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An Act To Reform Welfare for Increased Security and Employment

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

Sec. 1. 5 MRSA §204-A, as enacted by PL 1999, c. 746, §1, is repealed and the following enacted in its place:

§ 204-A. Annual report

1. Domestic violence data. The Attorney General, working with the district attorneys of the State, shall submit a report that compiles data from domestic violence prosecutors statewide to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, the joint standing committee of the Legislature having jurisdiction over criminal justice matters and the joint standing committee of the Legislature having jurisdiction over judiciary matters on an annual basis.

2. Public assistance fraud statistics. Annually, after the end of the calendar year, but no later than January 30th, the Attorney General shall issue a press release and post on the Attorney General's publicly accessible website the following welfare fraud-related statistics: the number of welfare fraud case referrals from the Department of Health and Human Services, the number of cases accepted, rejected and prosecuted by the Office of the Attorney General, the final disposition of each completed case, the current number of unread cases and the current backlog of unprocessed cases.

Sec. 2. 22 MRSA §16-B is enacted to read:

§ 16-B. Verification of integrity of reported information by applicants for public assistance

The department shall use commercially available data to conduct an electronic verification of information provided on an application for benefits for public assistance as defined in section 16, subsection 1, paragraph C. The electronic verification must, at a minimum, be conducted on all new applications for benefits and must include searches for income, residency and available assets.

Sec. 3. 22 MRSA §21, sub-§1, as amended by PL 1997, c. 530, Pt. A, §8, is repealed.

Sec. 4. 22 MRSA §21, sub-§3-A is enacted to read:

3-A. Electronic benefits transfer card or EBT card. "Electronic benefits transfer card" or "EBT card" means a card issued by the department under an electronic benefits transfer system for the delivery of benefits to recipients.

Sec. 5. 22 MRSA §21, sub-§§10 and 11, as enacted by PL 1995, c. 675, §1, are amended to read:

10. Program. "Program" means the ~~AFDC program~~, food stamps or Medicaid program or another program.

11. Recipient. "Recipient" means a recipient of benefits under the ~~AFDC~~, food stamp or Medicaid programs or another program.

Sec. 6. 22 MRSA §22, first ¶, as amended by PL 1997, c. 530, Pt. A, §10, is further amended to read:

The department is authorized to establish an electronic ~~benefit~~benefits transfer system for the issuance of benefits under the ~~AFDC~~, food stamp, ~~Temporary Assistance for Needy Families~~,~~statewide food supplement program under section 3104~~, the ~~Temporary Assistance for Needy Families program under chapter 1053-B~~, the ~~Women, Infants and Children Special Supplemental Food Program of the federal Child Nutrition Act of 1966~~ and the ~~Parents as Scholars and Medicaid programs~~ and for ~~child care subsidies under chapter 1052-A~~; all recipients of benefits under these programs or another program approved for addition under subsection 2 must participate in the EBT system.

Sec. 7. 22 MRSA §22, sub-§3, as enacted by PL 1995, c. 675, §1, is repealed.

Sec. 8. 22 MRSA §§24 to 26 are enacted to read:

§ 24. Photographs on electronic benefits transfer cards

The commissioner shall place a photograph of a recipient of benefits under a program specified in section 22 on the recipient's electronic benefits transfer card if agreed to in writing by the recipient. When a recipient of benefits is a minor or incapacitated individual, the commissioner may place a photograph of the recipient's parent or legal guardian on the EBT card.

1. Government-issued identification card. An electronic benefits transfer card with a photograph of a recipient is deemed a government-issued identification card, except in the case of a minor or incapacitated individual when a photograph of the recipient's parent or legal guardian is on the EBT card.

2. Secretary of State. The Secretary of State shall provide photographs to the commissioner for use on electronic benefits transfer cards when the recipient of the card agrees to such use pursuant to this section. The commissioner shall maintain photographs received from the Secretary of State for use on EBT card replacements. The department shall compensate the Secretary of State for the actual cost of providing the photographs.

§ 25. Restrictions of the number of replacement electronic benefits transfer cards

When the department determines that the number of requests by a recipient of benefits for a replacement electronic benefits transfer card is excessive, the department shall require the recipient or a member of the recipient's household to contact the recipient's local office of the department to provide an explanation for the requests. Upon a 5th request for a replacement card within a 12-month period, the

department may not issue a replacement card until the recipient or a member of the recipient's household reports to the recipient's local office of the department to explain the excessive number of replacement requests.

§ 26. Posting of electronic benefits transfer card transaction data

The commissioner shall post to the department's publicly accessible website data showing each individual transaction made with an electronic benefits transfer card. The data must include but need not be limited to the date, time, exact amount, transaction type, vendor, town and state of every transaction. Only nonidentifying data may be used. The data may not include the name, social security number or record case number of any recipient of public benefits; however, a nonidentifying unique identifier may be assigned. The data must be posted once monthly in a file format that is an electronic image of the data and in a spreadsheet format to the department's publicly accessible website.

Sec. 9. 22 MRSA §3104, sub-§13, as corrected by RR 2015, c. 1, §20, is repealed.

Sec. 10. 22 MRSA §3104, sub-§14, as amended by PL 2009, c. 291, §2, is repealed.

Sec. 11. 22 MRSA §3104, sub-§§15 to 21 are enacted to read:

15. Felony drug offenders ineligible; drug testing and treatment program requirements. A recipient of food assistance through the food supplement program may be denied food assistance as described in this subsection.

A. Food assistance through the food supplement program may not be provided to any individual convicted under federal or state law on or after July 1, 2017 of any offense that is classified as a felony by the law of the jurisdiction involved and that includes as an element of the offense the manufacture, cultivation, distribution, possession or use of a controlled substance as defined in Section 102(6) of the federal Controlled Substances Act, 21 United States Code, Section 802(6) or controlled substance analogue as defined in Section 102(32) of the federal Controlled Substances Act, 21 United States Code, Section 802(32).

B. Notwithstanding the provisions of paragraph A, an individual is eligible for food assistance through the food supplement program if the individual completes a drug treatment program approved by the department, submits to and passes a drug test and further agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

C. An individual who fails to submit to testing or to successfully pass a drug test is ineligible for food assistance through the food supplement program until the individual successfully passes a drug test. An individual who fails to successfully complete a drug treatment program is ineligible for food assistance through the food supplement program until the individual successfully completes a drug treatment plan approved by the department and the individual passes a drug test and agrees to submit to additional drug testing if requested by the department pursuant to a drug testing plan.

D. The provisions of paragraphs B and C do not apply to an individual who has been convicted of a 2nd or subsequent felony offense as provided in paragraph A. An individual who has been convicted of a 2nd or subsequent felony offense is permanently disqualified from receiving food assistance through the food supplement program.

16. Certain felons convicted of violent crimes and sexual assault ineligible. An individual who is convicted in any jurisdiction on or after January 1, 2018 under federal or state law of aggravated sexual abuse under 18 United States Code, Section 2241; murder under 18 United States Code, Section 1111; an offense under 18 United States Code, Chapter 110; a federal or state offense involving sexual assault, as defined in Section 40002(a) of the federal Violence Against Women Act of 1994, 42 United States Code, Section 13925(a); or an offense under a law of this State that is substantially similar to a federal offense described in this subsection and who is not in compliance with the terms of the individual's sentence, parole or probation or is a fleeing felon is ineligible to receive food assistance through the food supplement program.

17. Ineligibility for noncooperation with child support services. Without a showing of good cause, a noncustodial or custodial parent found to have not cooperated with the department in the collection of child support is ineligible to participate in the food supplement program. The disqualification period ends when the department determines that the parent is cooperating with the department in the collection of child support.

18. Certain lottery and gambling winners ineligible. A recipient of food assistance through the food supplement program may be denied food assistance as described in this subsection.

A. Lottery and gambling winnings of \$5,000 or more, actually received after any offsets to the winnings required by law by an individual in the recipient's household within one calendar month, disqualifies the household from receiving food assistance through the food supplement program until financial eligibility guidelines set forth in department rule are met.

B. The department shall enter into an agreement with the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations, pursuant to which the bureau shall provide the department with reports no less than monthly to assist the department in determining whether an individual in the recipient's household has received lottery and gambling winnings of \$5,000 or more within one calendar month.

19. Asset test for eligibility in full effect and not waived. For a household to be eligible for food assistance through the food supplement program pursuant to broad-based or narrow-based categorical eligibility provisions of rules adopted by the department to implement the food supplement program, the household's countable assets must total less than \$5,000. The commissioner shall ensure that the asset limit is in full effect and not waived, notwithstanding any provision of federal statute or regulation allowing for such categorical eligibility determinations to be made under a less strict standard.

20. Noncitizen income included. Eligibility for the federally funded food supplement program is limited to citizens and individuals with qualified noncitizen status as determined by the United States Department of Agriculture. Noncitizen individuals residing within a household receiving

food supplement program benefits who are unable or unwilling to provide qualifying immigration documentation, as determined by the United States Department of Agriculture, may not be included when determining household size for the purposes of assigning a benefit level to the household for food assistance or comparing the monthly income of the household with the income eligibility standards. The gross nonexempt earned and unearned income and resources of individuals disqualified under this subsection must be counted in their entirety as available to the remaining household members.

21. Work requirement for certain able-bodied adults without dependents. The commissioner shall ensure that the work requirement and time-limited assistance provisions for able-bodied adults who are 18 years of age or older and under 50 years of age with no dependents found in Section 6(o) of the federal Food and Nutrition Act of 2008 are in full effect and not waived. Food assistance for an able-bodied adult who is 18 years of age or older and under 50 years of age with no dependents in the household is limited to 3 months in a 36-month period if the adult does not meet the requirements of Section 6(o) of the federal Food and Nutrition Act of 2008.

Sec. 12. 22 MRSA §3108, as enacted by PL 1995, c. 629, §1, is repealed.

Sec. 13. 22 MRSA §3174, as corrected by RR 1991, c. 1, §29 and amended by PL 1997, c. 530, Pt. A, §34, is further amended by adding after the 2nd paragraph a new paragraph to read:

The department shall review and reevaluate eligibility for all recipients of aid, assistance or benefits available through a program of medical assistance administered pursuant to this chapter no less than once every 12 months, notwithstanding any federal statute, regulation or waiver allowing for less frequent reviews.

Sec. 14. 22 MRSA §3174, as corrected by RR 1991, c. 1, §29 and amended by PL 1997, c. 530, Pt. A, §34, is further amended by adding after the 3rd paragraph a new paragraph to read:

An individual subject to the federal Temporary Assistance for Needy Families work requirements under Section 407 of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the federal Deficit Reduction Act of 2005, Public Law 109-171 who has been sanctioned under the Temporary Assistance for Needy Families program for failing to meet such work requirements is ineligible to receive aid, assistance or benefits available through a program of medical assistance administered pursuant to this chapter.

Sec. 15. 22 MRSA §3762, sub-§18, as enacted by PL 2011, c. 380, Pt. PP, §2, is repealed and the following enacted in its place:

18. Lifetime limit on assistance. As used in this subsection, "family group" or "household" means an applicant for or recipient of TANF assistance, child care subsidy or employment services and all individuals living with the applicant or recipient in which there is a relationship of legal responsibility or a qualifying caretaker relationship including a person cohabitating with the applicant or recipient who is legally responsible for the child. A family group is not eligible for TANF assistance if the family group contains at least one adult member who has received TANF assistance, including federal TANF assistance received in any other state, for 36 or more calendar months since October 1, 1996, unless the

commissioner determines a hardship exists and grants an extension allowing receipt of TANF assistance for a total of 60 months. An extension beyond 60 months may not be granted. A hardship exists when the recipient:

- A. Is a caretaker of a disabled family member living in the household;
- B. Has a disability that precludes employment on a long-term basis or requires substantial rehabilitation;
- C. Needs a time limit extension to overcome the effects of domestic violence or sexual assault; or
- D. Is involved with child protection services provided by the department, has an open plan as defined in the department's rules and is living with the child.

The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 16. 22 MRSA §3762, sub-§19, as enacted by PL 2011, c. 380, Pt. PP, §2, is amended to read:

19. Pretermination notice process. No later than 120 days prior to the end of a family's ~~60th~~^{36th} month of receiving assistance, the department shall offer the adult recipient an opportunity to hold a meeting to review the family's case and:

- A. Explain the exemption and extension criteria established in subsection 18 to the family and determine if those criteria apply to the family; and
- B. Explain that any determination made pursuant to this subsection may be appealed in accordance with the hearing process established in subsection 9, paragraph B.

For a family whose assistance is to be terminated, a supervisory review by the department is required. The review must include but is not limited to an evaluation of the need for additional information to determine if cause for an exemption or extension exists. If the conclusion of the evaluation determines additional vocational, health, mental health or other information is necessary, the department shall work in collaboration with the adult recipient in the development of the information prior to the determination of status or termination.

For a family whose assistance is to be terminated pursuant to this subsection, the department shall provide information to the family regarding any other resources that may be available to help meet that family's basic needs.

Sec. 17. 22 MRSA §3762, sub-§§21 and 22 are enacted to read:

21. Denial of assistance for welfare-related theft or fraud conviction. A recipient of TANF assistance may be denied TANF assistance as described in this subsection.

A. If an individual has been convicted of the crime of theft or fraud pursuant to applicable state law and the theft or fraud is found to be in connection to TANF, the food supplement program or child care subsidies under chapter 1052-A, all adults in the household are permanently ineligible for TANF assistance.

B. If a member of a household has been convicted of the crime of theft or fraud pursuant to applicable state law and the theft or fraud is found to be in connection to TANF, the food supplement program or child care subsidies under chapter 1052-A, the recipient shall name a protective payee as approved by the commissioner or the commissioner's designee to administer TANF assistance on behalf of eligible children in the household. An adult in such a household may not have access to the TANF assistance.

22. Requirement for education program funding and child care. The department, through the Parents as Scholars program established in chapter 1054-B and the TANF child care for work program, shall provide to a recipient of TANF assistance child care and funding for the pursuit of any degree or certification if the occupation has at least an average job outlook listed in the occupational outlook data of the United States Department of Labor, Bureau of Labor Statistics. For occupations with less than an average job outlook, educational plans require approval of the commissioner or the commissioner's designee.

Sec. 18. 22 MRSA §4311, sub-§1, as amended by PL 2015, c. 267, Pt. SSSS, §1, is further amended to read:

1. Departmental reimbursement. When a municipality incurs net general assistance costs in any fiscal year prior to July 1, 2015 in excess of .0003 of that municipality's most recent state valuation relative to the state fiscal year for which reimbursement is being issued, as determined by the State Tax Assessor in the statement filed as provided in Title 36, section 381, the Department of Health and Human Services shall reimburse the municipality for 90% of the amount in excess of these expenditures when the department finds that the municipality has been in compliance with all requirements of this chapter. If a municipality elects to determine need without consideration of funds distributed from any ~~municipally-controlled~~ municipally controlled trust fund that must otherwise be considered for purposes of this chapter, the department shall reimburse the municipality for 66 2/3% of the amount in excess of such expenditures when the department finds that the municipality has otherwise been in compliance with all requirements of this chapter.

TheSubject to the provisions of section 4323, the department shall reimburse each municipality and each Indian tribe 70% of the direct costs incurred by that municipality or tribe on or after July 1, 2015 for the general assistance program granted by that municipality or tribe. For the purposes of this subsection, "Indian tribe" has the same meaning as in section 411, subsection 8-A.

Sec. 19. 22 MRSA §4323, sub-§2, as enacted by PL 1983, c. 577, §1 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

2. Violation; penalty. If the department finds any violation of this chapter after review, it shall notify the municipality that it has 30 days in which to correct that violation and specify what action ~~shall~~must be taken in order to achieve compliance. If the violation includes improper expenditures for which the municipality has sought reimbursement pursuant to section 4311, the department may permanently withhold reimbursement in an amount commensurate with the violation. The municipality shall file a plan with the department setting forth how it will attain compliance. The department shall notify the municipality if the plan is acceptable and that it will review the municipality for compliance within 60 days of accepting the plan. Any municipality ~~which~~that fails to file an acceptable plan with the department or ~~which~~that is in violation of this chapter at the expiration of the 60-day period ~~shall be~~is subject to a civil penalty of not less than \$500. The Department of Health and Human Services shall enforce this section in any court of competent jurisdiction. Every 30-day period that a municipality is in violation of this chapter after review and notification ~~shall constitute~~constitutes a separate offense. In addition to the civil penalty, the department shall withhold reimbursement to any municipality ~~which~~that is in violation of this chapter until it reaches compliance.

Sec. 20. 22-A MRSA §206, sub-§9 is enacted to read:

9. Annual reporting. The commissioner shall report annually as set out in this subsection.

A. After the end of the state fiscal year and no later than July 30th of each year, the commissioner shall issue a press release and post on the department's publicly accessible website a report of the total annual spending in the following programs: the MaineCare program, the Temporary Assistance for Needy Families program under Title 22, chapter 1053-B, the statewide food supplement program under Title 22, section 3104 and municipal general assistance under Title 22, chapter 1161. This report must include a specific breakdown of General Fund funds spent and other spending, including spending figures from the 5 previous years for comparison.

B. After the end of the calendar year and no later than January 30th of each year, the commissioner shall issue a press release and post on the department's publicly accessible website the following welfare fraud-related statistics for the MaineCare program, the Temporary Assistance for Needy Families program under Title 22, chapter 1053-B, the statewide food supplement program under Title 22, section 3104 and municipal general assistance under Title 22, chapter 1161: the number of cases investigated, the number of cases referred to the Office of the Attorney General for prosecution, the number of cases referred to district attorneys' offices for prosecution and the number of cases successfully prosecuted. The department shall follow the same procedure outlined in this paragraph for all intentional program violations.

C. After the end of the state fiscal year and no later than July 30th of each year, the commissioner shall issue a press release and post on the department's publicly accessible website each individual contract the department has with providers of services. The report must include the following information for each contract: the provider's name, the program office, the contract period, the total contract dollar value, the amount of General Fund funds allocated to the contract and a description of the services provided pursuant to the contract. The report must indicate whether the contract was a sole-source contract or the result of a competitive bidding process.

D. After the end of the state fiscal year and no later than July 30th of each year, the commissioner shall issue a press release and post on the department's publicly accessible website each individual grant the department receives from the Federal Government. The report must include the following information: the program office, the grant period, the total grant award, the number of fully or partially funded staff funded by the grant and a description of the grant. The report must indicate whether or not the grant is discretionary and the amount of General Fund funds necessary to support the grant.

E. After the end of the state fiscal year and no later than July 30th of each year, the commissioner shall issue a press release and post on the department's publicly accessible website the total out-of-state travel costs for employees of the department. The report must include travel costs by year for each of the previous 5 years, listed by individual division or agency within the department as well as by funding type.

SUMMARY

This bill makes a number of changes to the statutes relating to programs administered by the Department of Health and Human Services.

The bill makes changes to the laws relating to electronic benefits transfer cards by allowing the department to place photographs on the cards and to restrict the number of replacement cards issued. It removes reference to the Aid to Families with Dependent Children, or AFDC, program in the laws relating to electronic benefits transfer cards.

The bill requires reporting by the department on welfare fraud, electronic benefits transfer card transactions, provider contracts, grant funding, department out-of-state travel costs and spending in the MaineCare program, the Temporary Assistance for Needy Families program, the statewide food supplement program and municipal general assistance. The bill also requires the Attorney General to report information on welfare fraud cases.

The bill provides for annual eligibility evaluations under the MaineCare program.

The bill allows the department to withhold municipal reimbursement for general assistance if a municipality is found to have committed a violation that includes improper expenditures.

The bill changes the statewide food supplement program eligibility requirements as they relate to felony drug offenders, certain felons convicted of violent crimes and sexual assault, noncooperation with child support collection and certain lottery and gambling winners.

The bill ensures the asset test for the statewide food supplement program eligibility remains in effect and is not waived. It also ensures the federal work requirement and time limit provisions for able-bodied adults without dependents are in effect and not waived.

The bill limits eligibility for the federally funded food supplement program to citizens and individuals with qualified noncitizen status as determined by the United States Department of Agriculture.

Under current law, the lifetime limit on Temporary Assistance for Needy Families assistance is 60 months. This bill reduces that limit to 36 months, absent hardship.

The bill repeals the laws governing the food stamp standard utility allowance.

The bill makes individuals convicted of the crimes of theft or fraud in connection to the Temporary Assistance for Needy Families program, the statewide food supplement program or child care subsidies ineligible to receive Temporary Assistance for Needy Families assistance.

Finally, the bill requires education programs paid for through the Temporary Assistance for Needy Families program to be for occupations that have at least an average job outlook as determined by the United States Department of Labor, Bureau of Labor Statistics.