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Legislative Document

No. 1185

H.P. 859

House of Representatives, March 12, 2019

**An Act To Facilitate Intervention by and Provision of Services
through the Department of Health and Human Services for Certain
Families Affected by Substance Use**

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

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BRENNAN of Portland.
Cosponsored by Senator MILLETT of Cumberland and
Representatives: CRAVEN of Lewiston, EVANGELOS of Friendship, FARNSWORTH of
Portland, FECTION of Biddeford, GRAMLICH of Old Orchard Beach, MASTRACCIO of
Sanford, PERRY of Calais, WARREN of Hallowell.

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

2 **Sec. 1. 22 MRSA §4004, sub-§2, ¶E,** as amended by PL 2007, c. 586, §7, is
3 further amended to read:

4 E. If, after investigation, the department does not file a petition under section 4032
5 but does open a case to provide services to the family to alleviate child abuse and
6 neglect in the home, assign a caseworker, who shall:

- 7 (1) Provide information about rehabilitation and other services that may be
8 available to assist the family; ~~and~~
9 (2) Develop with the family a written child and family plan.

10 The child and family plan must identify the problems in the family and the
11 services needed to address those problems, including, but not limited to, services
12 relating to and treatment for substance use disorder; must describe
13 responsibilities for completing the services, including, but not limited to,
14 payment for services, transportation and child care services and responsibilities
15 for seeking out and participating in services; and must state the names, addresses
16 and telephone numbers of any relatives or family friends known to the
17 department or parent to be available as resources to the family.

18 The child and family plan must be reviewed every 6 months, or sooner if
19 requested by the family or the department; and

- 20 (3) Arrange for the family to receive services relating to and treatment for
21 substance use disorder in cases in which the child abuse and neglect in the home
22 are related to substance use. For as long as the child and family plan is in effect,
23 these services must be paid by the department, unless the services are
24 reimbursable under MaineCare or other insurance for the benefit of the person
25 receiving services;

26 **Sec. 2. 22 MRSA §4004, sub-§4** is enacted to read:

27 **4. Training.** The department shall provide to an employee engaged in child
28 protective services training regarding substance use disorder and its effect on the
29 employee's job responsibilities.

30 **Sec. 3. 22 MRSA §4041, sub-§1-A, ¶A,** as enacted by PL 2001, c. 559, Pt. CC,
31 §5, is amended to read:

32 A. The department shall:

- 33 (1) Develop a rehabilitation and reunification plan as provided in this
34 subparagraph.

35 (a) In developing the rehabilitation and reunification plan, the department
36 shall make good faith efforts to seek the participation of the parent.
37 Information that must be included in developing the plan includes the
38 problems that present a risk of harm to the child, the services needed to
39 address those problems, including, but not limited to, services relating to and

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treatment for substance use disorder, provisions to ensure the safety of the child while the parent engages in services, a means to measure the extent to which progress has been made, and visitation that protects the child's physical and emotional well-being. With this information, the department shall prepare a written rehabilitation and reunification plan.

(b) The department shall circulate the plan to the parties at least 10 days before a scheduled court hearing and shall present the plan to the court for filing at that hearing.

(c) The rehabilitation and reunification plan must include the following:

(i) The reasons for the removal of the child from home;

(ii) The changes that are necessary to eliminate jeopardy to the child while in the care of a parent;

(iii) Rehabilitation services that will be provided and must be completed satisfactorily prior to the child's returning home;

(iv) Services that must be provided or made available to assist the parent in rehabilitating and reunifying with the child, as appropriate to the child and family, including, but not limited to, services relating to and treatment for substance use disorder, reasonable transportation for the parent for visits and services, child care, housing assistance, assistance with transportation to and from required services and other services that support reunification;

(v) A schedule of and conditions for visits between the child and the parent designed to provide the parent and child time together in settings that provide as positive a parent-child interaction as can practicably be achieved while ensuring the emotional and physical well-being of the child when visits are not detrimental to the child's best interests;

(vi) Any use of kinship support, including, but not limited to, placement, supervision of visitation, in-home support or respite care;

(vii) A reasonable time schedule for proposed reunification, reasonably calculated to meet the child's needs; and

(viii) A statement of the financial responsibilities of the parent and the department during the reunification process. The department is financially responsible for services relating to and treatment for substance use disorder during the reunification process, unless the services are reimbursable under MaineCare or other insurance for the benefit of the person receiving services;

(2) Provide the parent with prompt written notice of the following, unless that notice would be detrimental to the best interests of the child:

(a) The child's residence and, when practicable, at least 7 days' advance written notice of a planned change of residence; and

- 1 (b) Any serious injuries, major medical care received or hospitalization of
2 the child;
- 3 (3) Make good faith efforts to cooperate with the parent in the pursuit of the
4 plan;
- 5 (4) Periodically review with the parent the progress of the plan and make any
6 appropriate changes in that plan. If the parties disagree about the proposed
7 changes in the plan, any party may seek an informal conference with all other
8 parties in an effort to resolve the disagreement, prior to initiating court action. If
9 the parties are unable to agree after an informal conference, the parties may have
10 access to the court's case management system. This subparagraph may not be
11 construed to limit the court's authority to manage and control any cases within the
12 court;
- 13 (5) Petition for judicial review and return of custody of the child to the parent at
14 the earliest appropriate time; and
- 15 (6) Petition for termination of parental rights at the earliest possible time that it is
16 determined that family reunification efforts will be discontinued pursuant to
17 subsection 2 and that termination is in the best interests of the child.

18 **Sec. 4. 22 MRSA §4041, sub-§4** is enacted to read:

19 **4. Program for identification of families affected by substance use disorder.** The
20 department shall create a program for families affected by substance use disorder. The
21 department shall create a process to identify families engaged in a rehabilitation and
22 reunification plan under this section in which substance use disorder is a barrier to the
23 return of a child to the child's home. The department shall ensure that timely and
24 appropriate intervention and treatment for the substance use disorder are provided to a
25 family identified in accordance with this subsection. The department shall adopt rules to
26 implement this subsection. Rules adopted pursuant to this subsection are routine
27 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

28 **SUMMARY**

29 This bill requires the Department of Health and Human Services to provide and pay
30 for services relating to and treatment for substance use disorder in cases in which it does
31 not file a child protection petition under the Maine Revised Statutes, Title 22, section
32 4032 but does open a case to provide services to the family to alleviate child abuse and
33 neglect in the home, and also to provide and pay for those services as part of the
34 rehabilitation and reunification plan required pursuant to Title 22, section 4041 when a
35 child has been removed from the home. The bill provides that the department is not
36 financially responsible if the person receiving services is insured by MaineCare or other
37 insurance and that insurance covers the cost of those services. The bill establishes a
38 program within the department for families affected by substance use disorder. The
39 department is required to create a process to identify families engaged in a rehabilitation
40 and reunification plan in which substance use disorder is a barrier to the return of a child
41 to the child's home and ensure the family receives intervention and treatment for the
42 disorder.