabilities or autism, including reports developed by or on behalf of the department and reports prepared by others about the department.

B. The chief advocate and the manager of adult protective services in the Office of Adults with Cognitive and Physical Disability Services within the department, when requested by the board or pursuant to a written agreement with the board, shall release to the board information pertaining to alleged abuse, exploitation or neglect or alleged dehumanizing practice or violation of rights of a person with ~~mental retardation~~a developmental disability or autism. The board shall maintain the confidentiality of information disclosed to it or discovered by it as required by section 1207.

C. The board may request and review reports of actions taken by an entity to which a referral is made under subsection 9, paragraph F. If these reports are likely to reveal personally identifying information, the board shall conduct reviews in executive session and shall take all actions necessary and appropriate to preserve the confidentiality of the information.

D. The board may examine confidential information in individual records with written permission of the person or that person's guardian. If the person or that person's guardian provides the board with written permission to examine confidential information, the board must maintain the confidentiality of the information as required by section 1207.

E. The board or the board's staff may receive and examine confidential information when otherwise authorized to do so by law, including but not limited to when serving on a committee established by the department for which access to such information is necessary to perform the function of the committee.

Sec. B-71. 34-B MRSA §1402, sub-§1, as amended by PL 1995, c. 560, Pt. K, §27, is further amended to read:

1. Commissioner's duty. In every state institution to which a person with mental illness or ~~mental retardation~~a developmental disability may be committed, the commissioner shall organize and administer the duties set forth in subsection 2.

Sec. B-72. 34-B MRSA §1402, sub-§2, ¶C, as amended by PL 1995, c. 560, Pt. K, §27, is further amended to read:

C. Acquire and disseminate knowledge of mental disease, ~~mental retardation~~developmental disability and allied conditions with a view to promoting a better understanding and the most enlightened public sentiment and policy in these matters, and in this work the department may cooperate with local authorities, schools and social agencies.

Sec. B-73. 34-B MRSA §1407, as enacted by PL 1983, c. 459, §7, is amended to read:

§ 1407. Appointment of physician

In every state institution to which a mentally ill person or ~~mentally-retarded~~ a person with a developmental disability may be committed, the commissioner shall appoint a physician experienced in the care and treatment of such persons and the necessary assistants to the physician.

Sec. B-74. 34-B MRSA §1408, as enacted by PL 1983, c. 459, §7, is amended to read:

§ 1408. Cooperation with state departments

Whenever it is ~~deemed~~considered advisable, the chief administrative officer of any institution for the mentally ill or ~~mentally-retarded~~persons with developmental disabilities may cooperate with state departments to examine upon request and recommend suitable treatment and supervision for:

1. Mental illness or developmental disability. Persons thought to be mentally ill or ~~mentally-retarded~~developmental disabled; and

2. Juvenile Court. Children brought before any Juvenile Court.

Sec. B-75. 34-B MRSA §1431, sub-§2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Requirements. The chief administrative officer of any state institution, or a person designated by ~~him~~the chief administrative officer, may place any person who has been hospitalized as mentally ill or ~~mentally-retarded~~developmental disabled, except residents described in chapter 3, subchapter ~~IV~~4, Article ~~H~~2, on indefinite convalescence status, if the officer or ~~his~~the officer's designee determines that the residential facility in which the person will be residing is at least equivalent in the quality of living conditions to the state institution in which the person is hospitalized.

Sec. B-76. 34-B MRSA §3801, sub-§5, as enacted by PL 1983, c. 459, §7, is amended to read:

5. Mentally ill person. "Mentally ill person" means a person having a psychiatric or other disease ~~which~~that substantially impairs ~~his~~the person's mental health, including persons suffering from the effects of the use of drugs, narcotics, hallucinogens or intoxicants, including alcohol, but not including ~~mentally-retarded~~persons with developmental disabilities or sociopathic persons.

Sec. B-77. 34-B MRSA §5001, sub-§1-B, as enacted by PL 2007, c. 356, §8 and affected by §31, is amended to read:

1-B. Correspondent. "Correspondent" means a person designated by the Consumer Advisory Board or its successor to act as a next friend of a person with ~~mental-retardation~~a developmental disability or autism.

Sec. B-78. 34-B MRSA §5001, sub-§2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Incapacitated person. "Incapacitated person" means any person with a developmental disability who is impaired by ~~reason of mental-retardation~~ to the extent that ~~he~~the person lacks sufficient understanding or capacity to make, communicate or implement responsible decisions concerning ~~his~~the person or the person's property.

Sec. B-79. 34-B MRSA §5001, sub-§2-A, as enacted by PL 2007, c. 356, §10 and affected by §31, is amended to read:

2-A. Individual support coordinator. "Individual support coordinator" means a regional staff member of the department with the responsibility for coordinating the personal planning and professional services for a person with ~~mental retardation~~ a developmental disability or autism.

Sec. B-80. 34-B MRSA §5001, sub-§3, as amended by PL 1989, c. 73, §3, is further amended to read:

3. Developmental disability. "~~Mental retardation~~Developmental disability" means a condition of significantly subaverage intellectual functioning resulting in or associated with concurrent impairments in adaptive behavior and manifested during the developmental period.

Sec. B-81. 34-B MRSA §5001, sub-§3-A, as enacted by PL 1989, c. 73, §4, is repealed.

Sec. B-82. 34-B MRSA §5001, sub-§3-B, as enacted by PL 2007, c. 356, §11 and affected by §31, is amended to read:

3-B. Person. "Person" means an adult with ~~mental retardation~~ a developmental disability or autism.

Sec. B-83. 34-B MRSA §5001, sub-§3-C, as enacted by PL 2007, c. 356, §12 and affected by §31, is amended to read:

3-C. Personal planning. "Personal planning" means a process that assists and supports each person with ~~mental retardation~~ a developmental disability or autism in creating a vision for how to live in and be a part of the community.

Sec. B-84. 34-B MRSA §5001, sub-§3-D, as enacted by PL 2007, c. 356, §13 and affected by §31, is amended to read:

3-D. Personal planning team. "Personal planning team" means the person with ~~mental retardation~~ a developmental disability or autism, the person's guardian, if any, the person's individual support coordinator or case manager and other individuals chosen or identified by the person to participate in personal planning.

Sec. B-85. 34-B MRSA §5002, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Services. It is the policy of the State to provide education, training and habilitative services to ~~mentally-retarded persons~~ with developmental disabilities who need those services, except that nothing in this chapter may replace or limit the right of any ~~mentally-retarded person~~ with a developmental disability to treatment by spiritual means alone, through prayer, if that treatment is requested by the person or by ~~his~~ the person's next of kin or guardian.

Sec. B-86. 34-B MRSA §5002, sub-§2, ¶A, as enacted by PL 1983, c. 459, §7, is amended to read:

A. Impose the fewest possible restrictions on the liberty of ~~mentally-retarded~~ persons with developmental disabilities; and

Sec. B-87. 34-B MRSA §5003-A, as enacted by PL 2007, c. 356, §16 and affected by §31, is amended to read:

§ 5003-A. System of care for clients with developmental disabilities or autism

1. System of care. The Legislature declares that the system of care through which the State provides services to and programs for persons with ~~mental-retardation~~developmental disabilities or autism must be designed to protect the integrity of the legal and human rights of these persons and to meet their needs consistent with the principles guiding delivery of services as set forth in section 5610.

2. Responsibilities of the department. To facilitate the development of a system that meets the needs of persons with ~~mental-retardation~~developmental disabilities or autism, the commissioner shall:

A. Provide a mechanism for the identification, evaluation, treatment and reassessment of and the provision of services to persons with ~~mental-retardation~~developmental disabilities or autism that is consistent with the principles guiding delivery of services, as set forth in section 5610, through appropriate personal planning offered to persons served by the department in accordance with section 5470-B;

B. Identify the needs and desires of persons with ~~mental-retardation~~developmental disabilities or autism through appropriate personal planning and record any unmet needs of persons served or eligible for service by the department for development of budget requests to the Governor that are adequate to meet such needs;

C. Provide programs, insofar as resources permit, for appropriate services and supports to persons with ~~mental-retardation~~developmental disabilities or autism regardless of age, severity of need or ability to pay;

D. Support the establishment of community services for persons eligible to receive services from the department by promoting access to professional services in the person's community. Such support may be provided directly or through contracts with qualified providers. For persons who have professional service needs identified through personal planning, the department shall monitor the provision of those services;

E. Eliminate the department's own duplicative and unnecessary administrative procedures and practices in the system of care for persons with ~~mental-retardation~~developmental disabilities or autism, encourage other departments to do the same and clearly define areas of responsibility in order to use present resources economically;

F. Strive toward having a sufficient number of personnel who are qualified and experienced to provide treatment that is beneficial to persons with ~~mental-retardation~~developmental disabilities or autism; and

G. Encourage other departments to provide to persons with ~~mental-retardation~~developmental disabilities or autism those services that are required by law, and in particular:

(1) The commissioner shall work actively with the Commissioner of Education to ensure that persons with ~~mental-retardation~~developmental disabilities or autism receive appropriate services upon being diagnosed with either disability regardless of the degree of ~~retardation~~developmental disability or autism or accompanying disabilities or handicaps;

(2) The commissioner shall advise other departments about standards and policies pertaining to administration, staff, quality of care, quality of treatment, health and safety of clients, rights of clients, community relations and licensing procedures and other areas that affect persons with ~~mental-retardation~~developmental disabilities or autism residing in facilities licensed by the department; and

(3) The commissioner shall inform the joint standing committee of the Legislature having jurisdiction over human resources matters about areas where increased cooperation by other departments is necessary in order to improve the delivery of services to persons with ~~mental-retardation~~developmental disabilities or autism.

3. Plan. The commissioner shall prepare a plan pursuant to this subsection.

A. The plan must indicate the most effective and efficient manner in which to implement services and programs for persons with ~~mental-retardation~~developmental disabilities or autism while safeguarding and respecting the legal and human rights of these persons.

B. The plan must be prepared once every 2 years and must be submitted to the joint standing committee of the Legislature having jurisdiction over health and human services matters by no later than January 15th of every odd-numbered year.

C. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall study the plan and make recommendations to the Legislature with respect to funding improvements in programs and services to persons with ~~mental-retardation~~developmental disabilities or autism.

D. The plan must describe the system of ~~mental-retardation~~developmental disability and autism services in each of the ~~mental-retardation~~developmental disabilities service regions and statewide.

E. The plan must include both existing service resources and deficiencies in the system of services.

F. The plan must include an assessment of the roles and responsibilities of ~~mental-retardation~~developmental disability and autism agencies, human service agencies, health agencies and involved state departments and suggest ways in which these departments and agencies can better cooperate to improve the service systems.

G. The plan must be made public within the State in such a manner as to facilitate public involvement.

H. The commissioner must ensure that the development of the plan includes the participation of community ~~mental retardation~~developmental disability and autism service providers, consumer and family groups and other interested persons or groups in annual statewide hearings, as well as informal meetings and work sessions.

I. The commissioner must consider community service needs, relate these identified needs to biennial budget requests and incorporate necessary service initiatives into a comprehensive planning document.

4. General Fund account; Medicaid match; developmental disability; autism. The commissioner shall establish a General Fund account to provide the General Fund match for ~~mental retardation~~developmental disability or autism Medicaid eligible services. Any unencumbered balances of General Fund appropriations remaining at the end of each fiscal year must be carried forward to be used for the same purposes.

5. Medicaid savings. Intermediate care facilities for persons with ~~mental retardation~~developmental disabilities or autism and providers of freestanding day habilitation programs shall submit payment to the department equal to 50% of any Medicaid savings due the State pursuant to the principles of reimbursement, as established under Title 22, sections 3186 and 3187, that are reported in any unaudited cost report for fiscal years ending June 30, 1995 and thereafter. Payment is due with the cost report. After audit, any amount submitted in excess of savings allocated to the facility or provider pursuant to the principles of reimbursement must be returned to the facility or provider. Notwithstanding requirements or conditions contained in the principles of reimbursement, any amount due the State after final audit in excess of savings paid on submission of a cost report must be paid to the State within 90 days following receipt of the department's final audit report.

6. Required reporting by the department. The department shall make available, on at least an annual basis, a report or reports regarding the services and support provided by the department to persons with ~~mental retardation~~developmental disabilities or autism.

A. The goal of the reporting under this subsection is to provide the public with information on outcome measures established by the department. These measures may include, but are not limited to, whether:

- (1) Persons served by the department are healthy and safe;
- (2) Needs of persons are being met;
- (3) People are included in their communities; and
- (4) The system of care under this section is efficient and effective.

B. At a minimum, the department's report or reports under this subsection must offer information on the following:

- (1) Unmet needs;
- (2) Reportable events;
- (3) Adult protective services;
- (4) Crisis services;
- (5) Persons' and families' satisfaction with services;
- (6) Case management ratios;
- (7) Evaluations of costs of services;
- (8) Grievances;
- (9) Quality assurance and quality improvement efforts; and
- (10) New initiatives.

C. A report under this subsection must be provided to the joint standing committee of the Legislature having jurisdiction over health and human services matters. The commissioner or the commissioner's designee shall appear in person before the committee and shall present the report. The report must be posted on the department's publicly accessible website and must be made easily available to persons served by the department, families, guardians, advocates, Legislators and the provider community.

Sec. B-88. 34-B MRSA §5004, as corrected by RR 2003, c. 2, §103, is amended to read:

§ 5004. Sexual activity with recipient of services prohibited

A person who owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services may not engage in a sexual act, as defined in Title 17-A, section 251, subsection 1, paragraph C, with another person or subject another person to sexual contact, as defined in Title 17-A, section 251, subsection 1,

paragraph D, if the other person, not the actor's spouse, is a person with ~~mental retardation~~ a developmental disability who receives therapeutic, residential or habilitative services from the organization, program or residence.

Sec. B-89. 34-B MRSA §5005, sub-§1, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

1. Establishment. The Office of Advocacy, referred to in this section as "the office," is established within the department to provide the services described in subsection 3 to individuals with ~~mental retardation~~ developmental disabilities or autism.

Sec. B-90. 34-B MRSA §5005, sub-§2, ¶A, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

A. The chief advocate shall report administratively to the commissioner and advise and consult with and inform the commissioner on the issues described in this section. The chief advocate shall provide the commissioner with regular reports on the office's findings, conclusions and recommendations regarding individual and systemic violations of the rights of individuals with ~~mental retardation~~ developmental disabilities or autism.

Sec. B-91. 34-B MRSA §5005, sub-§3, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

3. Duties. The office, through the chief advocate and other advocates, shall:

A. Receive complaints made by or on behalf of individuals with ~~mental retardation~~ developmental disabilities or autism and represent their interests in any matter pertaining to their rights and dignity;

B. Investigate the claims, grievances and allegations of violations of the rights of individuals with ~~mental retardation~~ developmental disabilities or autism;

C. Intercede on behalf of individuals with ~~mental retardation~~ developmental disabilities or autism with officials of any provider of service administered, licensed or funded by the department, except that the office may refuse to take action on any complaint that it considers to be trivial or moot or for which there is clearly another remedy available;

D. Assist individuals with ~~mental retardation~~ developmental disabilities or autism in any hearing or grievance proceeding pertaining to their rights and dignity;

E. Refer individuals with ~~mental retardation~~ developmental disabilities or autism to other agencies or entities and collaborate with those agencies or entities for the purpose of advocating for the rights and dignity of those individuals;

F. Act as an information source regarding the rights of all individuals with ~~mental retardation~~ developmental disabilities or autism, keeping itself informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of those

individuals and about relevant legal decisions and other developments related to the fields of mental health, ~~mental retardation~~developmental disability and autism, both in this State and in other parts of the country; and

G. Make and publish reports necessary to the performance of the duties described in this section. The chief advocate may report findings of the office to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press, and may authorize the advocates in the office to so communicate. At least annually, the chief advocate shall report both in person and in writing to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding the performance of the duties described in this section.

Sec. B-92. 34-B MRSA §5005, sub-§4, ¶B, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

B. An advocate has concerns regarding the rights or dignity of a person with ~~mental retardation~~a developmental disability or autism.

Sec. B-93. 34-B MRSA §5005, sub-§6, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

6. Confidentiality. Requests for confidentiality are treated as follows.

A. Any request by or on behalf of an individual with ~~mental retardation~~a developmental disability or autism for action by the office and all written records or accounts related to the request are confidential as to the identity of the individual.

B. The records and accounts under paragraph A may be released only as provided by law.

Sec. B-94. 34-B MRSA §5005, sub-§7, as enacted by PL 2007, c. 356, §17 and affected by §31, is amended to read:

7. Protection for advocates. Advocates may not be disciplined or sanctioned for any action taken pursuant to this section on behalf of individuals with ~~mental retardation~~developmental disabilities or autism.

Sec. B-95. 34-B MRSA §5201, sub-§2, as amended by PL 2007, c. 356, §18 and affected by §31, is further amended to read:

2. Statewide system. The planning, promotion, coordination and development of a complete and integrated statewide system of services for adults with ~~mental retardation~~developmental disabilities or autism;

Sec. B-96. 34-B MRSA §5201, sub-§3, as amended by PL 2007, c. 356, §18 and affected by §31, is further amended to read:

3. Liaison. Serving as liaison, coordinator and consultant to the several state departments in order to develop the statewide system of services for adults with ~~mental-retardation~~developmental disabilities or autism;

Sec. B-97. 34-B MRSA §5201, sub-§4, as amended by PL 2007, c. 356, §18 and affected by §31, is further amended to read:

4. Community-based services. Ensuring that adults with ~~mental-retardation~~developmental disabilities or autism residing in community residential facilities, including nursing homes, boarding homes, foster homes, group homes or halfway houses licensed by the Department of Health and Human Services, are provided, insofar as possible, with residential accommodations and access to habilitation services appropriate to their needs;

Sec. B-98. 34-B MRSA §5201, sub-§6, as enacted by PL 2007, c. 356, §18 and affected by §31, is amended to read:

6. Individual support coordinators. Providing persons with ~~mental-retardation~~developmental disabilities or autism who are eligible for MaineCare services with case management services.

A. Case management services as defined in rules may be provided by qualified staff employed by the department or a contracted agency.

B. Unless otherwise specified in personal planning:

(1) Case managers shall maintain at least monthly contact with each person in order to ensure that the quality and availability of services and consumer satisfaction are maintained at a high level; and

(2) Visits to the person's home must occur at least twice a year.

C. The department shall ensure that case managers maintain adequate written and electronic records to permit monitoring and accountability.

D. The department shall provide sufficient numbers of case managers and supervisors to fulfill the duties specified in this subsection and shall maintain an overall ratio of one case manager to every 35 people in each region. The ratio must be calculated separately for staff employed by the department and by contracted agencies, and this ratio must be maintained for each group;

Sec. B-99. 34-B MRSA §5201, sub-§7, as enacted by PL 2007, c. 356, §18 and affected by §31, is amended to read:

7. Crisis and respite. Provision of crisis and respite services to persons with ~~mental-retardation~~developmental disabilities or autism in accordance with section 5206; and

Sec. B-100. 34-B MRSA §5206, as enacted by PL 2007, c. 356, §19 and affected by §31, is amended to read:

§ 5206. Crisis and respite services

The department shall provide crisis and respite services throughout the State in accordance with this section.

1. Crisis services. The department shall maintain the capacity to intervene in personal crises that could lead to the loss of the home, program or employment of a person with ~~mental retardation~~ developmental disability or autism. Such capacity must include:

- A. Assessment, consultation, planning, training and support for persons with ~~mental retardation~~ developmental disabilities or autism and their families or allies both before and after a crisis occurs;
- B. Providing staff support to prevent or respond to a crisis at the site of the crisis when appropriate;
- C. Ensuring mental health supports when necessary, including access to a licensed mental health provider, inpatient treatment when indicated, psychiatric services and mental health aftercare services; and
- D. Identifying appropriate professional services for the person in crisis.

2. Out-of-home services. The department shall provide out-of-home services in accordance with this subsection.

- A. The department shall maintain an adequate capacity to provide out-of-home safety and support by trained staff with appropriate professional backup resources for a person with ~~mental retardation~~ developmental disability or autism experiencing a crisis that cannot be safely managed at the person's residence.
- B. Unless otherwise specified in personal planning, crisis intervention services must be provided at a person's home, program or workplace when prevention efforts are not successful. The services must assist with admission to an appropriate out-of-home service in the event that intervention in the home, program or workplace is inappropriate.

3. Transportation. The department may not routinely use law enforcement entities to transport persons with ~~mental retardation~~ developmental disabilities or autism in crisis. Transportation of persons in crisis by law enforcement personnel may occur only if such transportation has been specifically authorized by the person's guardian or personal planning team or when determined by law enforcement personnel to be necessary to provide for the safety of the person or others.

4. Post-crisis review. A post-crisis review must occur no more than 10 working days after any out-of-home crisis placement. The review must include significant providers and supporters, including appropriate members of the person's planning team. The review must identify possible causes of the person's crisis and must recommend for the personal planning team changes in the person's environment, services and supports to prevent crises in the future.

5. Respite services. The department shall maintain and fund a statewide respite system for planned or unplanned respite for persons with ~~mental-retardation~~developmental disabilities or autism and their families. The department shall, when appropriate, use the natural supports of a person in the development of respite services. For purposes of this subsection, "natural supports" means those supports provided by persons who are not disability service providers but who provide assistance, contact or companionship to enable a person with ~~mental-retardation~~a developmental disability or autism to participate independently in employment or other community settings.

6. Information regarding use. The department shall maintain information regarding use of crisis and respite services sufficient to plan and budget for adequate crisis and respite services. The information must include an assessment of the needs, both met and unmet, for crisis and respite services. The department shall provide information regarding the availability of services under this section and the proper means to obtain them to persons with ~~mental-retardation~~developmental disabilities or autism, their parents and allies, providers of services and other interested persons.

7. Training. The department shall offer regular and ongoing information, consultation and training on crisis prevention and intervention and respite services to its own staff, providers, and persons with ~~mental-retardation~~developmental disabilities or autism and their families, guardians, correspondents and allies.

Sec. B-101. 34-B MRSA §5431, as enacted by PL 1983, c. 459, §7, is amended to read:

§ 5431.Purpose

The purpose of this Article is to assist in the establishment and expansion of community-based ~~mental-retardation~~developmental disability services and programs for ~~mentally-retarded~~ persons with developmental disabilities residing in the community and residing in privately-operated residential care facilities.

Sec. B-102. 34-B MRSA §5432, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Community participation. Encourage persons in local communities to participate in the provision of supportive services for ~~mentally-retarded~~ persons with developmental disabilities, so that persons in the community may have a better understanding of the need for those services;

Sec. B-103. 34-B MRSA §5433, sub-§2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Services and programs. Provide and help finance ~~mental-retardation~~developmental disability services and programs throughout the State for ~~mentally-retarded persons~~ with developmental disabilities residing in the community and residing in privately-owned residential care facilities;

Sec. B-104. 34-B MRSA §5433, sub-§3, as amended by PL 1985, c. 768, §6, is further amended to read:

3. Cooperation. Cooperate with other state agencies, municipalities, other governmental units, unincorporated associations and nonstock corporations in order to provide and help finance services and programs for ~~mentally-retarded persons~~ with developmental disabilities;

Sec. B-105. 34-B MRSA §5433, sub-§5, as enacted by PL 1985, c. 768, §7, is amended to read:

5. Transitional services coordination projects. Participate in the coordination of services for ~~mentally-retarded persons~~ with developmental disabilities with local transitional services coordination projects for handicapped youths, as established in Title 20-A, chapter 308, assigning appropriate regional staff and resources as available and necessary in each region to be served by a project.

Sec. B-106. 34-B MRSA §5434, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Authorization. A municipality or other governmental unit, such as a county, school district or health district, through its local board of health or other town or governmental agency approved by the commissioner, may adopt and carry out a program of ~~mental-retardation~~developmental disability services established or approved by the commissioner and appropriate money for that purpose.

Sec. B-107. 34-B MRSA §5434, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Grants. Upon application to the department by a municipality or other governmental unit, the commissioner may grant to the applicant money to be used for carrying out its ~~mental-retardation~~developmental disability services, including any necessary capital expenditures or purchase of buildings.

Sec. B-108. 34-B MRSA §5435, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Department grants. Upon application to the department by an unincorporated association or nonstock corporation organized for the improvement of community health and welfare, the commissioner may grant to the applicant money to be used for carrying out its ~~mental-retardation~~developmental disability services, including any necessary capital expenditures or purchase of buildings.

Sec. B-109. 34-B MRSA §5435, sub-§2, ¶B, as amended by PL 1995, c. 560, Pt. K, §53, is further amended to read:

B. The department shall give consideration to the ability of the municipality or governmental unit to support the ~~mental retardation~~developmental disability services, as reflected by the State's evaluation of the component communities.

Sec. B-110. 34-B MRSA §5437, first ¶, as amended by PL 1995, c. 560, Pt. K, §54, is further amended to read:

The department shall establish a contingency fund for use by community-based intermediate care facilities for persons with ~~mental retardation~~developmental disabilities and department clients residing in licensed boarding and foster homes or intermediate care facilities or participating in appropriate day treatment programs. This fund must be used in accordance with the following provisions.

Sec. B-111. 34-B MRSA §5437, sub-§3, ¶A, as enacted by PL 1985, c. 486, §2, is amended to read:

A. Payment for special client assessment and treatment services not reimbursed through the principles of reimbursement for intermediate care facilities for ~~the mentally retarded~~persons with developmental disabilities;

Sec. B-112. 34-B MRSA §5438, as enacted by PL 2007, c. 152, §1, is amended to read:

§ 5438. Services for adults with diagnoses of developmental disabilities

To the extent possible using available resources, the department shall provide adults with diagnoses of ~~mental retardation and other~~ developmental disabilities choices from among an array of supports and services, including but not limited to: employment supports, personal supports, day programs and residential services. The department shall pursue appropriate resources for the supports and services needed by adults covered under this chapter.

Sec. B-113. 34-B MRSA §5461, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Advocate. "Advocate" means a person:

A. Who is familiar with the procedures involved both in admitting ~~mentally retarded~~ persons with developmental disabilities to a facility and in providing services to those persons; and

B. Who is capable of advocating solely on behalf of a ~~mentally retarded~~ person with a developmental disability.

Sec. B-114. 34-B MRSA §5461, sub-§2, as enacted by PL 1983, c. 459, §7, is amended to read:

2. Client. "Client" means a person asking the department for ~~mental retardation~~developmental disability services or the person for whom those services are asked.

Sec. B-115. 34-B MRSA §5461, sub-§4, as enacted by PL 1983, c. 459, §7, is amended to read:

4. Comprehensive evaluation. "Comprehensive evaluation" means a comprehensive set of evaluations ~~which~~that:

- A. Results in the distinguishing of ~~mental-retardation~~a developmental disability from other conditions;
- B. Determines the severity of disability resulting from ~~mental-retardation~~a developmental disability and other conditions; and
- C. Estimates the degree to which ~~mental-retardation~~developmental disabilities and other conditions can be ameliorated.

Sec. B-116. 34-B MRSA §5461, sub-§5, as enacted by PL 1983, c. 459, §7, is amended to read:

5. Facility. "Facility" means a residential facility operated by the department for mentally-retarded clients with developmental disabilities.

Sec. B-117. 34-B MRSA §5461, sub-§7-A, ¶C, as enacted by PL 1983, c. 580, §11, is amended to read:

- C. A reasonable certainty that severe physical or mental impairment or injury will result to the ~~mentally-retarded person with a developmental disability~~ as manifested by recent evidence of ~~his~~that person's actions or behavior ~~which~~that demonstrates ~~his~~an inability to avoid or protect ~~himself~~the self from that impairment or injury and, after consideration of less restrictive treatment settings and modalities, a determination that suitable community resources for ~~his~~that person's care are unavailable.

Sec. B-118. 34-B MRSA §5461, sub-§8, as enacted by PL 1983, c. 459, §7, is amended to read:

8. Person in need of institutional services. "Person in need of institutional services" means a person who, because of ~~mental-retardation~~a developmental disability and other severely disabling conditions, is unable to care for ~~himself~~the self and to avoid or protect ~~himself~~that person from severe physical or psychological impairment, and who needs habilitation in an institutional setting designed to improve ~~his~~that person's ability to care for and protect ~~himself~~the self.

Sec. B-119. 34-B MRSA §5461, sub-§10, ¶B, as enacted by PL 1983, c. 580, §12, is amended to read:

- B. Where licensure, certification or registration is not required, a person possessing a master's degree in the appropriate discipline or a person possessing a bachelor's degree in the appropriate discipline and 3 years' experience in treating ~~mentally-retarded persons~~ with developmental disabilities or 3 years' experience in a related human services field.

Sec. B-120. 34-B MRSA §5462, as amended by PL 2003, c. 389, §6, is further amended to read:

§ 5462. Procedure policies

1. Steps. It is the policy of the State that, in order to ensure that ~~mentally-retarded~~ persons with developmental disabilities receive needed services, to the extent possible, the following steps shall ~~must~~ be taken for each person found by the department to be ~~mentally-retarded~~ developmentally disabled and in need of services:

- A. An assessment of the person's needs;
- B. The development of a personal plan or service plan for the delivery and coordination of services to the person through a personal planning process;
- C. A determination of the suitability and quality of needed services ~~which~~ that are available to the person, first in the community and 2nd in state-operated facilities; and
- D. Insofar as possible, obtaining high quality and suitable services for the person.

2. Persons involved with procedures. It is the policy of the State that:

- A. To the extent possible, the ~~mentally-retarded~~ person with a developmental disability and ~~his~~ that person's guardian or next of kin be involved with the steps specified in subsection 1; and
- B. An advocate be available to the ~~mentally-retarded~~ person with a developmental disability throughout the steps specified in subsection 1.

Sec. B-121. 34-B MRSA §5467, sub-§1, as amended by PL 2003, c. 389, §9, is further amended to read:

1. Application. An application for ~~mental-retardation~~ developmental disability services, on a form provided by the commissioner, must be initiated at or referred to a regional office of the department. Except for referrals identifying a possible need for adult protective services, the department shall accept only those referrals to which the client or client's guardian has consented.

Sec. B-122. 34-B MRSA §5467, sub-§2, ¶D, as amended by PL 2003, c. 389, §9, is further amended to read:

- D. Ensure the client's access to an advocate throughout the process of ~~mental-retardation~~ developmental disability services under sections 5467 to 5474;

Sec. B-123. 34-B MRSA §5468, sub-§2, as repealed and replaced by PL 1983, c. 580, §18, is amended to read:

2. Comprehensive evaluation. The comprehensive evaluation shall ~~must~~ be conducted by a person who is a licensed physician, licensed clinical psychologist or licensed psychological examiner and who has had training and experience in the diagnosis and treatment of ~~mentally-retarded~~ persons with developmental disabilities.

Sec. B-124. 34-B MRSA §5469, first ¶, as amended by PL 2003, c. 388, §1, is further amended to read:

Within 90 days of the day of the application made under section 5467, the department shall obtain a report of the comprehensive evaluation made under section 5468, which must state specifically whether or not the client is ~~mentally-retarded~~developmentally disabled.

Sec. B-125. 34-B MRSA §5469, sub-§1, as repealed and replaced by PL 1983, c. 580, §20, is amended to read:

1. Client not developmentally disabled. If the comprehensive evaluation concludes that the client is not ~~mentally-retarded~~developmentally disabled, the department shall deny the application for services, care and treatment, but shall make appropriate referrals in cases where clear needs of the client exist.

Sec. B-126. 34-B MRSA §5469, sub-§2, as amended by PL 2003, c. 389, §11, is further amended to read:

2. Client with a developmental disability. If the comprehensive evaluation concludes that the client is ~~mentally-retarded~~developmentally disabled and is in need of services:

A. The department, through the regional office, shall determine the client's case management status and develop a personal plan or service plan; and

B. The department, through the planning team, shall develop a personal plan or service plan for the client within 45 days of the date of the determination of eligibility. Implementation of the plan is governed by section 5471, subsection 4.

Sec. B-127. 34-B MRSA §5470-B, sub-§1, as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

1. Right to personal planning. Every adult with ~~mental-retardation~~a developmental disability or autism who is eligible for services must be provided the opportunity to engage in a personal planning process in which the needs and desires of the person are articulated and identified.

Sec. B-128. 34-B MRSA §5470-B, sub-§2, as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

2. Process. The personal planning opportunities afforded to a person with ~~mental-retardation~~a developmental disability or autism pursuant to subsection 1 must:

A. Be understandable to that person and in plain language and, if that person is deaf or nonverbal, uses sign language or speaks another language, the process must include qualified interpreters;

B. Focus on the choices made by that person;

C. Reflect and support the goals and aspirations of that person;

D. Be developed at the direction of that person and include people whom the person chooses to participate. The planning process must minimally include the person, the person's guardian, if any, the correspondent, if any, and the person's case manager;

E. Be flexible enough to change as new opportunities arise;

F. Be offered to that person at least annually or on a schedule established through the planning process and be reviewed according to a specified schedule and by a person designated for monitoring;

G. Include all of the needs and desires of that person without respect to whether those desires are reasonably achievable or the needs are presently capable of being addressed; and

H. Include a provision for ensuring the satisfaction of that person with the quality of the plan and the supports that the person receives.

Sec. B-129. 34-B MRSA §5470-B, sub-§3, as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

3. Action plans and unmet needs. The ongoing personal planning for a person with ~~mental retardation~~ developmental disability or autism must include an action plan that describes the services to be provided, the process of providing the services and who is responsible for overseeing the provision of the services. In cases where resources required to address identified needs or desires are not available, the action plan must identify interim measures based on available resources that address the needs or desires as nearly as possible and identify steps toward meeting the person's actual identified needs.

Unmet needs must be documented continually, collated annually and used for appropriate development activities on a regional and statewide basis.

Sec. B-130. 34-B MRSA §5470-B, sub-§4, as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

4. Review of personal plans. The person with ~~mental retardation~~ developmental disability or autism or another member of the planning team may initiate a review of the person's personal plan when needed or desired.

A. A review under this subsection must be done by meeting or by other means sufficient to address the needed or desired changes. The review must include the person, the person's guardian, if any, and the person's case manager. Invitations to participate may also be sent to others who may be anticipated to assist the person in pursuing articulated needs and desires unless the person or a private guardian objects.

B. Events that could lead to the loss of the person's home, job or program and events defined in a departmental rule or in the person's plan must lead to a plan review.

Sec. B-131. 34-B MRSA §5470-B, sub-§8, ¶B, as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

B. The department shall ensure the provision of regular and ongoing training in personal planning to persons with ~~mental retardation~~developmental disabilities or autism and their families, guardians, correspondents and allies as well as its own staff and providers. The department shall regularly provide persons with ~~mental retardation~~developmental disabilities or autism and their families, guardians and allies with informational materials regarding personal planning.

Sec. B-132. 34-B MRSA §5474, sub-§3, as enacted by PL 1983, c. 459, §7, is amended to read:

3. Emergency admission. When immediate detention of a person believed to be ~~mentally retarded~~a person with a developmental disability is necessary, the person may be temporarily restrained in accordance with section 5477.

Sec. B-133. 34-B MRSA §5475, sub-§2, ¶C, as amended by PL 2003, c. 389, §18, is further amended to read:

C. Unless waived by a client and the client's counsel, cause the client who is the subject of the proceeding to be examined by a professional.

(1) The client or the client's counsel may choose the professional, if the professional the client chooses is reasonably available.

(2) The professional may not be the same one who performed any part of the evaluation required under section 5468 or who participated in the development of the personal plan or service plan.

(3) Upon completion of the examination, the professional shall report to the court the professional's opinion whether the client is ~~mentally retarded~~developmentally disabled and requires treatment, stating the professional's reasons for the professional's opinion;

Sec. B-134. 34-B MRSA §5476, first ¶, as amended by PL 2003, c. 389, §19, is further amended to read:

Any client recommended for admission to a ~~mental retardation~~developmental disability facility may be admitted by judicial commitment according to the following procedures.

Sec. B-135. 34-B MRSA §5476, sub-§3, as enacted by PL 1983, c. 580, §23, is amended to read:

3. Accompanying documents. The application shallmust be accompanied by:

A. A written application, made subject to the prohibitions and penalties of section 3805 and made by any health officer, law enforcement officer or other person, stating:

(1) ~~His~~That person's belief that the client is ~~mentally retarded~~developmentally disabled and poses a likelihood of serious harm; and

(2) The grounds for this belief;

B. A dated certificate, signed by a private licensed physician or a private licensed clinical psychologist, stating that:

(1) ~~He~~That person has examined the client on the date of the certificate, which date may not be more than 3 days before the date of admission to the facility; and

(2) ~~He~~That person is of the opinion that the client is ~~mentally retarded~~developmentally disabled and poses a likelihood of serious harm; and

C. A certificate of the facility's examining physician or psychologist, stating that ~~he~~that person has examined the client and ~~it is his~~has formed the opinion that the client is ~~mentally retarded~~developmentally disabled and poses a likelihood of serious harm:

(1) The examiner may not be the certifying examiner under paragraph B; and

(2) If the examination is not held within 24 hours after the time of admission or if the facility's examining physician or psychologist fails or refuses to make the required certification, the client ~~shall~~must be immediately discharged.

Sec. B-136. 34-B MRSA §5476, sub-§5, ¶C, as enacted by PL 1983, c. 580, §23, is amended to read:

C. If the unanimous reports of the examiners are to the effect that the client is not ~~mentally retarded~~developmentally disabled or does not pose a likelihood of serious harm, the application ~~shall~~must be dismissed and the client ~~shall~~must be ordered discharged forthwith.

Sec. B-137. 34-B MRSA §5476, sub-§5, ¶D, as enacted by PL 1983, c. 580, §23, is amended to read:

D. If the report of either or both of the examiners is to the effect that the client is ~~mentally retarded~~developmentally disabled and poses a likelihood of serious harm, the hearing ~~shall~~must be held on the date, or on the continued date, ~~which~~that the court has set for the hearing.

Sec. B-138. 34-B MRSA §5476, sub-§6, ¶E, as enacted by PL 1983, c. 580, §23, is amended to read:

E. In addition to proving that the client is ~~mentally retarded~~developmentally disabled, the applicant shall show:

(1) By evidence of the client's actions and behavior, that the client poses a likelihood of serious harm; and

(2) That after full consideration of less restrictive treatment settings and modalities, judicial commitment to a ~~mental retardation~~ developmental disability facility is the best available means for the treatment or security of the client.

Sec. B-139. 34-B MRSA §5476, sub-§7, ¶A, as amended by PL 1983, c. 763, is further amended to read:

A. The District Court shall so state in the record, if it finds upon completion of the hearing and consideration of the record:

(1) Clear and convincing evidence that the client is ~~mentally retarded~~ developmentally disabled and that ~~his~~ the client's recent actions and behavior demonstrate that ~~he~~ the client poses a likelihood of serious harm;

(2) That judicial commitment to the facility is the best available means for treatment or security of the client; and

(3) That it is satisfied with the individual treatment plan offered by the facility.

Sec. B-140. 34-B MRSA §5477, sub-§1, as amended by PL 1983, c. 580, §24, is further amended to read:

1. Protective custody. If a law enforcement officer has reasonable grounds to believe, based upon his personal observation, that a person may be ~~mentally retarded~~ developmentally disabled, that ~~he~~ that person presents a threat of imminent and substantial physical harm to ~~himself~~ that person or to other persons and that an emergency exists requiring immediate residential placement:

A. The officer may take the person into protective custody; and

B. If the officer does take the person into protective custody, the officer shall deliver the person forthwith, within 18 hours, for examination by an available licensed physician or licensed psychologist as provided in subsection 4.

Sec. B-141. 34-B MRSA §5477, sub-§4, ¶B, as enacted by PL 1983, c. 459, §7, is amended to read:

B. The written application ~~shall~~ must be accompanied by a dated certificate, signed by a licensed physician or a licensed clinical psychologist, stating:

(1) ~~He~~ That person has examined the person on the date of the certificate, which date may not be more than 3 days before the date of admission to the facility; and

(2) ~~He~~That person is of the opinion that the person is a ~~mentally-retarded person~~ with a developmental disability in need of institutional services.

Sec. B-142. 34-B MRSA §5478, sub-§1, as repealed and replaced by PL 1983, c. 580, §26, is amended to read:

1. Authority to continue treatment. A client who has been admitted to a facility by judicial certification, or who has been retained in a facility pursuant to this section, may continue extended care and treatment in that facility for an additional period, not to exceed 2 years, only after judicial certification under section 5474 or after waiver of that process as provided in this section, except that waiver of the judicial certification process is not permitted for any ~~mentally-retarded person~~ with a developmental disability under public guardianship.

Sec. B-143. 34-B MRSA §5601, sub-§5, as amended by PL 1993, c. 326, §3, is further amended to read:

5. Normalization principle. "Normalization principle" means the principle of assisting the person with ~~mental-retardation~~ a developmental disability or autism to obtain an existence as close to normal as possible and making available to that person patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Sec. B-144. 34-B MRSA §5601, sub-§5-A, as enacted by PL 1993, c. 326, §4, is amended to read:

5-A. Person receiving services. "Person receiving services" means a person with ~~mental retardation~~ a developmental disability or autism receiving services from the bureau or from an agency or facility licensed or funded to provide services to persons with ~~mental-retardation~~ developmental disabilities or autism except those presently serving sentences for crime.

Sec. B-145. 34-B MRSA §5601, sub-§6, as amended by PL 1993, c. 326, §5 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

6. Residential facility. "Residential facility" means a facility providing 24-hour residential services for persons with ~~mental-retardation~~ developmental disabilities or autism that is owned, operated, licensed or funded, in whole or in part, by the department or through the department.

Sec. B-146. 34-B MRSA §5601, sub-§7-A, as enacted by PL 1993, c. 326, §6, is amended to read:

7-A. Supports. "Supports" are those actions or that assistance that permits a person with ~~mental retardation~~ a developmental disability or autism to carry out life activities as the person desires.

Sec. B-147. 34-B MRSA §5602, as amended by PL 1993, c. 326, §8, is further amended to read:

§ 5602.Purpose

It is the intent of the Legislature to guarantee individual dignity, liberty, pursuit of happiness and the protection of the civil and legal rights of persons with ~~mental-retardation~~developmental disabilities or autism and to articulate rights of persons with ~~mental-retardation~~developmental disabilities or autism, so that these rights may be exercised and protected.

Sec. B-148. 34-B MRSA §5603, as amended by PL 1993, c. 326, §8, is further amended to read:

§ 5603. Entitlement

Each person with ~~mental-retardation~~a developmental disability or autism is entitled to the rights enjoyed by citizens of the State and of the United States, unless some of these rights have been suspended as the result of court guardianship proceedings.

Sec. B-149. 34-B MRSA §5604, first ¶, as amended by PL 1993, c. 326, §8, is further amended to read:

The Legislature finds and declares that the rights of persons with ~~mental-retardation~~developmental disabilities or autism can be protected best under a system of services that operates according to the principles of normalization and full inclusion and that the State's system of services must operate according to these principles with the goals of:

Sec. B-150. 34-B MRSA §5604, sub-§2, as amended by PL 2007, c. 356, §23 and affected by §31, is further amended to read:

2. Independence and productivity. Providing habilitation, education and other training to persons with ~~mental-retardation~~developmental disabilities or autism that will maximize their potential to lead independent and productive lives and that will afford opportunities for outward mobility from institutions; and

Sec. B-151. 34-B MRSA §5604, sub-§3, as enacted by PL 2007, c. 356, §23 and affected by §31, is amended to read:

3. Grievance right. Providing a person with ~~mental-retardation~~a developmental disability or autism with the right to appeal a decision regarding actions or inactions by the department that affects the person's life. The department shall establish in rule a process for hearing such grievances pursuant to section 1203, subsection 4. The rules must contain strict time frames for the resolution of grievances. The rules may provide for resolution of grievances through mediation.

A. The department shall provide easily accessible and regular notice of the grievance process to persons with ~~mental-retardation~~developmental disabilities or autism served by the department. This notice must be included in informational materials provided to such persons, as well as to guardians, families, correspondents and allies. Notice of the right to appeal must be prominently displayed in regional offices and on the department's publicly accessible website and must be readily available from provider agencies. Notice of the right to appeal must be included in all substantive correspondence regarding personal planning. Written notice of the right to appeal must also be provided when there is a denial or reduction of services or supports to persons served by the

department. All notices and information regarding the grievance process must be written in language that is plain and understandable and must include the address and telephone number of the Office of Advocacy and the protection and advocacy agency designated pursuant to Title 5, section 19502.

B. The department must make available a one-page form that enables a person with ~~mental retardation~~a developmental disability or autism to file a grievance. A grievance may also be filed through an oral request. If a grievance is filed through an oral request, the person receiving the grievance shall reduce the grievance to writing using a one-page form made available by the department.

C. The department shall offer regular training in the grievance process for persons served by the department, their families, guardians and allies and department and service provider staff.

D. If an appeal proceeds to a hearing, the hearing officer's decision constitutes final agency action for the purposes of Rule 80C of the Maine Rules of Civil Procedure unless final decision-making authority has been reserved by the commissioner. If the commissioner makes the final decision and modifies or rejects the hearing officer's recommended decision, the commissioner must state in writing the basis for the commissioner's decision. When the commissioner rejects or modifies a hearing officer's factual findings or makes additional factual findings, the commissioner shall articulate the evidentiary basis for such rejection or modification with appropriate references to the record. The commissioner shall give substantial deference to a hearing officer's determinations on matters of credibility relating to testimony that was heard by the hearing officer, and when rejecting or modifying such determinations of credibility, the commissioner shall state with particularity the reasons with appropriate references to evidence in the record. In the event the commissioner fails to issue a written final decision within 30 days of the date of the recommended decision, the recommended decision of the hearing officer is deemed the final decision of the commissioner.

Sec. B-152. 34-B MRSA §5604-A, sub-§2, as enacted by PL 2007, c. 356, §24 and affected by §31, is amended to read:

2. Maintain reporting system. The department shall maintain a reportable event and adult protective services system that provides for receiving reports of alleged incidents, prioritizing such reports, assigning reports for investigation by qualified investigators, reviewing the adequacy of the investigations, making recommendations for preventive and corrective actions as appropriate and substantiating allegations against individuals who have been found under the Adult Protective Services Act to have abused, neglected or exploited persons with ~~mental retardation~~developmental disabilities or autism. The department shall fully establish the reportable event and adult protective services system through rulemaking.

Sec. B-153. 34-B MRSA §5604-A, sub-§3, as enacted by PL 2007, c. 356, §24 and affected by §31, is amended to read:

3. Violation. All persons with knowledge of an alleged violation of the rights of an individual with ~~mental retardation~~a developmental disability or autism as set out in section 5605 shall promptly report the details of the alleged violation to the Office of Advocacy as set forth in department rules.

Sec. B-154. 34-B MRSA §5605, as amended by PL 2007, c. 573, §§1 to 4, is further amended to read:

§ 5605. Rights and basic protections of a person with a developmental disability or autism

A person with ~~mental retardation~~ a developmental disability or autism is entitled to the following rights and basic protections.

1. Humane treatment. A person with ~~mental retardation~~ a developmental disability or autism is entitled to dignity, privacy and humane treatment.

2. Practice of religion. A person with ~~mental retardation~~ a developmental disability or autism is entitled to religious freedom and practice without any restriction or forced infringement on that person's right to religious preference and practice.

3. Communications. A person with ~~mental retardation~~ a developmental disability or autism is entitled to private communications.

A. A person with ~~mental retardation~~ a developmental disability or autism is entitled to receive, send and mail sealed, unopened correspondence. A person who owns or is employed by a day facility or a residential facility may not delay, hold or censor any incoming or outgoing correspondence of any person with ~~mental retardation~~ a developmental disability or autism, nor may any such correspondence be opened without the consent of the person or the person's legal guardian.

B. A person with ~~mental retardation~~ a developmental disability or autism in a residential facility is entitled to reasonable opportunities for telephone communication.

C. A person with ~~mental retardation~~ a developmental disability or autism is entitled to an unrestricted right to visitations during reasonable hours, except that nothing in this provision may be construed to permit infringement upon others' rights to privacy.

4. Work. A person with ~~mental retardation~~ a developmental disability or autism engaged in work programs that require compliance with state and federal wage and hour laws is entitled to fair compensation for labor in compliance with regulations of the United States Department of Labor.

5. Vote. A person with ~~mental retardation~~ a developmental disability or autism may not be denied the right to vote for reasons of mental illness, as provided in the Constitution of Maine, Article II, Section 1, unless under guardianship.

6. Personal property. A person with ~~mental retardation~~ a developmental disability or autism is entitled to the possession and use of that person's own clothing, personal effects and money, except that, when necessary to protect the person or others from imminent injury, the chief administrator of a day facility or a residential facility may take temporary custody of clothing or personal effects, which the administrator shall immediately return when the emergency ends.

7. Nutrition. A person with ~~mental retardation~~a developmental disability or autism in a residential facility is entitled to nutritious food in adequate quantities and meals may not be withheld for disciplinary reasons.

8. Medical care. A person with ~~mental retardation~~a developmental disability or autism is entitled to receive prompt and appropriate medical and dental treatment and care for physical and mental ailments and for the prevention of any illness or disability, and medical treatment must be consistent with the accepted standards of medical practice in the community, unless the religion of the person with ~~mental retardation~~a developmental disability or autism so prohibits.

A. Medication may be administered only at the written order of a physician.

B. Medication may not be used as punishment, for the convenience of staff, as a substitute for a habilitation plan or in unnecessary or excessive quantities.

C. Daily notation of medication received by each person with ~~mental retardation~~a developmental disability or autism in a residential facility must be kept in the records of the person with ~~mental retardation~~a developmental disability or autism.

D. Periodically, but no less frequently than every 6 months, the drug regimen of each person with ~~mental retardation~~a developmental disability or autism in a residential facility must be reviewed by the attending physician or other appropriate monitoring body, consistent with appropriate standards of medical practice.

E. All prescriptions must have a termination date.

F. Pharmacy services at each residential facility operated by the department must be directed or supervised by a professionally competent pharmacist licensed according to the provisions of Title 32, chapter 41.

G. Prior to instituting a plan of experimental medical treatment or carrying out any surgical procedure, express and informed consent must be obtained from the person with ~~mental retardation~~a developmental disability or autism, unless the person has been found to be legally incompetent, in which case the person's guardian may consent.

(1) Before making a treatment or surgical decision, the person must be given information, including, but not limited to, the nature and consequences of the procedures, the risks, benefits and purposes of the procedures and the availability of alternate procedures.

(2) The person or, if legally incompetent, that person's guardian may withdraw express and informed consent at any time, with or without cause, before treatment or surgery.

H. Notwithstanding the absence of express and informed consent, emergency medical care or treatment may be provided to any person with ~~mental retardation~~ a developmental disability or autism who has been injured or who is suffering from an acute illness, disease or condition if delay in initiation of emergency medical care or treatment would endanger the health of the person.

I. Notwithstanding the absence of express and informed consent, emergency surgical procedures may be provided to any person with ~~mental retardation~~ a developmental disability or autism who has been injured or who is suffering from an acute illness, disease or condition if delay in initiation of emergency surgery would substantially endanger the health of the person.

9. Sterilization. A person with ~~mental retardation~~ a developmental disability or autism may not be sterilized, except in accordance with chapter 7.

10. Social activity. A person with ~~mental retardation~~ a developmental disability or autism is entitled to suitable opportunities for behavioral and leisure time activities that include social interaction.

11. Physical exercise. A person with ~~mental retardation~~ a developmental disability or autism is entitled to opportunities for appropriate physical exercise, including the use of available indoor and outdoor facilities and equipment.

12. Discipline. Discipline of persons with ~~mental retardation~~ developmental disabilities or autism is governed as follows.

A. The chief administrative officer of each facility shall prepare a written statement of policies and procedures for the control and discipline of persons receiving services that is directed to the goal of maximizing the growth and development of persons receiving services.

(1) Persons receiving services are entitled to participate, as appropriate, in the formulation of the policies and procedures.

(2) Copies of the statement of policies and procedures must be given to each person receiving services and, if the person has been adjudged incompetent, to that person's parent or legal guardian.

(3) Copies of the statement of policies and procedures must be posted in each residential and day facility.

B. Corporal punishment or any form of inhumane discipline is not permitted.

C. Seclusion is not permitted.

13. Behavioral treatment. Behavioral treatment of a person with ~~mental retardation~~ a developmental disability or autism is governed as follows.

A. A person with ~~mental-retardation~~a developmental disability or autism may not be subjected to a treatment program to eliminate dangerous or maladaptive behavior without first being examined by a physician to rule out the possibility that the behavior is organically caused.

A-1. Behavioral treatment programs may contain both behavior modification and behavior management components. Behavior modification components consist of interventions designed to assist a person with ~~mental-retardation~~a developmental disability or autism to learn to replace dangerous or maladaptive behavior with safer and more adaptive behavior. Behavior management components consist of systematic strategies to prevent the occurrence of dangerous or maladaptive behaviors by minimizing or eliminating environmental or other factors that cause those behaviors.

B. Treatment programs involving the use of noxious or painful stimuli or other aversive or severely intrusive techniques, as defined in department rules, may be used only to correct behavior more harmful than the treatment program to the person with ~~mental-retardation~~a developmental disability or autism and only:

(1) On the recommendation of a physician, psychiatrist or psychologist;

(2) For an adult 18 years of age or older, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy; a representative of the Division of ~~Mental-Retardation~~Developmental Disabilities; and a representative of the Consumer Advisory Board; and

(3) For a child under 18 years of age, with the approval, following a case-by-case review, of a review team composed of an advocate from the Office of Advocacy, a team leader of the department's children's services division and the children's services medical director or the director's designee. Until rules are adopted by the department to govern behavioral treatment reviews for children, the team may not approve techniques any more aversive or intrusive than are permitted in rules adopted by the Secretary of the United States Department of Health and Human Services regarding treatment of children and youth in nonmedical community-based facilities funded under the Medicaid program.

The department may adopt rules as necessary to implement this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

C. Notwithstanding paragraph B, for a child under 18 years of age, treatment programs involving the use of seclusion or any noxious or painful stimuli, as defined in department rules, may not be approved.

14-A. Physical restraints. A person with ~~mental-retardation~~a developmental disability or autism is entitled to be free from a physical restraint unless:

- A. The physical restraint is a short-term step to protect the person from imminent injury to that person or others; or
- B. The physical restraint has been approved as a behavioral treatment program in accordance with this section.

A physical restraint may not be used as punishment, for the convenience of the staff or as a substitute for habilitative services. A physical restraint may impose only the least possible restriction consistent with its purpose and must be removed as soon as the threat of imminent injury ends. A physical restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety. The use of totally enclosed cribs and barred enclosures is prohibited in all circumstances.

Daily records of the use of physical restraints identified in paragraph A must be kept, which may be accomplished by meeting reportable event requirements.

Daily records of the use of physical restraints identified in paragraph B must be kept, and a summary of the daily records pertaining to the person must be made available for review by the person's planning team, as defined in section 5461, subsection 8-C, on a schedule determined by the team. The review by the personal planning team may occur no less frequently than quarterly. The summary of the daily records must state the type of physical restraint used, the duration of the use and the reasons for the use. A monthly summary of all daily records pertaining to all persons must be relayed to the Office of Advocacy.

14-B. Mechanical supports. Mechanical supports used in normative situations to achieve proper body position and balance are not considered physical restraints, but mechanical supports must be prescriptively designed and applied under the supervision of a qualified professional with concern for principles of good body alignment and circulation and allowance for change of position.

14-C. Safety devices. A safety device whose effect is to reduce or inhibit a person's movement in any way but whose purpose is to maintain or ensure the safety of the person is not considered behavioral treatment or a physical restraint. Safety devices include, but are not limited to, implements, garments, gates, barriers, locks or locking apparatus, alarms, helmets, masks, gloves, straps, belts or protective gloves whose purpose is to maintain the safety of the person. The department may adopt rules concerning the use and approval of safety devices. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

15. Records. All records of persons receiving services must remain confidential as provided in section 1207.

- A. The person with ~~mental retardation~~a developmental disability or autism or, if the person is incompetent, a parent or guardian is entitled to have access to the records upon request.
- B. The commissioner is entitled to have access to the records of a day facility or a residential facility if necessary to carry out the statutory functions of the commissioner's office.

Sec. B-155. 34-B MRSA §5606, sub-§3, as amended by PL 1993, c. 326, §10, is further amended to read:

3. Prohibited acts; penalty; defense. A person is guilty of violation of the rights of a person with ~~mental retardation~~ a developmental disability or autism who is receiving services if that person intentionally violates or abuses any rights or privileges of persons receiving services granted by this subchapter.

A. Violation of the rights of a person with ~~mental retardation~~ a developmental disability or autism who is receiving services is a Class E crime.

B. Good-faith compliance with the provisions of this subchapter in connection with evaluation, admission, habilitation programming, education, treatment or discharge of a person receiving services is a defense to prosecution under this subchapter.

Sec. B-156. 34-B MRSA §5610, as enacted by PL 2007, c. 356, §27 and affected by §31, is amended to read:

§ 5610. Service delivery

1. Guiding service delivery. The delivery of services by providers of services and the department to persons with ~~mental retardation~~ developmental disabilities and autism is guided by the following.

A. Persons with ~~mental retardation~~ developmental disabilities or autism have the same rights as all citizens, including the rights to live, work and participate in the life of the community.

B. Community inclusion is achieved by connecting persons and their families, whenever possible, to local and generic supports within the community and by the use of residential services that are small and integrated into the community.

C. Real work for real pay for persons in integrated settings in the community is the cornerstone of all vocational and employment services.

D. Service delivery to persons with ~~mental retardation~~ developmental disabilities and autism is based on the following fundamentals:

- (1) Maximizing the growth and development of the person and inclusion in the community;
- (2) Maximizing the person's control over that person's life;
- (3) Supporting the person in that person's own home;

(4) Acknowledging and enhancing the role of the family, as appropriate, as the primary and most natural caregiver; and

(5) Planning for the delivery of community services that:

(a) Promotes a high quality of life;

(b) Is based on ongoing individualized assessment of the strengths, needs and preferences of the person and the strengths of that person's family; and

(c) Identifies and considers connections in other areas of the person's life, including but not limited to family, allies, friends, work, recreation and spirituality.

Sec. B-157. 34-B MRSA §6001, as amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§ 6001. Legislative intent

It is the intent of the Legislature that social and habilitative services directed at persons who have been diagnosed as being autistic or having other pervasive developmental disorders be developed and planned for, to the extent that resources permit, by the Department of Health and Human Services through the Division of ~~Mental Retardation~~ Developmental Disabilities.

Sec. B-158. 34-B MRSA §6201, sub-§2, ¶B, as amended by PL 1993, c. 738, Pt. E, §3 and affected by §6, is further amended to read:

B. A child 17 years of age or younger who has treatment needs related to mental illness, ~~mental retardation~~, autism, developmental disabilities or emotional or behavioral needs that are not under current statutory authority of other state agencies; or

Sec. B-159. 34-B MRSA §6201, sub-§2, ¶C, as amended by PL 1995, c. 560, Pt. K, §67, is further amended to read:

C. A person 18 years of age or older and under 21 years of age who has treatment needs related to mental illness, ~~mental retardation~~, autism, developmental disabilities or emotional or behavioral needs if the department has determined that it is in the interest of that person to receive treatment through the department.

Sec. B-160. 34-B MRSA §6205, as amended by PL 2003, c. 706, Pt. A, §14, is further amended to read:

§ 6205. Services for juveniles committed to the youth development centers

1. Department authority. The department may provide consultation services to any juvenile with ~~mental retardation~~ a developmental disability committed to the Long Creek Youth Development Center or the Mountain View Youth Development Center if those services are requested by the Commissioner of Corrections or the commissioner's designee. Consultation services may include participation by appropriate department professionals on the Classification Committee of the Long Creek Youth Development Center or the Classification Committee of the Mountain View Youth Development Center in order to assist in the design of individual treatment plans to provide habilitation, education and skill training to juveniles with ~~mental retardation~~ developmental disabilities in residence at the Long Creek Youth Development Center or the Mountain View Youth Development Center.

2. Support services. Whenever a program has been designed for a juvenile with ~~mental retardation~~ a developmental disability by the Classification Committee of the Long Creek Youth Development Center or the Classification Committee of the Mountain View Youth Development Center and the classification committee has included participation by the department professionals, the department shall provide, insofar as possible, support services to implement that program.

3. Case management. The department may provide case management services to juveniles with ~~mental retardation~~ developmental disabilities who are released from the Long Creek Youth Development Center or the Mountain View Youth Development Center.

Sec. B-161. 36 MRSA §652, sub-§1, ¶C, as amended by PL 2007, c. 627, §20, is further amended to read:

C. Further conditions to the right of exemption under paragraphs A and B are that:

- (1) Any corporation claiming exemption under paragraph A must be organized and conducted exclusively for benevolent and charitable purposes;
- (2) A director, trustee, officer or employee of an organization claiming exemption may not receive directly or indirectly any pecuniary profit from the operation of that organization, except as reasonable compensation for services in effecting its purposes or as a proper beneficiary of its strictly benevolent or charitable purposes;
- (3) All profits derived from the operation of an organization claiming exemption and the proceeds from the sale of its property must be devoted exclusively to the purposes for which it is organized;
- (4) The institution, organization or corporation claiming exemption under this section must file with the assessors upon their request a report for its preceding fiscal year in such detail as the assessors may reasonably require;

(5) An exemption may not be allowed under this section in favor of an agricultural fair association holding pari-mutuel racing meets unless it has qualified the next preceding year as a recipient of a stipend from the Stipend Fund provided in Title 7, section 86;

(6) An exemption allowed under paragraph A or B for real or personal property owned and occupied or used to provide federally subsidized residential rental housing is limited as follows: Federally subsidized residential rental housing placed in service prior to September 1, 1993 by other than a nonprofit housing corporation that is acquired on or after September 1, 1993 by a nonprofit housing corporation and the operation of which is not an unrelated trade or business to that nonprofit housing corporation is eligible for an exemption limited to 50% of the municipal assessed value of that property.

An exemption granted under this subparagraph must be revoked for any year in which the owner of the property is no longer a nonprofit housing corporation or the operation of the residential rental housing is an unrelated trade or business to that nonprofit housing corporation.

(a) For the purposes of this subparagraph, the following terms have the following meanings.

(i) "Federally subsidized residential rental housing" means residential rental housing that is subsidized through project-based rental assistance, operating assistance or interest rate subsidies paid or provided by or on behalf of an agency or department of the Federal Government.

(ii) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(iii) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, located on one parcel of land and held in common ownership prior to the conversion to nonprofit status and containing 9 or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(iv) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit corporation of the purposes or functions constituting the basis for exemption under Section 501(c)(3) of the Code.

(b) Eligibility of the following property for exemption is not affected by the provisions of this subparagraph:

(i) Property used as a nonprofit nursing home, residential care facility licensed by the Department of Health and Human Services pursuant to Title 22, chapter 1663 or a community living arrangement as defined in Title 30-A, section 4357-A or any property owned by a nonprofit organization licensed or funded by the Department of Health and Human Services to provide services to or for the benefit of persons with mental illness or ~~mental retardation~~developmental disabilities;

(ii) Property used for student housing;

(iii) Property used for parsonages;

(iv) Property that was owned and occupied or used to provide residential rental housing that qualified for exemption under paragraph A or B prior to September 1, 1993; or

(v) Property exempt from taxation under other provisions of law; and

(7) In addition to the requirements of subparagraphs (1) to (4), an exemption is not allowed under paragraph A or B for real or personal property owned and occupied or used to provide residential rental housing that is transferred or placed in service on or after September 1, 1993, unless the property is owned by a nonprofit housing corporation and the operation of the residential rental housing is not an unrelated trade or business to the nonprofit housing corporation.

For the purposes of this subparagraph, the following terms have the following meanings.

(a) "Nonprofit housing corporation" means a nonprofit corporation organized in the State that is exempt from tax under Section 501(c)(3) of the Code and has among its corporate purposes the provision of services to people of low income or the construction, rehabilitation, ownership or operation of housing.

(b) "Residential rental housing" means one or more buildings, together with any facilities functionally related and subordinate to the building or buildings, containing one or more similarly constructed residential units offered for rental to the general public for use on other than a transient basis, each of which contains separate and complete facilities for living, sleeping, eating, cooking and sanitation.

(c) "Unrelated trade or business" means any trade or business whose conduct is not substantially related to the exercise or performance by a nonprofit organization of the purposes constituting the basis for exemption under Section 501(c)(3) of the Code.

Sec. B-162. 36 MRSA §1760, sub-§28, as amended by PL 1999, c. 708, §28; PL 2001, c. 354, §3; and PL 2003, c. 689, Pt. B, §6, is further amended to read:

28. Community mental health facilities, community developmental disability facilities and community substance abuse facilities. Sales to mental health facilities, ~~mental retardation~~developmental disability facilities or substance abuse facilities that are:

A. Contractors under or receiving support under the Federal Community Mental Health Centers Act, or its successors; or

B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204.

Sec. B-163. 36 MRSA §2551, sub-§1-B, as amended by PL 2007, c. 539, Pt. DDD, §2, is further amended to read:

1-B. Community support services for persons with developmental disabilities or autism. "Community support services for persons with ~~mental retardation~~developmental disabilities or autism" means services:

A. That are provided by community-based agencies to children or adults with ~~mental retardation~~developmental disabilities or autism and include assistance with the acquisition, retention or improvement of self-help, socialization and adaptive living skills; and

B. That take place in a nonresidential setting separate from the home or facility in which the child or adult resides, except when a physician has ordered that such services be provided in the child's or adult's home, and focus on enabling the child or adult to attain or maintain maximum functional levels.

"Community support services for persons with ~~mental retardation~~developmental disabilities or autism" includes only those services provided by designated agencies under a contract with the Department of Health and Human Services.

Sec. B-164. 36 MRSA §2551, sub-§7-B, as amended by PL 2007, c. 539, Pt. DDD, §3, is further amended to read:

7-B. Home support services. "Home support services" means services provided to adults with ~~mental-retardation~~developmental disabilities or autism, including direct assistance with eating, bathing, dressing, personal hygiene and other activities of daily living. These services include only those services provided by designated agencies under a contract with the Department of Health and Human Services and:

A. May include assistance with instrumental activities of daily living such as assistance with the preparation of meals, but does not include the cost of the meals themselves;

B. If specified in the adult's care plan, may include such housekeeping chores as bed making, dusting and vacuuming that are incidental to the care furnished, or are essential to the health and welfare of the adult; and

C. May be provided by a provider unrelated to the adult or by an adult relative other than an adult recipient's spouse, but may not be provided in the same setting where residential training is provided.

Sec. B-165. 36 MRSA §2552, sub-§1, ¶I, as amended by PL 2007, c. 539, Pt. DDD, §6, is further amended to read:

I. Community support services for persons with ~~mental-retardation~~developmental disabilities or autism; and

Sec. B-166. 36 MRSA §2557, sub-§6, as amended by PL 2007, c. 438, §60, is further amended to read:

6. Community mental health facilities, community developmental disability facilities and community substance abuse facilities. Sales to mental health facilities, ~~mental-retardation~~developmental disability facilities or substance abuse facilities that are:

A. Contractors under or receiving support under the federal Community Mental Health Centers Act, or its successors; or

B. Receiving support from the Department of Health and Human Services pursuant to Title 5, section 20005 or Title 34-B, section 3604, 5433 or 6204;

Sec. B-167. 36 MRSA §2559, as amended by PL 2007, c. 539, Pt. DDD, §9, is further amended to read:

§ 2559. Application of revenues

Revenues derived by the tax imposed by this chapter must be credited to a General Fund suspense account. On or before the last day of each month, the State Controller shall transfer a percentage of the revenues received by the State Tax Assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs A to F to the Local Government Fund as provided by Title 30-A, section 5681, subsection 5. The balance remaining in the General Fund suspense account must be transferred to service provider tax General Fund revenue. On or before the 15th day of each month, the State Controller shall transfer all revenues received by the assessor during the preceding month pursuant to the tax imposed by section 2552, subsection 1, paragraphs G to J to the Medical Care Services Other Special Revenue Funds account, the Other Special Revenue Funds Mental Health Services - Community

Medicaid program, the Medicaid Services - ~~Mental Retardation~~Developmental Disability program and the Office of Substance Abuse - Medicaid Seed program within the Department of Health and Human Services.

Sec. B-168. 36 MRS §2871, sub-§6, as amended by PL 2003, c. 2, Pt. GG, §1 and affected by §3, is further amended to read:

6. Residential treatment facility. "Residential treatment facility" means an intermediate care facility for the ~~mentally retarded~~persons with developmental disabilities, or a level I assisted living facility for the ~~mentally retarded~~persons with developmental disabilities, that falls within the definitions provided by the United States Social Security Act, 42 United States Code, Section 1396(d) and that provides services to individuals with developmental disabilities. "Residential treatment facility" also means a community-based facility that provides similar services to the developmentally disabled under a waiver granted pursuant to the United States Social Security Act, 42 United States Code, Section 1396n(c) to the extent permitted by federal law and regulations.

Sec. B-169. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 34-B, chapter 5, in the chapter headnote, the words "mental retardation" are amended to read "developmental disability" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-170. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 2, in the subchapter headnote, the words "mental retardation services" are amended to read "departmental services for persons with developmental disabilities" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-171. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 3, in the subchapter headnote, the words "services for mentally retarded persons" are amended to read "services for persons with developmental disabilities" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-172. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 3, article 1, in the article headnote, the words "state-operated facilities for mentally retarded persons" are amended to read "state-operated facilities for persons with developmental disabilities" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-173. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 34-B, chapter 5, subchapter 4, in the subchapter headnote, the words "rights of persons with mental retardation or autism" are amended to read "rights of persons with developmental disabilities or autism" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

SUMMARY

This bill makes several changes throughout the Maine Revised Statutes to avoid certain terms or phrases that might be construed as disrespectful. The terminology removed is replaced with more respectful alternatives that place people first.

Part A removes the terms "common drunkard," "lunatic," "mentally deranged" and "senile" from the statutes and removes language that refers to persons being "afflicted" with a condition.

Part B removes references to "mental retardation" and "mentally retarded" and changes the reference to "persons with developmental disabilities."