

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 Restructure the Department of Health and Human Services

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

PART A

Sec. A-1. 3 MRSA §959, sub-§1, ¶F, as amended by PL 2007, c. 356, §1 and affected by c. 695, Pt. D, §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;~~

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

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

(9) Maine Developmental Disabilities Council in 2011.

Sec. A-2. 4 MRSA §422, sub-§2, ¶A, as enacted by PL 1999, c. 780, §1 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

A. The Department of Health and Human Services, ~~Office of Substance Abuse~~ or other federal-licensed treatment providers or state-licensed treatment providers to provide substance abuse services for alcohol and drug treatment program participants. To the extent possible, the alcohol and drug treatment programs must access existing substance abuse treatment resources for alcohol and drug treatment program participants;

Sec. A-3. 5 MRSA §939-A, as enacted by PL 1993, c. 410, Pt. LL, §1, is repealed.

Sec. A-4. 5 MRSA §19202, sub-§2-B, ¶A, as enacted by PL 2009, c. 203, §4 and affected by §8, is amended to read:

A. The committee includes 7 members as follows, of whom only the Legislators are voting members:

(1) Two members of the Legislature, one Senator nominated by the President of the Senate and one Representative nominated by the Speaker of the House of Representatives;

(2) The director of the HIV, STD and viral hepatitis program within the Department of Health and Human Services, Maine Center for Disease Control and Prevention;

(3) A representative of the Department of Education, nominated by the Commissioner of Education;

(4) A representative of the Department of Corrections, nominated by the Commissioner of Corrections;

(5) A representative of the organizational unit of the Department of Health and Human Services; Office of Substance Abuse that provides programs and services for substance abuse prevention and treatment, nominated by the Commissioner of Health and Human Services; and

(6) A representative of the Department of Health and Human Services, Office of MaineCare Services, nominated by the Commissioner of Health and Human Services.

Sec. A-5. 5 MRSA §20002, sub-§§2 and 3, as amended by PL 2007, c. 116, §1, are further amended to read:

2. Coordination of activities and services. To establish ~~a single administrative unit~~ within the Department of Health and Human Services, ~~with the~~ responsibility for planning, developing, implementing, coordinating and evaluating all of the State's alcohol and other drug abuse prevention and treatment activities and services;

3. Tobacco use by juveniles. To enforce the State's laws relating to the sale and use of tobacco products by juveniles and to coordinate state and local activities related to those provisions. The ~~office~~department shall take all necessary actions to ensure compliance with the Synar Act, 42 United States Code, Section 300X-26, including the preparations of reports for the signature of the Governor. All law enforcement agencies, all state departments, including the Department of Public Safety, and municipalities shall cooperate with the ~~office~~department in these efforts.

The ~~office~~department may enter into any contracts or agreements necessary or incidental to the performance of its duties under this section, subject to section 20005, subsection 6 and section 20005-A. The ~~office~~department shall provide or assist in the provision of voluntary training programs regarding the sales of tobacco products to juveniles; and

Sec. A-6. 5 MRSA §20002, sub-§4, as enacted by PL 2007, c. 116, §1, is amended to read:

4. Gambling addiction counseling. To establish standards for the provision of gambling addiction counseling services and other activities relating to the prevention and treatment of gambling addiction. The ~~office~~department may accept private, state and federal funds to support the performance of its duties under this subsection.

Sec. A-7. 5 MRSA §20003, sub-§2, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

2. Approved public treatment facility. "Approved public treatment facility" means an alcohol treatment facility operating under the direction and control of the ~~office~~department or providing treatment under this subchapter through a contract with the ~~office~~department under section 20008, or any facility funded in whole or in part by municipal, state or federal funds.

Sec. A-8. 5 MRSA §20003, sub-§3, as amended by PL 1991, c. 850, §2, is further amended to read:

3. Approved treatment facility. "Approved treatment facility" means a public or private alcohol treatment facility meeting standards approved by the ~~office~~department in accordance with section 20005 and licensed pursuant to subchapter ~~¶~~5 and other applicable provisions of state law.

Sec. A-9. 5 MRSA §20003, sub-§3-B, as enacted by PL 1995, c. 560, Pt. L, §2 and affected by §16 and amended by PL 2001, c. 354, §3, is further amended to read:

3-B. Commissioner. "Commissioner" means the Commissioner of ~~Behavioral and Development Services~~Health and Human Services.

Sec. A-10. 5 MRSA §20003, sub-§6, as amended by PL 1991, c. 601, §4, is further amended to read:

6. Department. "Department" means the Executive Department of Health and Human Services.

Sec. A-11. 5 MRSA §20003, sub-§8, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

Sec. A-12. 5 MRSA §20003, sub-§17, as enacted by PL 1989, c. 934, Pt. A, §3, is repealed.

Sec. A-13. 5 MRSA §20003, sub-§20, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

20. Standards. "Standards" means criteria and rules of the ~~office~~ or the department that are to be met before and during operation of any treatment facility or treatment program.

Sec. A-14. 5 MRSA §20004, as repealed and replaced by PL 1995, c. 560, Pt. L, §3 and affected by §16 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. A-15. 5 MRSA §20004-A, as enacted by PL 1993, c. 410, Pt. LL, §6, is amended to read:

§ 20004-A. Departments and agencies responsible for cooperation in implementation

All departments and agencies in State Government are required to cooperate with the ~~office~~department in its implementation and administration of this chapter.

Sec. A-16. 5 MRSA §20005, first ¶, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The ~~office~~department shall:

Sec. A-17. 5 MRSA §20005, sub-§2, as amended by PL 1991, c. 601, §6, is further amended to read:

2. Comprehensive plan. Develop and provide for the implementation of a comprehensive state plan for alcohol and drug abuse. Any plan developed by the ~~office~~department must be subject to public hearing prior to implementation;

Sec. A-18. 5 MRSA §20005, sub-§5, as amended by PL 1995, c. 560, Pt. L, §4 and affected by §16, is further amended to read:

5. Budget. Develop and submit to the Legislature by January 15th of the first year of each legislative biennium recommendations for continuing and supplemental allocations, deappropriations or reduced allocations and appropriations from all funding sources for all state alcohol and drug abuse programs. The ~~office~~department shall make final recommendations to the Governor before any substance abuse funds are appropriated or deappropriated in the Governor's proposed budget. The ~~office~~department shall formulate all budgetary recommendations for the Driver Education and Evaluation Programs with the advice, consultation and full participation of the chief executive officer of the Driver Education and Evaluation Programs.

Notwithstanding any other provision of law, funding appropriated and allocated by the Legislature for the ~~Office of Substance Abuse~~department for substance abuse prevention and treatment is restricted solely to the ~~that~~ use of ~~that office~~ and may not be used for other expenses of ~~any other part of~~ the department. By January 15th of each year, the ~~director~~commissioner or the commissioner's designee shall deliver a report of the budget and expenditures of the ~~office~~department for substance abuse prevention and treatment to the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and human resource matters;

Sec. A-19. 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~~commissioner:

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 other divisions of the department~~ as long as that delegation ensures that contracting for alcohol and other drug abuse services provided in

community settings ~~are~~is consolidated within the ~~Department of Health and Human Services~~department, that contracting for alcohol and other drug abuse services delivered within correctional facilities ~~are~~is consolidated within the Department of Corrections and that contracting for alcohol and other drug abuse services delivered within mental health and mental retardation facilities ~~are~~is consolidated within the department.

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. A-20. 5 MRSA §20005, sub-§12, as amended by PL 1991, c. 601, §6, is further amended to read:

12. Rules. Adopt rules, in accordance with the Maine Administrative Procedure Act, necessary to carry out the purposes of this chapter and approve any rules adopted by state agencies for the purpose of implementing alcohol or drug abuse prevention or treatment programs.

All state agencies must comply with rules adopted by the ~~office~~department regarding uniform alcohol and other drug abuse contracting requirements, formats, schedules, data collection and reporting requirements;

Sec. A-21. 5 MRSA §20005, sub-§14, as enacted by PL 1993, c. 410, Pt. LL, §10, is further amended to read:

14. Interdepartmental cooperation. Document to the Legislature's satisfaction; active participation and cooperation between the ~~office~~department and the other departments with which it works through the commission;

Sec. A-22. 5 MRSA §20005, sub-§16, as enacted by PL 1993, c. 410, Pt. LL, §10, is amended to read:

16. Substance abuse services plan. Plan for not only those services funded directly by the ~~office~~department, but also those additional services determined by the commission to be critical and related;

Sec. A-23. 5 MRSA §20006-A, as amended by PL 2007, c. 539, Pt. N, §7, is further amended to read:

§ 20006-A. Commissioner duties

The ~~director~~commissioner or the commissioner's designee shall:

1. Alternatives. Propose alternatives to current alcohol and drug abuse prevention and treatment programs and services;

2. Investigate. Conduct investigations and studies of any alcohol or drug abuse program or community service provider operating under the control of the ~~office~~department or providing treatment under this chapter through a contract with the ~~office~~department under section 20008; that are licensed pursuant to section 20024 or any facility funded in whole or in part by municipal, state or local funds, as necessary; and

3. Other duties and powers. Carry out other duties and exercise other powers granted to the ~~director~~commissioner under this Act and ~~delegated to the director by the commissioner~~ under Title 22-A, section 207, subsection 3.

Sec. A-24. 5 MRSA §20006-B, as enacted by PL 2009, c. 622, §1, is amended to read:

§ 20006-B. Gambling Addiction Prevention and Treatment Fund

1. Fund established. The Gambling Addiction Prevention and Treatment Fund, referred to in this section as "the fund," is established for the purpose of supporting gambling addiction analysis, prevention and treatment to be administered by the ~~office~~department. The fund is a dedicated, nonlapsing fund into which payments are received in accordance with Title 8, section 1036, subsection 2.

2. Report. The ~~director~~commissioner or the commissioner's designee shall report annually by March 1st to the joint standing committee of the Legislature having jurisdiction over gambling matters. The report must include a description of a continuum of care model used to identify the need for gambling addiction services, prevention efforts, intervention and treatment provided using money from the fund. The report must describe any collaborative efforts between the ~~office~~department, the Gambling Control Board established under Title 8, section 1002 and slot machine operators licensed in accordance with Title 8, chapter 31 to support the purpose of the fund described in subsection 1. The ~~director~~commissioner may submit recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over gambling matters, which is authorized to submit that legislation to the Legislature.

Sec. A-25. 5 MRSA §20007, as amended by PL 1995, c. 165, §1, is further amended to read:

§ 20007. Agency cooperation

State agencies shall cooperate fully with the officedepartment and council in carrying out this chapter. A state agency may not develop, establish, conduct or administer any alcohol or drug abuse prevention or treatment program without the approval of the officedepartment. The officedepartment may request personnel, facilities and data from other agencies as the directorcommissioner finds necessary to fulfill the purposes of this Act.

Sec. A-26. 5 MRSA §20008, first ¶, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The officedepartment shall establish and provide for the implementation of a comprehensive and coordinated program of alcohol and drug abuse prevention and treatment in accordance with subchapters H2 and H3 and the purposes of this Act. The program must include the following elements.

Sec. A-27. 5 MRSA §20008, sub-§3, as amended by PL 1991, c. 601, §10, is further amended to read:

3. Treatment. The officedepartment shall provide for adequate and appropriate treatment for alcoholics, ~~drugs~~drug abusers, drug addicts and drug-dependent persons admitted under sections 20043 to 20044. Treatment may not be provided at a correctional institution, except for inmates.

Sec. A-28. 5 MRSA §20008, sub-§4, as enacted by PL 1991, c. 601, §11, is amended to read:

4. Contract with facilities. The officedepartment shall contract with approved treatment facilities whenever possible. The administrator of any treatment facility may receive for observation, diagnosis, care and treatment in the facility any person whose admission is applied for under any of the procedures in this subchapter.

Sec. A-29. 5 MRSA §20009, first ¶, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

The officedepartment shall plan alcohol and drug abuse prevention and treatment activities in the State and prepare and submit to the Legislature the following documents:

Sec. A-30. 5 MRSA §20021, as amended by PL 1991, c. 601, §14, is further amended to read:

§ 20021. Public awareness

The officedepartment shall create and maintain a program to increase public awareness of the impacts and prevalence of alcohol and drug abuse. The public awareness program must include promotional and technical assistance to local governments, schools and public and private nonprofit organizations interested in alcohol and drug abuse prevention.

Sec. A-31. 5 MRSA §20022, first ¶, as amended by PL 1991, c. 601, §15, is further amended to read:

As part of its comprehensive prevention and treatment program, the officedepartment shall operate an information clearinghouse and oversee, support and coordinate a resource center within the Department of Education. The information clearinghouse and resource center constitute a comprehensive reference center of information related to the nature, prevention and treatment of alcohol and other

drug abuse. In fulfillment of the requirement of this section, the resource center may be located within the Department of Education and may operate there pursuant to a memorandum of agreement between the ~~office and the department~~ departments. Information must be available for use by the general public, political subdivisions, public and private nonprofit agencies and the State.

Sec. A-32. 5 MRSA §20023, as amended by PL 1991, c. 601, §§16 and 17, is further amended to read:

§ 20023.Education

To the fullest extent possible, the Commissioner of Education shall coordinate all elementary and secondary school alcohol and drug abuse education programs administered by the Department of Education and funded under the federal Drug-Free Schools and Communities Act of 1986 with programs administered by the ~~office~~Department of Health and Human Services. The Commissioner of Education shall participate in planning, budgeting and evaluation of alcohol and other drug abuse programs, in cooperation with the Substance Abuse Advisory Group, and ensure that alcohol and drug abuse education programs administered by the Department of Education that involve any community participation are coordinated with available treatment services.

~~The Commissioner of Education, in cooperation with the Substance Abuse Advisory Group, shall prepare a plan to ensure the coordination and consolidation of alcohol and other drug abuse education programs and must present the plan to the director by January 1, 1992. The plan must be consistent with requirements of the federal Drug-Free Schools and Communities Act of 1986 and this chapter.~~

Nothing in this section interferes with the authority of the Department of Education to receive and allocate federal funds under the federal Drug-Free Schools and Communities Act of 1986.

Sec. A-33. 5 MRSA §20024, as amended by PL 2011, c. 145, §1, is further amended to read:

§ 20024.Licensing

The ~~office~~department shall periodically enter, inspect and examine a treatment facility or program and examine its books, programs, standards, policies and accounts. This examination process must include a review of the requirements to be a community-based service provider pursuant to subchapter ~~¶~~5. The ~~office~~department shall fix and collect the fees for the inspection and certification and shall maintain a list of approved public and private treatment facilities.

Upon request by the ~~office~~department, each approved public and private treatment facility must provide data, statistics, schedules and information that the ~~office~~department reasonably requires. The ~~director~~commissioner may remove a facility that fails to provide such information from the list of approved facilities.

An approved public or private treatment facility may not refuse inspection or examination by the ~~office~~department under this section.

Procedures to decertify any facility or to refuse certification are governed by the Maine Administrative Procedure Act.

A treatment facility or program that receives and maintains accreditation from a national accrediting body approved by the department must be deemed in compliance with comparable state licensing rules upon its submission to the department of written evidence of compliance including, but not limited to, national accreditation approval, reports, findings and responses. The department may review compliance under this paragraph in response to a complaint against the facility or program.

Sec. A-34. 5 MRSA §20041, sub-§1, as amended by PL 1991, c. 601, §20, is further amended to read:

1. Data collection; sources. The ~~office~~department shall collect data and use information from other sources to evaluate or provide for the evaluation of the impact, quality and value of alcohol and drug abuse prevention activities, treatment facilities and other alcohol and other drug abuse programs.

Sec. A-35. 5 MRSA §20042, as amended by PL 1991, c. 601, §20, is further amended to read:
§ 20042. Standards

The ~~office~~department shall contract for treatment services only with approved treatment facilities.

Sec. A-36. 5 MRSA §20043, first ¶, as amended by PL 1991, c. 601, §20, is further amended to read:

The ~~office~~department shall adopt rules for acceptance of persons into a treatment program, considering available treatment resources and facilities, for the purpose of early and effective treatment of alcoholics, drug abusers, drug addicts and drug-dependent persons.

Sec. A-37. 5 MRSA §20043, 2nd ¶, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

In establishing rules, the ~~office~~department must be guided by the following standards.

Sec. A-38. 5 MRSA §20043, sub-§6, as amended by PL 1991, c. 601, §20, is further amended to read:

6. Denial of treatment services. A person, firm or corporation licensed by the ~~Office of Substance Abuse~~department as an approved alcohol or drug treatment facility under Title 5, section 20005 to provide shelter or detoxification services, and that receives any funds administered by the ~~office~~department to provide substance abuse prevention and treatment services, may not deny treatment to any person because of that person's inability or failure to pay any assessed fees.

Sec. A-39. 5 MRSA §20044, sub-§2, as amended by PL 1991, c. 601, §20, is further amended to read:

2. Determination. A person who comes voluntarily or is brought to an approved treatment facility for residential care and treatment must be examined immediately by a licensed physician. That person may then be admitted or referred to another health facility based upon the physician's recommendation. Subject to rules adopted by the ~~office~~department, the administrator in charge of an approved treatment facility may determine who may be admitted for treatment. If a person is

refused admission to an approved treatment facility, the administrator, subject to rules adopted by the ~~office~~department, shall refer the person to another approved treatment facility for treatment if possible and appropriate.

Sec. A-40. 5 MRSA §20047, sub-§2, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

2. Information for research. Notwithstanding subsection 1, the ~~director~~commissioner may make available information from patients' records for purposes of research into the causes and treatment of alcoholism and drug abuse. Information under this subsection may not be published in a way that discloses patients' names or other identifying information.

Sec. A-41. 5 MRSA §20048, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

§ 20048. Visitation and communication of patients

1. Hours of visitation. Subject to reasonable rules regarding hours of visitation ~~which~~that the ~~director~~commissioner may adopt, patients in any approved treatment facility must be granted opportunities for adequate consultation with counsel and for continuing contact with family and friends consistent with an effective treatment program.

2. Communication. Mail or other communication to or from a patient in any approved treatment facility may not be intercepted, read or censored. The ~~director~~commissioner may adopt reasonable rules regarding the use of telephones by patients in approved treatment facilities.

3. Restrictions. The patient may exercise all civil rights, including, but not limited to, civil service status; the right to vote; rights relating to the granting, renewal, forfeiture or denial of a license, permit, privilege or benefit pursuant to any law; and the right to enter contractual relationships and to manage the patient's property, except:

A. To the extent the ~~director~~commissioner determines that it is necessary for the medical welfare of the patient to impose restrictions, unless the patient has been restored to legal capacity; or

B. When specifically restricted by other laws or rules.

Restrictions on the exercise of civil rights may not be imposed on any patient solely because of the fact of that person's admission to a mental hospital.

Sec. A-42. 5 MRSA §20050, sub-§3, as enacted by PL 1989, c. 934, Pt. A, §3, is amended to read:

3. Finances. The ~~office~~department shall adopt rules governing financial ability that take into consideration the patient's income, savings, other personal and real property and any support being furnished to any other person that the patient is required by law to support.

Sec. A-43. 5 MRSA §20065, sub-§8, as amended by PL 1995, c. 560, Pt. L, §9 and affected by §16, is further amended to read:

8. Administrative and financial assistance. The ~~office~~department shall provide the commission administrative or financial assistance that is available from ~~office~~department resources.

Sec. A-44. 5 MRSA §20067, first ¶, as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

The commission, in cooperation with the ~~office~~department, has the following duties.

Sec. A-45. 5 MRSA §20067, sub-§1-A, as enacted by PL 1995, c. 560, Pt. L, §11 and affected by §16, is amended to read:

1-A. Advise the department. The commission shall advise the ~~office~~department in the development and implementation of significant policy matters relating to substance abuse.

Sec. A-46. 5 MRSA §20067, sub-§3, as enacted by PL 1993, c. 410, Pt. LL, §12, is amended to read:

3. Serve as advocate; review and evaluate; inform the public. The commission shall serve as an advocate on alcoholism and drug abuse prevention, promoting and assisting activities designed to meet the problems of drug abuse and drug dependence at the national and state levels. With the support of the ~~office~~department, the commission shall review and evaluate on a continuing basis state and federal policies and programs relating to drug abuse and other activities conducted or assisted by state departments or agencies that affect persons who abuse or are dependent on drugs. In cooperation with the ~~office~~department, the commission shall keep the public informed by collecting and disseminating information, by conducting or commissioning studies and publishing the results of those studies, by issuing publications and reports and by providing public forums, including conferences and workshops.

Sec. A-47. 5 MRSA §20072, first ¶, as amended by PL 1995, c. 560, Pt. L, §12 and affected by §16, is further amended to read:

The Driver Education and Evaluation Programs are established in the ~~office~~department. The Driver Education and Evaluation Programs shall administer the alcohol and other drug education, evaluation and treatment programs as provided in this chapter. The ~~office~~department shall certify to the Secretary of State:

Sec. A-48. 5 MRSA §20073-B, as enacted by PL 1999, c. 448, §6, is amended to read:

§ 20073-B. Programs and components; rules

The ~~office~~department shall design programs and components that are age-appropriate and therapeutically appropriate. The ~~office~~department shall adopt rules regarding requirements for these programs and components and any other rules necessary to implement this subchapter. Rules adopted pursuant to this section are routine technical rules as defined in chapter 375, subchapter ~~H-A2-A~~.

Sec. A-49. 5 MRSA §20074, as amended by PL 1991, c. 850, §9, is further amended to read:

§ 20074. Separation of evaluation and treatment functions

A Driver Education and Evaluation Programs private practitioner or a counselor employed by a substance abuse facility approved or licensed by the office~~department~~ providing services under this subchapter may not provide both treatment services and evaluation services for the same individual participating in programs under this subchapter unless a waiver is granted on a case-by-case basis by the Driver Education and Evaluation Programs. The practitioner or counselor providing evaluation services shall give a client the name of 3 practitioners or counselors who can provide treatment services, at least one of whom may not be employed by the same agency as the practitioner or counselor conducting the evaluation.

Sec. A-50. 5 MRSA §20075, as amended by PL 2001, c. 511, §2, is further amended to read:

§ 20075.Certification; recertification

All providers of the evaluation, intervention and treatment components of the Driver Education and Evaluation Programs must be certified by the office~~department~~ pursuant to section 20005, section 20024, section 20073-B and this subchapter. The certification period for individual providers and agencies is 2 years. The office~~department~~ shall adopt rules requiring continuing education for recertification.

Sec. A-51. 5 MRSA §20076-B, as enacted by PL 1999, c. 448, §9, is amended to read:

§ 20076-B.Fees

The office~~department~~ shall set fees in accordance with the cost of each program. All fees must be transferred to the General Fund. The office~~department~~ may waive all or part of any fee for a client who provides sufficient evidence of inability to pay.

Sec. A-52. 5 MRSA §20077, as enacted by PL 1991, c. 601, §28, is amended to read:

§ 20077.Report

Beginning in 1992, the director~~commissioner~~ shall report annually by February 1st to the joint standing committee of the Legislature having jurisdiction over human resource matters regarding the office's~~department's~~ activities under this subchapter. A copy of the report must be sent to the Executive Director of the Legislative Council.

Sec. A-53. 5 MRSA §20078-A, sub-§3, as enacted by PL 1993, c. 631, §7, is amended to read:

3. Facilities; staff. The director~~commissioner~~ shall provide staff support and adequate facilities for the board.

Sec. A-54. 5 MRSA §20078-A, sub-§4, as enacted by PL 1993, c. 631, §7, is amended to read:

4. Chair; rules. The board shall elect annually a chair from its members. The director~~commissioner~~ shall adopt rules to carry out the purposes of this section.

Sec. A-55. 12 MRSA §10701, sub-§3, ¶D, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9 and amended by c. 689, Pt. B, §6, is further amended to read:

D. In addition to the penalties provided under paragraphs A to C, the court may order the defendant to participate in the alcohol and other drug education, evaluation and treatment programs for multiple offenders administered by the Department of Health and Human Services, ~~Office of Substance Abuse~~, as established ~~in~~ under Title 5, chapter 521.

Sec. A-56. 17 MRSA §2005, sub-§3, as enacted by PL 1997, c. 756, §1 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

3. Reporting. Beginning April 30, 1998 and monthly thereafter, each law enforcement agency shall submit a copy of its records of all known incidents of public intoxication to the Department of Public Safety. These records may not include individuals' names. Beginning June 30, 1998 and quarterly thereafter, the Department of Public Safety shall forward these records to the Department of Health and Human Services, ~~Office of Substance Abuse~~. The records must include at least the following information:

- A. The number of reported cases of public intoxication;
- B. The number of persons who are reported more than one time pursuant to paragraph A;
- C. The number of persons voluntarily transported to a state-licensed treatment facility or shelter as a result of reported incidents of public intoxication;
- D. The number of persons voluntarily transported to their residence or left with a family member or friend as a result of reported incidents of public intoxication; and
- E. The number of intoxicated persons left at the scene of the reported incident or at another public place.

Sec. A-57. 20-A MRSA §6621, as enacted by PL 2005, c. 674, §3, is amended to read:

§ 6621. Performance-enhancing substances

1. List of banned substances. ~~By January 1, 2007 the Director of the Office of Substance Abuse within the Department~~ The Commissioner of Health and Human Services, ~~known in this subchapter as "the director,"~~ shall develop a list of banned performance-enhancing substances. The list must include, but is not limited to, the following:

- A. Ephedrine;
- B. Synephrine, also known as bitter orange;
- C. Dehydroepiandrosterone;
- D. All dietary supplements as defined by 21 United States Code, Section 321, Subsection (ff) that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations; and
- E. All other substances that are on a banned substance list maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations except for:

(1) A substance that is otherwise illegal in this State; or

(2) A substance the use of which by minors is illegal in this State.

2. Amendments to list. The ~~director~~Commissioner of Health and Human Services shall amend the banned substances list each time a dietary supplement or other substance referenced in subsection 1, paragraph D or E is added to the list of banned substances maintained by the National Collegiate Athletic Association or the World Anti-Doping Agency or their successor organizations. For a substance to be prohibited under section 6624 in a particular school year, the substance must be added to the banned substances list maintained under this section no later than July 1st preceding that school year.

3. Notification. The ~~director~~Commissioner of Health and Human Services shall notify the department, the Maine School Management Association and the Maine Principals' Association or their successor organizations when the initial list of banned substances is complete and of any subsequent changes to the list. The department shall notify all school administrative units that have students who participate in sports of the availability of the list. The ~~director~~Commissioner of Health and Human Services shall post the list on its~~the~~ publicly accessible website of the Department of Health and Human Services.

Sec. A-58. 22 MRSA §272, sub-§2, as enacted by PL 1997, c. 560, Pt. D, §2 and amended by PL 2001, c. 354, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

2. Tobacco Prevention and Control Advisory Council. The Tobacco Prevention and Control Advisory Council is established under Title 5, section 12004-I, subsection 36-D to review the program. The advisory council shall provide advice to the bureau in carrying out its duties under this section and ensure coordination of the program with relevant nonprofit and community agencies and the Department of Education, the department, ~~the Office of Substance Abuse~~ and other relevant state agencies. The advisory council consists of 9 members, appointed as follows:

A. Two public health officials, appointed by the Governor;

B. Two representatives of nonprofit organizations involved in seeking to reduce the use of tobacco products in the State, with one representative appointed by the President of the Senate and one representative appointed by the Speaker of the House of Representatives;

C. A person who designs and implements issue-oriented public health media campaigns, appointed by the Governor;

D. Two persons involved in designing and implementing community-based education or cessation programs for the prevention of tobacco products use, one to focus on adults, appointed by the President of the Senate, and one to focus on youth, appointed by the Speaker of the House of Representatives; and

E. Two members of the public, appointed jointly by the President of the Senate and the Speaker of the House of Representatives in consultation with the leaders of the minority political party.

Appointments to the advisory council must be made by October 15, 1997. Members serve for 3-year terms and may be reappointed. When the appointment of all members is complete, the Governor or the Governor's designee shall convene the first meeting of the advisory council no later than November 15, 1997. The advisory council shall choose a chair from among its members and establish its procedure for reaching decisions. The bureau shall provide staff assistance to the advisory council. The advisory council shall report annually on the program to the Governor and the Legislature by December 1st and include any recommendations or proposed legislation to further the purposes of the program.

The appointing authority shall fill a vacancy on the advisory council for the remainder of the vacant term. Each member who is not a salaried employee is entitled to compensation as provided in Title 5, section 12004-I, subsection 36-D, following approval of expenses by the Director of the Bureau of Health.

Sec. A-59. 22 MRSA §1551-A, sub-§5, as enacted by PL 1995, c. 470, §9 and affected by §19, is repealed.

Sec. A-60. 22 MRSA §1558, sub-§8, ¶A, as amended by PL 2005, c. 223, §5, is further amended to read:

A. The District Court shall maintain a record of all fines received by the court. Any fines received must be credited as follows: 1/2 to the Department of Health and Human Services in a nonlapsing account to be used by the department to defray administrative costs of retail tobacco licensing and 1/2 to a nonlapsing account to be used by the Attorney General to support enforcement and responsible retailing education programs. Annually, the court shall report to the ~~Office of Substance Abuse~~ department the total amount of fines collected.

Sec. A-61. 22 MRSA §1558-A, sub-§2, as enacted by PL 1995, c. 470, §9 and affected by §19 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

2. Notice to department. The District Court shall forward to the department notice of final disposition of all proceedings conducted pursuant to this subchapter. The department shall maintain the records of the proceedings for at least 5 years. ~~Annually, the department shall report a summary of the types and number of cases heard and the dispositions of the cases to the Office of Substance Abuse.~~

Sec. A-62. 22 MRSA §2351, as enacted by PL 2005, c. 430, §5 and affected by §10, is amended to read:

§ 2351. Maine Meth Watch Program

1. Establishment; purpose. The ~~Office of Substance Abuse~~ department shall establish the Maine Meth Watch Program to educate retailers, retail employees and the public in order to help curtail suspicious sales and the theft of methamphetamine precursor drugs as defined in Title 17-A, section 1101, subsection 4-A and to identify the location of illicit methamphetamine manufacturing.

2. Rulemaking. The ~~Office of Substance Abuse~~department may adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-63. 22 MRSA §3739, sub-§2, ¶G, as enacted by PL 1993, c. 158, §2, is amended to read:

G. One employee of the ~~Office of Substance Abuse~~organizational unit of the department that provides programs and services for substance abuse prevention and treatment, appointed by the Director of the Office of Substance Abusecommissioner;

Sec. A-64. 22 MRSA §4004-A, sub-§3, as corrected by RR 2003, c. 2, §77, is amended to read:

3. Additional parties. The Department of Corrections, the Department of Education,~~the Office of Substance Abuse~~ and any other appropriate state agency may be additional parties to the agreement.

Sec. A-65. 22 MRSA §7246, sub-§4, as enacted by PL 2003, c. 483, §1 and amended by c. 689, Pt. B, §6, is repealed.

Sec. A-66. 22 MRSA §7247, as amended by PL 2011, c. 380, Pt. WW, §1, is further amended to read:

§ 7247. Controlled Substances Prescription Monitoring Program Fund

The Controlled Substances Prescription Monitoring Program Fund is established within the ~~office~~department to be used by the ~~director of the office~~commissioner to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the ~~office~~department. The ~~office~~commissioner may accept funds into the fund from any source, public or private, including grants or contributions of money or other things of value, that ~~the commissioner~~ determines necessary to carry out the purposes of this chapter. Money received by the ~~office~~department to establish and maintain the program must be used for the expenses of administering this chapter.

Sec. A-67. 22 MRSA §7248, as enacted by PL 2003, c. 483, §1, is amended to read:

§ 7248. Controlled Substances Prescription Monitoring Program

1. Establishment of monitoring program. Contingent upon the receipt of funds pursuant to section 7247 sufficient to carry out the purposes of this chapter, the Controlled Substances Prescription Monitoring Program is established. No later than January 2, 2004, to implement the program, the ~~office~~department shall establish an electronic system for monitoring any controlled substance that is dispensed to a person in the State by a dispenser.

2. Contract for services. The ~~office~~department may contract with a vendor to establish and maintain the program pursuant to rules adopted by the ~~office~~department.

3. Information available. The program must rapidly provide information in an electronic format to prescribers and dispensers.

Sec. A-68. 22 MRSA §7249, as enacted by PL 2003, c. 483, §1, is amended to read:

§ 7249. Reporting of prescription monitoring information

1. Information required. Each dispenser shall submit to the officedepartment, by electronic means or other format specified in a waiver granted by the officedepartment, specific items of information regarding dispensed controlled substances determined by the office from the following list:

- A. The dispenser identification number;
- B. The date the prescription was filled;
- C. The prescription number;
- D. Whether the prescription is new or is a refill;
- E. The National Drug Code (NDC) for the drug dispensed;
- F. The quantity dispensed;
- G. The dosage;
- H. The patient identification number;
- I. The patient name;
- J. The patient address;
- K. The patient date of birth;
- L. The prescriber identification number;
- M. The date the prescription was issued by the prescriber; and
- N. The office-issueddepartment-issued serial number if the officedepartment chooses to establish a serial prescription system.

2. Frequency. Each dispenser shall submit the information required under subsection 1 as frequently as specified by the officedepartment.

3. Waiver. The officedepartment may grant a waiver of the electronic submission requirement under subsection 1 to any dispenser for good cause, including financial hardship, as determined by the officedepartment. The waiver must state the format and frequency with which the dispenser is required to submit the required information.

4. Immunity from liability. A dispenser is immune from liability for disclosure of information if the disclosure was made pursuant to and in accordance with this chapter.

Sec. A-69. 22 MRSA §7250, as amended by PL 2011, c. 218, §§1 to 4, is further amended to read:

§ 7250. Access to prescription monitoring information and confidentiality

1. Confidentiality. Except as provided in this section, prescription monitoring information submitted to the officedePARTMENT is confidential and is not a public record as defined in Title 1, section 402, subsection 3.

2. Review of information. If the prescription monitoring information surpasses thresholds as established by the officedePARTMENT, the officedePARTMENT shall notify the prescriber, the dispenser and, if the officedePARTMENT determines it to be necessary, the professional licensing entity and provide all relevant prescription monitoring information to those persons and entities through an established letter of notification.

3. Permissible disclosure of information. The officedePARTMENT may provide prescription monitoring information for public research, policy or education purposes as long as all information reasonably likely to reveal the patient or other person who is the subject of the information has been removed.

4. Access to information. The following persons may access prescription monitoring information:

- A. A prescriber, insofar as the information relates to a patient under the prescriber's care;
- B. A dispenser, insofar as the information relates to a customer of the dispenser seeking to have a prescription filled;
- C. The executive director, or a board investigator as designated by each board, of the state boards of licensure of podiatric medicine, dentistry, pharmacy, medicine, osteopathy, veterinary medicine, nursing or other boards representing health care disciplines whose licensees are prescribers, as required for an investigation, with reasonable cause;
- D. A patient to whom a prescription is written, insofar as the information relates to that patient;
- E. OfficeDepartment personnel or personnel of any vendor or contractor, as necessary for establishing and maintaining the program's electronic system;
- F. The Office of Chief Medical Examiner for the purpose of conducting an investigation or inquiry into the cause, manner and circumstances of death in a medical examiner case as described in section 3025. Prescription monitoring information in the possession or under the control of the Office of Chief Medical Examiner is confidential and, notwithstanding section 3022, may not be

disseminated. Information that is not prescription monitoring information and is separately acquired following access to prescription monitoring information pursuant to this paragraph remains subject to protection or dissemination in accordance with section 3022;

G. The office that administers the MaineCare program pursuant to chapter 855 for the purposes of managing the care of its members, monitoring the purchase of controlled substances by its members and avoiding duplicate dispensing of controlled substances; and

H. Another state pursuant to subsection 4-A.

4-A. Information sharing with other states. The officedePARTMENT may provide prescription monitoring information to and receive prescription monitoring information from another state that has prescription monitoring information provisions consistent with this chapter and has entered into a prescription monitoring information sharing agreement with the officedePARTMENT. The officedePARTMENT may enter into a prescription monitoring information sharing agreement with another state to establish the terms and conditions of prescription monitoring information sharing and interoperability of information systems and to carry out the purposes of this subsection. For purposepurposes of this subsection, "another state" means any state other than Maine and any territory or possession of the United States, but does not include a foreign country.

5. Purge of information. The officedePARTMENT shall purge from the program all information that is more than 6 years old.

Sec. A-70. 22 MRSA §7251, sub-§1, as enacted by PL 2003, c. 483, §1, is amended to read:

1. Failure to submit information. A dispenser who knowingly fails to submit prescription monitoring information to the officedePARTMENT as required by this chapter is subject to discipline by the Maine Board of Pharmacy pursuant to Title 32, chapter 117, subchapter 4 or by the applicable professional licensing entity.

Sec. A-71. 22 MRSA §7252, as enacted by PL 2003, c. 483, §1, is amended to read:

§ 7252. Rulemaking

The officedePARTMENT may adopt rules necessary to implement the provisions of this chapter. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. A-72. 26 MRSA §683, sub-§1, ¶B, as amended by PL 1995, c. 283, §1, is further amended to read:

B. The employee assistance program must be certified by the Office of Substance Abuse Department of Health and Human Services under rules adopted pursuant to section 687. The rules must ensure that the employee assistance programs have the necessary personnel, facilities and procedures to meet minimum standards of professionalism and effectiveness in assisting employees.

Sec. A-73. 26 MRSA §687, sub-§1, as amended by PL 1995, c. 283, §2, is further amended to read:

1. Department of Health and Human Services. ~~The Office of Substance Abuse~~Department of Health and Human Services shall adopt rules under the Maine Administrative Procedure Act, ~~Title 5, chapter 375,~~ as provided in this subchapter.

Sec. A-74. 26 MRSA §688, as amended by PL 1995, c. 283, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§ 688. Substance abuse education

All employers shall cooperate fully with the Department of Labor, ~~Office of Substance Abuse,~~ the Department of Health and Human Services, the Department of Public Safety and any other state agency in programs designed to educate employees about the dangers of substance abuse and about public and private services available to employees who have a substance abuse problem.

Sec. A-75. 28-A MRSA §1013, as enacted by PL 2011, c. 460, §3, is amended to read:

§ 1013. Underage drinking prevention

Beginning January 1, 2012, the bureau shall pay \$75 from each license fee collected under section 1010-A to the Treasurer of State to be credited to the Department of Health and Human Services, ~~Office of Substance Abuse~~ for the purpose of prevention of consumption of liquor by minors.

Sec. A-76. 28-A MRSA §1703, sub-§5, as amended by PL 1997, c. 373, §144, is further amended to read:

5. Appropriation. The amount of funds appropriated from the General Fund to the ~~Office of Substance Abuse,~~ as established in ~~Title 5, chapter 521,~~Department of Health and Human Services for substance abuse prevention and treatment may not be less than the dollar amount collected or received by the alcohol bureau and bureau under this section.

Sec. A-77. 28-A MRSA §2519, sub-§2, ¶D, as amended by PL 1999, c. 519, §2, is further amended to read:

D. A representative of the ~~Office of Substance Abuse~~Department of Health and Human Services;

Sec. A-78. 29-A MRSA §2401, sub-§1, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

1. Alcohol and drug program. "Alcohol and drug program" means the alcohol and other drug education, evaluation and treatment program administered by the ~~Office of Substance Abuse~~Department of Health and Human Services under Title 5, chapter 521, subchapter ~~V~~5.

Sec. A-79. 29-A MRSA §2411, sub-§5, ¶F, as amended by PL 2001, c. 511, §3 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

F. For a person sentenced under paragraph B, C or D, the court shall order the defendant to participate in the alcohol and other drug program of the Department of Health and Human Services, ~~Office of Substance Abuse~~. The court may waive the program pursuant to Title 5, section 20073-B, if the court finds that the defendant has completed an alcohol or other drug treatment program subsequent to the date of the offense; and

Sec. A-80. 29-A MRSA §2455, sub-§3, ¶A, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

A. Satisfactory completion of the Driver Education and Evaluation Programs of the ~~Office of Substance Abuse~~Department of Health and Human Services;

Sec. A-81. 29-A MRSA §2472, sub-§6, as amended by PL 2001, c. 511, §6, is further amended to read:

6. Restoration of license. If a person's license has been suspended under subsection 3 for a first offense, the Secretary of State may issue a license if:

A. One half of the suspension period has expired; and

B. The Secretary of State has received notice that the person has completed the alcohol and other drug program of the ~~Office of Substance Abuse~~Department of Health and Human Services.

A 2nd or subsequent offender may be issued a license following the completion of the period of suspension ~~provided~~if the Secretary of State has received notice that the person has completed the alcohol and other drug program of the ~~Office of Substance Abuse~~Department of Health and Human Services.

Sec. A-82. 29-A MRSA §2502, as amended by PL 2011, c. 335, §11, is further amended to read:

§ 2502. Special licenses for driver education evaluation program; suspension

1. Issuance of special license. Following the expiration of the total period of suspension imposed on a first-time offender pursuant to Title 15, section 3314 or sections 2411, 2453, 2453-A, 2472 and 2521, the Secretary of State shall issue a special license or permit to the person if the Secretary of State receives written notice that the person has completed the assessment components of the alcohol and other drug program pursuant to Title 5, section 20073-B. First offenders who have registered for the completion of treatment programs as described in Title 5, section 20072, subsection 2 are entitled to receive a special license after completion of 3 treatment sessions provided by a counselor or agency approved by the ~~Office of Substance Abuse~~Department of Health and Human Services. A special license or permit may not be issued under this section to 2nd and subsequent offenders.

2. Suspension of special license. If the person refuses or fails to complete the alcohol and other drug program pursuant to Title 5, section 20073-B within 3 months after receiving a special license, the Secretary of State, following notice of that refusal or failure, shall suspend the special license until the person completes the program. The suspension must continue until the Secretary of State receives

written notification from the ~~Office of Substance Abuse~~Department of Health and Human Services that the person has satisfactorily completed all required components of that program. The Secretary of State shall provide notice of suspension and opportunity for hearing pursuant to Title 5, chapter 375, subchapter 4. The sole issue at the hearing is whether the person has written notification from the ~~Office of Substance Abuse~~Department of Health and Human Services establishing that the person has satisfactorily completed all components of that program pursuant to Title 5, section 20073-B.

Sec. A-83. 29-A MRSA §2505, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§ 2505. Special restricted license for participation in education and treatment programs

Notwithstanding other limitations, the Secretary of State may issue a restricted license to a person for the purpose of allowing that person to participate in an alcohol and drug program or other treatment program determined appropriate by the ~~Office of Substance Abuse~~Department of Health and Human Services.

Sec. A-84. 32 MRSA §6212, sub-§2, as amended by PL 2007, c. 402, Pt. U, §7, is further amended to read:

2. Adopt criteria. The board, in cooperation with the ~~Office of Substance Abuse~~Department of Health and Human Services, may design, adopt or design and adopt an examination or other suitable criteria for establishing a candidate's knowledge, skill and experience in alcohol and drug counseling. Any criteria adopted by the board for establishing a candidate's knowledge, skill and experience in alcohol and drug counseling must be clearly defined, have an established baseline scoring procedure that is objectively measured, be in writing and be available to the public upon request.

Sec. A-85. 32 MRSA §13795, sub-§5, as amended by PL 2007, c. 695, Pt. B, §18, is further amended to read:

5. Rulemaking. The ~~Director of the Office of Substance Abuse~~ within the ~~Department~~Commissioner of Health and Human Services may adopt rules to implement this subsection. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

A. If the Director of the Maine Drug Enforcement Agency within the Department of Public Safety finds that the ease of availability of liquid, liquid-filled capsule or glycerin matrix forms of products containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, referred to in this paragraph as "products," is a threat to the public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the ~~Director of the Office of Substance Abuse~~Commissioner of Health and Human Services. The ~~Director of the Office of Substance Abuse~~Commissioner of Health and Human Services shall consult with the joint standing committee

of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules designating the products as targeted methamphetamine precursors pursuant to section 13702-A, subsection 33, paragraph B.

B. If the Director of the Maine Drug Enforcement Agency finds that sales of targeted methamphetamine precursors that are made without verifying the identity of the purchaser pose a threat to public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the ~~Director of the Office of Substance Abuse~~Commissioner of Health and Human Services. The ~~Director of the Office of Substance Abuse~~Commissioner of Health and Human Services shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules requiring a person making a sale of a targeted methamphetamine precursor pursuant to section 13796 to demand from the purchaser and to inspect and record prior to the sale proof of identification, including valid photographic identification, and to keep a log of sales.

Sec. A-86. 34-B MRSA §1219, sub-§1, as enacted by PL 1995, c. 431, §2 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

1. Development of state strategy. The department shall develop a comprehensive state strategy for preventing the inappropriate incarceration of seriously mentally ill individuals and for diverting those individuals away from the criminal justice system. This strategy must be developed with the active participation of other agencies and providers responsible for serving persons with serious mental illness, including: ~~the Department of Health and Human Services; the Department of Corrections; the Department of Health and Human Services, Bureau of Medical Services; and~~ representatives of community mental health centers, area shelters, other community providers, consumers of services and their families, providers of inpatient mental health services, advocates for consumers of mental health services, sheriffs' departments, ~~the Office of Substance Abuse and the Department of Public Safety.~~

Sec. A-87. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 5, chapter 521, in the chapter headnote, the words "office of substance abuse" are amended to read "substance abuse prevention and treatment" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART B

Sec. B-1. 5 MRSA §1591, sub-§2, ¶A, as amended by PL 2011, c. 380, Pt. UUU, §1, is further amended to read:

A. Any balance remaining in the accounts of the Department of Health and Human Services, ~~Bureau of Elder and Adult Services~~ appropriated for the purposes of homemaker or home-based care services at the end of any fiscal year to be carried forward for use by either program in the next fiscal year;

Sec. B-2. 22 MRSA §3174-I, sub-§1, ¶B-1, as enacted by PL 1995, c. 170, §2, is amended to read:

B-1. For persons with severe cognitive impairments who have been assessed and found ineligible for nursing facility level care, the department, through the ~~Bureau of Elder and Adult Services, its~~ community options unit, shall review the assessment and provide case management to assist consumers and caregivers to receive appropriate services.

Sec. B-3. 22 MRSA §3472, sub-§2-A, as amended by PL 2003, c. 653, §2 and c. 689, Pt. B, §6, is repealed.

Sec. B-4. 22 MRSA §5104, sub-§2, as amended by PL 1989, c. 329, §8 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. B-5. 22 MRSA §5104, sub-§6, as amended by PL 1989, c. 329, §10 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. B-6. 22 MRSA §5104-A, as enacted by PL 1973, c. 793, §4, is amended to read:

§ 5104-A. State agencies to cooperate

State agencies shall cooperate fully with the ~~bureau and committee~~department in carrying out this Part. The ~~bureau and committee are~~department is authorized to request such personnel, financial assistance, facilities and data as are reasonably required to assist the ~~bureau and committee~~it to fulfill ~~their~~its powers and duties.

State agencies proposing to develop, establish, conduct or administer programs or to assist programs relating to this Part shall, prior to carrying out such actions, consult with the ~~bureau~~department.

All agencies of State Government shall advise the ~~bureau~~department of their proposed administrative fiscal and legislative activities relating to this Part.

State agencies, in the implementation of their activities relating to this Part, shall keep the ~~bureau~~department fully informed of their progress.

Sec. B-7. 22 MRSA §5105, as amended by PL 2007, c. 539, Pt. N, §39, is repealed.

Sec. B-8. 22 MRSA §5106, as amended by PL 2003, c. 653, §21 and c. 689, Pt. B, §7, is further amended to read:

§ 5106. Powers and duties

The ~~bureau~~department shall establish, in accordance with the purposes and intent of this Part, ~~with the advice of the committee and subject to the direction of the commissioner~~, the overall planning, policy, objectives and priorities for all functions and activities conducted or supported in the State ~~which~~that relate to Maine's aging population and incapacitated and dependent adults. In order to carry out the above, the ~~bureau shall have~~department has the power and duty to:

1. Encourage and assist development. Encourage and assist development of more coordinated use of existing and new resources and services relating to Maine's aging population and incapacitated and dependent adults;

2. Information system. Develop and maintain an up-to-date information system related to Maine's aging population and incapacitated and dependent adults. The information ~~shall~~must be available for use by the people of Maine, the political subdivisions, public and private nonprofit agencies and the State. Educational materials ~~shall~~must be prepared, published and disseminated. Objective devices and research methodologies ~~shall~~must be continuously developed. Maintaining statistical information through uniform methods ~~which~~that are reasonably feasible and economically efficient ~~shall~~must be specified for use by public and private agencies, organizations and individuals. Existing sources of information ~~shall~~must be used to the fullest extent possible, while maintaining confidentiality safeguards of state and federal law. Information may be requested and ~~shall be~~ received from any ~~State Government~~state government or public or private agency. To the extent reasonable and feasible, information ~~shall~~must maintain compatibility with federal information sharing standards.

Functions of this information system ~~shall~~ include, but are not be limited to:

- A. Conducting research on the causes and nature of problems relating to Maine's aging population and incapacitated and dependent adults;
- B. Collecting, maintaining and disseminating such knowledge, data and statistics related to Maine's aging population and incapacitated and dependent adults as will enable the ~~bureau~~department to fulfill its responsibilities;
- C. Determining through a detailed survey the extent of problems relating to Maine's aging population and incapacitated and dependent adults and the needs and priorities for solving such problems in the state and political subdivisions;
- D. Maintaining an inventory of the types and quantity of facilities, programs and services operated under public or private auspices for Maine's aging population and incapacitated and dependent adults. This function ~~shall~~must include: ~~The~~the unduplicated count, location and characteristics of people served by each facility, program or service; and the amount, type and source of resources supporting functions related to Maine's aging population and incapacitated and dependent adults; and
- E. Conducting a continuous evaluation of the impact, quality and value of facilities, programs and services, including their administrative adequacy and capacity. Activities operated by or with the assistance of the State and ~~the~~the Federal ~~Governments~~Government ~~shall~~must be evaluated. Activities to be included, but to which the ~~bureau~~department ~~is not~~ limited, are those relating to education, employment and vocational services, income, health, housing, transportation, community, social, rehabilitation, protective services and public guardianship or conservatorship for older people and incapacitated and dependent adults and programs such as the supplemental security income program, Medicare, Medicaid, property tax refunds and the setting of standards for the licensing of nursing, intermediate care and boarding homes. Included ~~shall be~~are activities as authorized by this and so much of the several Acts and amendments to them enacted by the people of the State, and those authorized by United States Acts and amendments to them such as the:

- (1) Elderly Householders Tax and Rent Refund Act of 1971;

- (2) Priority Social Services Act of 1973;
- (3) Chapter 470 of the public laws of 1969 creating the State Housing Authority;
- (4) United States Social Security Act of 1935;
- (5) United States Housing Act of 1937;
- (6) United States Older Americans Act of 1965;
- (7) United States Age Discrimination Act of 1967;
- (8) Home Based Care Act of 1981;
- (9) Congregate Housing Act of 1979;
- (10) Adult Day Care Services Act of 1983;
- (11) Adult Day Care Licensing Act of 1987;
- (12) Adult Protective Services Act of 1981; and
- (13) The Uniform Probate Code, Title 18-A;

3. Coordination of efforts. Assist, ~~with the advice of the committee,~~ the Legislative and Executive Branches of State Government, especially the Governor, ~~Commissioner of Health and Human Services~~ and the Bureau of the Budget, to coordinate all State Government efforts relating to Maine's aging population and incapacitated and dependent adults, by:

- A. Submitting to each branch of State Government no later than September 1st of each year an annual report covering its activities for the immediately past fiscal year and future plans, including recommendations for changes in state and federal laws, and including reports of the committee;
- B. Reviewing all proposed legislation, fiscal activities, plans, policies and other administrative functions relating to Maine's aging population and incapacitated and dependent adults made by or requested of all state agencies. ~~The bureau shall have~~department has the authority to submit to those bodies findings, comments and recommendations, which ~~shall be~~are advisory. Such findings

and comments ~~shall~~must recommend what modification in proposals or actions ~~shall be taken~~is required to make proposed legislation, fiscal activities and administrative activities consistent with such policies and priorities; and

C. Making recommendations to the respective branches of State Government related to improving the quality of life of Maine's aging population and incapacitated and dependent adults, and shall consult with and be consulted by all responsible state agencies regarding the policies, priorities and objectives of functions related to Maine's aging population and incapacitated and dependent adults;

4. Comprehensive state plan. Prepare and administer a comprehensive state plan relating to Maine's aging population and incapacitated and dependent adults, developed by the ~~bureau with the advice of the committee and~~department subject to the direction of the commissioner. The comprehensive state plan ~~shall~~must be implemented for the purpose of coordinating all activities and of assuring compliance with applicable state and federal laws and regulations relating to Maine's aging population and incapacitated and dependent adults. Implementation of this duty ~~shall mean~~means that the ~~bureau shall have~~department has the authority, through a review process, to advise on the preparation and administration of any portion of any state plan relating to Maine's aging population and incapacitated and dependent adults, prepared and administered by any agency of State Government for submission to the Federal Government to obtain federal funding under federal legislation. Such state plans, or portions thereof, ~~shall~~must include, but are not be limited to, all state plans dealing with education, employment and vocational services, income, health, housing, protective services, public guardianship and conservatorship, rehabilitation, social services, transportation and welfare. The ~~bureau~~department shall advise the commissioner and Governor on preparation of and provisions to be included in such plans relating to Maine's aging population and incapacitated and dependent adults;

5. Programs. Plan, establish and maintain necessary or desirable programs for individuals or groups of individuals. The ~~bureau~~department may use the full range of its powers and duties to serve Maine's aging population and incapacitated and dependent adults through indirect services provided by agreement and through direct services provided by state employees;

6. Organizational unit. Function as the organizational unit of State Government with sole responsibility for conducting and coordinating, with the advice of the committee and subject to the direction of the commissioner, programs authorized by this Part and so much of the several Acts, amendments and successors to them enacted by the people of the State and those authorized by the United States Acts, amendments and successors to them as relate to Maine's aging population and incapacitated and dependent adults:

A. The 1973 Act of Maine's Elderly;

B. The Priority Social Service Act of 1973, including only meals for older people, transportation for older people and coordinated elderly programs;

C. The United States Older Americans Act of 1965; and

D. Adult Protective Services Act of 1981.

The ~~bureau~~department is designated as the single agency of State Government solely responsible for administering, subject to the direction of the commissioner, any state plans as may be required by the above Acts, and for administering programs of Acts of the State or United States relating to Maine's aging population and incapacitated and dependent adults ~~which~~that are not the specific responsibility of another state agency under state or federal law;

7. Mobilize resources. Help communities mobilize their resources to benefit Maine's aging population and incapacitated and dependent adults. The ~~bureau~~department shall provide or coordinate the provision of information, technical assistance and consultation to state, regional and local governments, and to public and private nonprofit agencies, institutions, organizations and individuals. The help ~~shall be~~is for the purpose of encouraging, developing and assisting with the initiation, establishment and administration of any plans, programs or services with a view to the establishment of a statewide network of comprehensive, coordinated services and opportunities for Maine's aging population and incapacitated and dependent adults. Included in this duty is authority to coordinate the efforts and enlist the assistance of all public and private agencies, organizations and individuals interested in Maine's aging population and incapacitated and dependent adults;

8. Funds. Seek and receive funds from the Federal Government and private sources to further its activities. Included in this function is authority to solicit, accept, administer, disburse and coordinate for the State in accordance with the intent, objectives and purposes of this Part; and within any limitation ~~which~~that may apply from the sources of such funds, the efforts to obtain and the use of any funds from any source to benefit Maine's aging population and incapacitated and dependent adults. Any gift of money or property made by will or otherwise, and any grant or other funds appropriated, services or property available from the Federal Government, the State or any political subdivision thereof and from all other sources, public or private, may be accepted and administered. The ~~bureau~~department may do all things necessary to cooperate with the Federal Government or any of its agencies in making application for any funds. Included in this duty is authority to advise regarding the disbursement of all state funds, or funds administered through agencies of State Government, appropriated or made available to benefit Maine's aging population and incapacitated and dependent adults;

9. Agreements. Enter into agreements necessary or incidental to the performance of its duties. Included is the power to make agreements with qualified community, regional and state level, private nonprofit and public agencies, organizations and individuals in this and other states to develop or provide facilities, programs and services for Maine's aging population and incapacitated and dependent adults. Agreements with such agencies, organizations and individuals ~~shall~~may be executed only with agencies reviewed by the ~~committee pursuant to section 5112, subsection 4,~~ and the area agency pursuant to section 5116, subsection 1, paragraph B. The ~~bureau~~department may engage expert advisors and assistants, who may serve without compensation or may be compensated to the extent funds may be available by appropriation, grant or allocation from a state department. The ~~bureau~~department may pay for such expert advisors or assistants;

10. Rules. Prepare, adopt, amend, rescind and administer, with the advice of the committee and subject to the direction of the commissioner, policies, priorities, procedures;~~and~~ rules and regulations to govern its affairs and the development and operation of facilities, programs and services. The

~~bureau~~department may adopt rules to carry out the powers and duties pursuant to this Part and in accordance with the purpose and objectives of this Part. It shall especially adopt such rules ~~and regulations~~ as may be necessary to define contractual terms, conditions of agreements and all other rules as are necessary for the proper administration of this Part. Such adoption, amendment and rescission ~~shall~~must be made as provided under the Maine Administrative Procedure Act, Title 5, chapter 375;

11. Educational program. Develop and implement, as an integral part of programs, an educational program. ~~Assist; assist~~ in the development of, and cooperation with, educational programs for employees of state and local governments and businesses and industries in the State. ~~Convene; and convene~~ and conduct conferences of public and private nonprofit organizations concerned with the development and operation of programs for Maine's aging population and incapacitated and dependent adults. Included ~~shall be~~is the power to sponsor in cooperation with the committee the Blaine House Conference on Aging;

11-A. Elderly Legal Services Program. Support and maintain an Elderly Legal Services Program, by agreement with such nonprofit organization as the ~~bureau~~department finds best able to provide direct services to those of Maine's elderly in greatest economic and social need throughout the State;

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~~, from abuse, neglect, exploitation and physical danger. The program is described in the Adult Protective Services Act;

11-C. Long-term care ombudsman program. Support and maintain a long-term care ombudsman program, in accordance with the federal 1987 Older Americans Act, 42 United States Code, as amended, by agreement with such nonprofit organization as the ~~bureau~~department finds best able to provide the services;

12. Training programs. Foster, develop, organize, conduct or provide for the conduct of training programs for persons in the field of serving Maine's aging population and incapacitated and dependent adults;

13. Coordinate activities. Coordinate activities and cooperate with programs in this and other states for the common advancement of programs for Maine's aging population and incapacitated and dependent adults; and

14. Establish and maintain an office. ~~Establish and maintain an office; and~~

15. Duties. Do such other acts and exercise such other powers necessary or convenient to execute and carry out the purposes and authority expressly granted in this Part.

Sec. B-9. 22 MRSA §5304, sub-§3, as amended by PL 1989, c. 329, §19 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. B-10. 22 MRSA §5304, sub-§9, as amended by PL 1989, c. 329, §20 and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. B-11. 22 MRSA §6108, as amended by PL 1989, c. 329, §21 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

§ 6108. Administration of priority social services for Maine's elderly

The ~~Bureau of Elder and Adult Services~~, Department of Health and Human Services or its successors, is designated as the organizational unit of State Government with sole responsibility for administrating, ~~with the advice of the Maine Committee on Aging~~, and subject to the direction of the commissioner, so much of the Priority Social Services Program as relates directly to older people, such as, but not limited to, these types of social services: Meals for older people, transportation for older people and health and home care needs for the elderly.

Regarding priority social services for older people, the ~~Bureau of Elder and Adult Services~~ shall ~~have~~department has the powers and duty to:

1. Administer priority social services. Administer priority social services in accordance with the intent, objectives and purposes of this Part and ~~shall have~~, in any respects that relate to these priority social services, the powers and duties set forth in section 5310; and

2. Action to ensure consistency of priority social services. Prepare, adopt, amend, rescind and administer, ~~with the advice of the Maine Committee on Aging~~, policies, priorities, procedures;and rules and regulations. The ~~Bureau of Elder and Adult Services~~department and the Department of Administrative and Financial Services, Bureau of Human Resources, respectively, shall take, pertaining to their own policies, priorities, procedures;and rules and regulations, such action as is necessary to ~~insure~~ensure that such items pertinent to priority social services are consistent.

Sec. B-12. 22 MRSA §6202, sub-§5, as amended by PL 1989, c. 347, §5 and c. 878, Pt. B, §19; and PL 2003, c. 689, Pt. B, §6, is repealed.

Sec. B-13. 22 MRSA §7861, first ¶, as enacted by PL 2001, c. 596, Pt. A, §1 and affected by Pt. B, §25 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

The Department of Health and Human Services, ~~Bureau of Elder and Adult Services~~, with advice from the Maine State Housing Authority, the Rural Housing Services or any other housing agency financing assisted housing programs, shall administer state-funded assisted housing programs. Administration must include, but is not limited to:

Sec. B-14. 36 MRSA §6220, as amended by PL 1997, c. 668, §40, is further amended to read:

§ 6220. Coordination required

The bureau shall seek the advice and cooperation of the ~~Bureau of Elder and Adult Department of Health and Human Services; the Bureau of Family Independence; the Bureau of Child and Family Services;~~ advocates for elderly and low-income individuals; and other interested agencies and organizations in developing the application form and instruction booklet for the Maine Residents Property Tax Program and the outreach plan required by section 6219.

Sec. B-15. 38 MRSA §1652, sub-§3, as amended by PL 1989, c. 878, Pt. B, §43, is further amended to read:

3. Meals on wheels. A food service funded in whole or in part, directly or indirectly, by the ~~Bureau of Elder and Adult~~Department of Health and Human Services to provide meals at dispersed locations from central kitchen facilities is exempt.

Sec. B-16. Maine Revised Statutes headnote amended; revision clause. In the Maine Revised Statutes, Title 22, chapter 1453, in the chapter headnote, the words "bureau of elder and adult services" are amended to read "elder and adult services" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

PART C

Sec. C-1. 34-B MRSA §5439, sub-§1, ¶C, as reallocated by PL 2007, c. 695, Pt. A, §41, is repealed.

Sec. C-2. 34-B MRSA §5439, sub-§§2 to 4, as reallocated by PL 2007, c. 695, Pt. A, §41, are amended to read:

2. Program administration. The ~~office~~commissioner shall administer the program under this section. Within available funds, the ~~office~~commissioner shall ensure that services are delivered in the most comprehensive manner possible and shall strive to maximize the participation of adults with disabilities.

3. Eligibility. An applicant is eligible for personal care assistance services under the program if the ~~office~~commissioner or ~~its~~the commissioner's designee determines that the person is an adult who:

A. Has a severe disability;

B. Needs personal care assistance services or an attendant at night or both to prevent or remove the adult from inappropriate placement in an institutional setting; and

C. Has no or insufficient personal income or other support from public services, family members or neighbors.

4. Consumer cost sharing. The ~~office~~commissioner shall establish a sliding scale for consumer cost sharing for services provided under the program. The sliding scale must be based on the net income of the consumer, factoring in the expenses associated with the consumer's disability, and may take assets into consideration.

Sec. C-3. 34-B MRSA §5439, sub-§5, ¶B, as reallocated by PL 2007, c. 695, Pt. A, §41, is amended to read:

B. For each applicant or consumer evaluated by an evaluation team, the team shall assist the ~~office~~department to:

- (1) Determine the eligibility of the applicant or consumer for services under the program;
- (2) Determine the capability of the applicant or consumer, at the time of evaluation or after skills training provided pursuant to subsection 6, to hire and direct a personal care assistant; and
- (3) Reevaluate the applicant or consumer periodically to determine continuing need for the services.

Sec. C-4. 34-B MRSA §19001, sub-§§1 and 3, as enacted by PL 2007, c. 239, §2, are amended to read:

1. Council established. The Acquired Brain Injury Advisory Council, referred to in this section as "the council," is established to provide independent oversight and advice and to make recommendations to the commissioner, ~~the Director of the Office of Adults with Cognitive and Physical Disability Services within the department, the Director of the Maine Center for Disease Control and Prevention within the department and the Director of the Office of MaineCare Services within the department.~~

3. Administrative support. The manager of brain injury services in the ~~Office of Adults with Cognitive and Physical Disability Services within the department~~ shall provide administrative support to the council.

PART D

Sec. D-1. 34-B MRSA §3861, sub-§3, ¶B, as enacted by PL 2007, c. 580, §2, is amended to read:

B. The provisions of this paragraph apply to the appointment, duties and procedures of the clinical review panel under paragraph A.

- (1) Within one business day of receiving a request under paragraph A, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall appoint a clinical review panel of 2 or more licensed professional staff who do not provide direct care to the patient. At least one person must be a professional licensed to prescribe medication relevant to the patient's care and treatment. At the time of appointment of the clinical review panel, the superintendent of a state mental

health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall notify the following persons in writing that the clinical review panel will be convened:

- (a) The primary treating physician;
- (b) ~~The director of the Office of Adult Mental Health Services within the department or that person's~~commissioner or the commissioner's designee;
- (c) The patient's designated representative or attorney, if any;
- (d) The State's designated federal protection and advocacy agency; and
- (e) The patient. Notice to the patient must inform the patient that the clinical review panel will be convened and of the right to assistance from a lay advisor, at no expense to the patient, and the right to obtain an attorney at the patient's expense. The notice must include contact information for requesting assistance from a lay advisor, who may be employed by the institute or institution, and access to a telephone to contact a lay advisor must be provided to the patient.

(2) Within 4 days of receiving a request under paragraph A and no less than 24 hours before the meeting of the clinical review panel, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall provide notice of the date, time and location of the meeting to the patient's primary treating physician, the patient and any lay advisor or attorney.

(3) The clinical review panel shall hold the meeting and any additional meetings as necessary, reach a final determination and render a written decision ordering or denying involuntary treatment.

- (a) At the meeting, the clinical review panel shall receive information relevant to the determination of the patient's capacity to give informed consent to treatment and the need for treatment, review relevant portions of the patient's medical records, consult with the physician requesting the treatment, review with the patient that patient's reasons for refusing treatment, provide the patient and any lay advisor or attorney an opportunity to ask questions of anyone presenting information to the clinical review panel at the meeting and determine whether the requirements for ordering involuntary treatment have been met.

(b) All meetings of the clinical review panel must be open to the patient and any lay advisor or attorney, except that any meetings held for the purposes of deliberating, making findings and reaching final conclusions are confidential and not open to the patient and any lay advisor or attorney.

(c) The clinical review panel shall conduct its review in a manner that is consistent with the patient's rights.

(d) Involuntary treatment may not be approved and ordered if the patient affirmatively demonstrates to the clinical review panel that if that patient possessed capacity, the patient would have refused the treatment on religious grounds or on the basis of other previously expressed convictions or beliefs.

(4) The clinical review panel may approve a request for involuntary treatment and order the treatment if the clinical review panel finds, at a minimum:

(a) That the patient lacks the capacity to make an informed decision regarding treatment;

(b) That the patient is unable or unwilling to comply with the proposed treatment;

(c) That the need for the treatment outweighs the risks and side effects; and

(d) That the proposed treatment is the least intrusive appropriate treatment option.

(5) The clinical review panel may make additional findings, including but not limited to findings that:

(a) Failure to treat the illness is likely to produce lasting or irreparable harm to the patient;
or

(b) Without the proposed treatment the patient's illness or involuntary commitment may be significantly extended without addressing the symptoms that cause the patient to pose a likelihood of serious harm.

(6) The clinical review panel shall document its findings and conclusions, including whether the potential benefits of the proposed treatment outweigh the potential risks.

Sec. D-2. 34-B MRSA §3861, sub-§3, ¶D, as enacted by PL 2007, c. 580, §2, is amended to read:

D. If the clinical review panel under paragraph A approves the request for involuntary treatment, the clinical review panel shall enter an order for the treatment in the patient's medical records and immediately notify the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution. The order takes effect:

(1) For a patient at a state mental health institute, one business day from the date of entry of the order; or

(2) For a patient at a designated nonstate mental health institution, one business day from the date of entry of the order, except that if the patient has requested review of the order by the ~~director of the Office of Adult Mental Health Services within the department~~ commissioner under paragraph F, subparagraph (2), the order takes effect one business day from the day on which the ~~director~~ commissioner or the commissioner's designee issues a written decision.

Sec. D-3. 34-B MRSA §3861, sub-§3, ¶E, as enacted by PL 2007, c. 580, §2, is amended to read:

E. The order for treatment under this subsection remains in effect for 120 days or until the end of the period of commitment, whichever is sooner, unless altered by:

(1) An agreement to a different course of treatment by the primary treating physician and patient;

(2) For a patient at a designated nonstate mental health institution, modification or vacation of the order by the ~~director of the Office of Adult Mental Health Services within the department~~ commissioner or the commissioner's designee; or

(3) An alteration or stay of the order entered by the Superior Court after reviewing the entry of the order by the clinical review panel on appeal under paragraph F.

Sec. D-4. 34-B MRSA §3861, sub-§3, ¶F, as enacted by PL 2007, c. 580, §2, is amended to read:

F. The provisions of this paragraph apply to the review and appeal of an order of the clinical review panel entered under paragraph B.

(1) The order of the clinical review panel at a state mental health institute is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

(2) The order of the clinical review panel at a designated nonstate mental health institution may be reviewed by the ~~director of the Office of Adult Mental Health Services within the department or the designee of the director~~commissioner or the commissioner's designee upon receipt of a written request from the patient submitted no later than one day after the patient receives the order of the clinical review panel. Within 3 business days of receipt of the request for review, the ~~director or commissioner or the commissioner's designee~~ shall review the full clinical review panel record and issue a written decision. The decision of the ~~director or commissioner or the commissioner's designee~~ may affirm the order, modify the order or vacate the order. The decision of the ~~director or commissioner or the commissioner's designee~~ takes effect one business day after the ~~director or commissioner or the commissioner's designee~~ issues a written decision. The decision of the ~~director or commissioner or the commissioner's designee~~ is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

PART E

Sec. E-1. 22 MRSA §7924, sub-§1, as amended by PL 2009, c. 1, Pt. S, §1, is further amended to read:

1. Alleged violations reported and investigated. Any person who believes that any of those rules governing the licensure of long-term care facilities or the operation of assisted living programs and services authorized pursuant to section 7853 adopted by the department pertaining to residents' rights and conduct of resident care has been violated may report the alleged violation to the protection and advocacy agency designated pursuant to Title 5, section ~~19501~~19502; the long-term care ombudsman pursuant to section 5106, subsection 11-C and section 5107-A; ~~the Office of Advocacy pursuant to Title 34-B, section 5005~~; and any other agency or person whom the commissioner may designate.

Sec. E-2. 34-B MRSA §1223, sub-§9, ¶F, as enacted by PL 2007, c. 356, §7 and affected by c. 695, Pt. D, §3, is amended to read:

F. The board may refer individual cases that require investigation or action to the ~~Office of Adults with Cognitive and Physical Disability Services or the Office of Advocacy within the department~~, the protection and advocacy agency designated pursuant to Title 5, section 19502 or other appropriate agency.

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

B. ~~The chief advocate and the manager of adult protective services in the Office of Adults with Cognitive and Physical Disability Services within the~~advocacy agency designated pursuant to Title 5, section 19502 or 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~~intellectual disabilities or autism. The board shall maintain the confidentiality of information disclosed to it or discovered by it as required by section 1207.

Sec. E-4. 34-B MRSA §5005, as enacted by PL 2007, c. 356, §17 and affected by §31, is repealed.

Sec. E-5. 34-B MRSA §5005-A is enacted to read:

§ 5005-A. Advocacy agency

1. Agency. The department shall contract with the agency designated pursuant to Title 5, section 19502, referred to in this section as "the agency," to provide the services described in subsection 2 to individuals with intellectual disabilities or autism.

2. Duties. The department shall contract with the agency to:

A. Receive complaints made by or on behalf of individuals with intellectual 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 intellectual disabilities or autism;

C. Intercede on behalf of individuals with intellectual disabilities or autism with officials of any provider of service administered, licensed or funded by the department, except that the agency 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 intellectual disabilities or autism in any hearing or grievance proceeding pertaining to their rights and dignity;

E. Refer individuals with intellectual 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 intellectual 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, intellectual disabilities 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 agency may report its findings to groups outside the department, such as legislative bodies, advisory committees, commissions, law enforcement agencies and the press. At least annually, the agency 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.

3. Participate in personal planning. The agency may participate in personal planning when the agency has concerns regarding the rights or dignity of a person with intellectual disabilities or autism. A person has the right to refuse such participation.

4. Access to files and records. The agency has access, limited only by the civil service law, to the files, records and personnel of any provider of services administered, licensed or funded by the department and to all reports and related documents submitted pursuant to section 5604-A.

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

A. Any request by or on behalf of an individual with intellectual disabilities or autism for action by the agency 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. E-6. 34-B MRSA §5470-B, sub-§7, ¶B, as enacted by PL 2007, c. 356, §21 and affected by §31, is amended to read:

B. The department shall provide the ~~Office of Advocacy~~advocacy agency designated pursuant to Title 5, section 19502 with sufficient advance notice of all scheduled personal planning meetings to permit the ~~office~~advocacy agency to determine if the attendance or participation of an advocate in the planning process is appropriate pursuant to the duties and responsibilities of the ~~office~~advocacy agency.

Sec. E-7. 34-B MRSA §5604, sub-§3, ¶A, as enacted by PL 2007, c. 356, §23 and affected by §31, is amended to read:

A. The department shall provide easily accessible and regular notice of the grievance process to persons with ~~mental retardation~~intellectual 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.

Sec. E-8. 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~~intellectual disabilities or autism as set out in section 5605 shall promptly report the details of the alleged violation to the ~~Office of Advocacy~~advocacy agency designated pursuant to Title 5, section 19502 as set forth in department rules.

Sec. E-9. 34-B MRSA §5605, sub-§13, ¶B, as amended by PL 2011, c. 186, Pt. A, §27, is further amended to read:

B. Behavior modification and behavior management programs may be used only to correct behavior more harmful to the person than the program and only:

(1) On the recommendation of the person's personal planning team;

(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~~a representative from the ~~Office of Advocacy~~department; ~~a representative designated by the Office of Adults with Cognitive and Physical Disability Services~~department, a representative from the advocacy agency designated pursuant to Title 5, section 19502 and a representative designated by the Maine Developmental Services Oversight and 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~~a representative from the ~~Office of Advocacy~~advocacy agency designated pursuant to Title 5, section 19502, 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.

Sec. E-10. 34-B MRSA §5605, sub-§14-A, as amended by PL 2011, c. 186, Pt. A, §28, is further amended to read:

14-A. Restraints. A person with ~~mental retardation~~intellectual disabilities or autism is entitled to be free from restraint unless:

A. The restraint is a short-term step to protect the person from imminent injury to that person or others; or

B. The restraint has been approved as a behavior management program in accordance with this section.

A restraint may not be used as punishment, for the convenience of the staff or as a substitute for habilitative services. A 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 restraint may not cause physical injury to the person receiving services and must be designed to allow the greatest possible comfort and safety.

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

Daily records of the use of 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 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~~advocacy agency designated pursuant to Title 5, section 19502.

Sec. E-11. 34-B MRSA §5606, sub-§1, as amended by PL 2007, c. 356, §26 and affected by §31, is further amended to read:

1. Report and investigation. Any alleged violation of the rights of a person receiving services must be reported immediately to the ~~Office of Advocacy within the department~~advocacy agency designated pursuant to Title 5, section 19502, referred to in this subsection as "the agency," and to the Attorney General's office.

A. The ~~Office of Advocacy~~agency shall conduct an investigation of each alleged violation pursuant to section ~~5005~~5005-A.

B. The ~~Office of Advocacy~~agency shall submit a written report of the findings and results of the investigation to the chief administrative officer of the facility in which the rights of the person receiving services were allegedly violated and to the commissioner within 2 working days after the day of the occurrence or discovery of the alleged incident.

Sec. E-12. 34-B MRSA §5608, sub-§2, as amended by PL 2011, c. 186, Pt. A, §36, is further amended to read:

2. Duties. The residential council shall work closely with the ~~Office of Adults with Cognitive and Physical Disability Services~~department and the ~~Office of Advocacy~~advocacy agency designated pursuant to Title 5, section 19502 to promote the interests and welfare of all persons receiving services from the provider.

PART F

Sec. F-1. Restructuring. The Commissioner of Health and Human Services shall review the current organizational structure, systems and operations of the Department of Health and Human Services and restructure the department in order to improve and streamline services. Notwithstanding any other provision of law, the State Budget Officer shall transfer positions, appropriations and allocations between accounts and line categories by financial order upon approval of the Governor in order to achieve the provisions of this Act. These transfers are considered adjustments to authorized position count, appropriations and allocations in fiscal years 2012 13, 2013 14 and 2014 15. The commissioner and the State Budget Officer shall provide the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs a report outlining the progress towards the new organizational structure and any transferred amounts.

PART G

Sec. G-1. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)

Developmental Services - Community 0122

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Aging and Disability Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(3.000)
Personal Services	\$0	(\$224,577)
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GENERAL FUND TOTAL	\$0	(\$224,577)

Mental Health Services - Children 0136

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(9.000)
Personal Services	\$0	(\$704,020)
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GENERAL FUND TOTAL	\$0	(\$704,020)

Mental Health Services - Community 0121

Initiative: Eliminates 33 Intensive Case Manager positions, 2 Mental Health Caseworker Supervisor positions, one Mental Health Worker III position and one Social Services Manager I position in the Mental Health Services - Community program and increases All Other funding to expand the Projects for Assistance in Transition from Homelessness program to a statewide model. The remaining savings will be used to contract for case management services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(37.000)
Personal Services	\$0	(\$1,883,500)
All Other	\$0	\$1,883,500
GENERAL FUND TOTAL	\$0	\$0

Mental Health Services - Community 0121

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Substance Abuse and Office of Adult Mental Health Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(4.000)
Personal Services	\$0	(\$216,208)
GENERAL FUND TOTAL	\$0	(\$216,208)

Office of Advocacy 0632

Initiative: Eliminates one Public Service Manager II position and 6 full-time and one part-time Advocate positions to reflect the elimination of the Office of Advocacy and provides funding in the All Other line category for contracts. This request will reduce General Fund undedicated revenue by \$140,259.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(7.500)
Personal Services	\$0	(\$419,384)
All Other	\$0	\$261,708
GENERAL FUND TOTAL	\$0	(\$157,676)

Office of Substance Abuse 0679

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Substance Abuse and Office of Adult Mental Health Services.

SP0664, LD 1887, item 1, 125th Maine State Legislature
An Act To Restructure the Department of Health and Human Services

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$15,000
GENERAL FUND TOTAL	\$0	\$15,000

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
Personal Services	\$0	\$5,907
FEDERAL BLOCK GRANT FUND TOTAL	\$0	\$5,907

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY BDS)		
DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	(\$1,287,481)
FEDERAL BLOCK GRANT FUND	\$0	\$5,907
DEPARTMENT TOTAL - ALL FUNDS	\$0	(\$1,281,574)

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Bureau of Child and Family Services - Central 0307

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	35.000
Personal Services	\$0	\$774,988
All Other	\$0	\$1,151,783
GENERAL FUND TOTAL	\$0	\$1,926,771

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(27.000)
Personal Services	\$0	(\$1,727,713)
All Other	\$0	(\$2,656,179)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$4,383,892)

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	0.000
Personal Services	\$0	\$1,479,798
All Other	\$0	(\$2,668,528)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$1,188,730)

Bureau of Child and Family Services - Regional 0452

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	15.000	(16.000)
Personal Services	\$770,674	(\$6,230,149)
All Other	\$45,374	\$432,191
GENERAL FUND TOTAL	\$816,048	(\$5,797,958)

FEDERAL EXPENDITURES FUND	2011-12	2012-13
All Other	\$0	(\$21,372)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$21,372)

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$230,194	\$7,322,251
All Other	\$13,553	\$975,406
OTHER SPECIAL REVENUE FUNDS TOTAL	\$243,747	\$8,297,657

Bureau of Medical Services 0129

Initiative: Establishes 2 Public Service Coordinator I positions funded 50% General Fund and 50% Federal Expenditures Fund in the Bureau of Medical Services.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$83,362
All Other	\$0	\$5,000
GENERAL FUND TOTAL	\$0	\$88,362

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	2.000
Personal Services	\$0	\$83,362
All Other	\$0	\$6,341
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$89,703

Child Care Food Program 0454

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

FEDERAL EXPENDITURES FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	(2.000)
Personal Services	\$0	(\$82,533)
All Other	\$0	(\$327)
GENERAL FUND TOTAL	\$0	(\$82,860)

Child Care Services 0563

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

FEDERAL BLOCK GRANT FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	7.000
Personal Services	\$0	(\$140,825)
All Other	\$0	\$41,647
GENERAL FUND TOTAL	\$0	(\$99,178)

Child Support 0100

Initiative: Establishes 8 Human Services Support Enforcement Agent positions funded 34% General Fund and 66% Federal Expenditures Fund in the Child Support program. The General Fund portion of the positions is funded by the additional undedicated revenue generated by these additional positions.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$174,240
All Other	\$0	\$15,000

SP0664, LD 1887, item 1, 125th Maine State Legislature
An Act To Restructure the Department of Health and Human Services

GENERAL FUND TOTAL	\$0	\$189,240
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	2011-12	2012-13
FEDERAL EXPENDITURES FUND		
POSITIONS - LEGISLATIVE COUNT	0.000	8.000
Personal Services	\$0	\$338,240
All Other	\$0	\$30,667
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$368,907

Departmentwide 0640

Initiative: Provides funds in the Departmentwide program within the Department of Health and Human Services.

	2011-12	2012-13
GENERAL FUND		
All Other	\$232,236	\$871,987
GENERAL FUND TOTAL	\$232,236	\$871,987

IV-E Foster Care/Adoption Assistance 0137

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

	2011-12	2012-13
GENERAL FUND		
All Other	\$0	\$1,418,655
GENERAL FUND TOTAL	\$0	\$1,418,655

	2011-12	2012-13
FEDERAL EXPENDITURES FUND		
All Other	\$0	(\$15,143,042)
FEDERAL EXPENDITURES FUND TOTAL	\$0	(\$15,143,042)

	2011-12	2012-13
OTHER SPECIAL REVENUE FUNDS		
All Other	\$0	(\$72,393)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$72,393)

Purchased Social Services 0228

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
Personal Services	\$0	\$12,410
GENERAL FUND TOTAL	\$0	\$12,410

State-funded Foster Care/Adoption Assistance 0139

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Child and Family Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	(15,000)	(14,000)
Personal Services	(\$1,000,868)	(\$1,173,774)
All Other	(\$47,416)	\$3,276,335
GENERAL FUND TOTAL	(\$1,048,284)	\$2,102,561

FEDERAL EXPENDITURES FUND	2011-12	2012-13
Personal Services	\$0	\$19,803
All Other	\$0	\$386,872
FEDERAL EXPENDITURES FUND TOTAL	\$0	\$406,675

OTHER SPECIAL REVENUE FUNDS	2011-12	2012-13
Personal Services	\$0	\$205,995
All Other	\$0	(\$5,652,788)
OTHER SPECIAL REVENUE FUNDS TOTAL	\$0	(\$5,446,793)

Office of Elder Services Adult Protective Services Z040

Initiative: Provides for the restructuring of the Department of Health and Human Services' Office of Aging and Disability Services.

GENERAL FUND	2011-12	2012-13
POSITIONS - LEGISLATIVE COUNT	0.000	3.000
Personal Services	\$0	\$320,194
All Other	\$0	\$15,000
GENERAL FUND TOTAL	\$0	\$335,194

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)		
DEPARTMENT TOTALS	2011-12	2012-13
GENERAL FUND	\$0	\$1,147,222
FEDERAL EXPENDITURES FUND	\$0	(\$18,765,881)
OTHER SPECIAL REVENUE FUNDS	\$243,747	\$1,589,741
FEDERAL BLOCK GRANT FUND	\$0	(\$99,178)
DEPARTMENT TOTAL - ALL FUNDS	\$243,747	(\$16,128,096)

SUMMARY

This bill restructures the Department of Health and Human Services. The bill does not eliminate the duties and functions of those organizational units eliminated in the bill; under the bill, the department and the Commissioner of Health and Human Services are directed to carry out those duties and functions.

Part A eliminates as a separate and distinct office the Office of Substance Abuse.

Part B eliminates as a separate and distinct office the Office of Elder and Adult Services.

Part C eliminates as a separate and distinct office the Office of Adults with Cognitive and Physical Disabilities.

Part D eliminates as a separate and distinct office the Office of Adult Mental Health Services.

Part E eliminates the Office of Advocacy and directs the department to contract with an agency to provide services to individuals with intellectual disabilities and autism.

Part F directs the commissioner to review the current organizational structure, systems and operations of the department and restructure the department in order to improve and streamline services.

Part F also requires the commissioner and the State Budget Officer to provide a report to the joint standing committees of the Legislature having jurisdiction over health and human services matters and appropriations and financial affairs outlining the progress towards the new organizational structure and any transferred amounts.

Part G makes appropriations and allocations to support this restructuring and authorizes the State Budget Officer to transfer positions, appropriations and allocations between accounts and line categories by financial order upon approval of the Governor.