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H.P. 1088

House of Representatives, April 4, 2019

**An Act To Strengthen Supports for Adults with Intellectual
Disabilities or Autism in Crisis**

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

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

ROBERT B. HUNT
Clerk

Presented by Representative FARNSWORTH of Portland.

Cosponsored by Representatives: COOPER of Yarmouth, CUDDY of Winterport, HANDY of Lewiston, HICKMAN of Winthrop, INGWERSEN of Arundel, PERRY of Bangor.

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

2 **Sec. 1. 34-B MRSA §5201, sub-§7**, as amended by PL 2011, c. 542, Pt. A, §92,
3 is further amended to read:

4 **7. Crisis and respite.** Provision of crisis and respite services to persons with
5 intellectual disabilities or autism in accordance with ~~section 5206~~ subchapter 5; and

6 **Sec. 2. 34-B MRSA §5206**, as amended by PL 2011, c. 542, Pt. A, §93, is
7 repealed.

8 **Sec. 3. 34-B MRSA c. 5, sub-c. 5** is enacted to read:

9 **SUBCHAPTER 5**

10 **CRISIS SERVICES**

11 **§5701. Definitions**

12 As used in this subchapter, unless the context otherwise indicates, the following
13 terms have the following meanings.

14 **1. Autism.** "Autism" has the same meaning as set forth in section 6002.

15 **2. Crisis.** "Crisis" means a time period in which a person with an intellectual
16 disability or autism is experiencing a medical, psychological, behavioral or emotional
17 disturbance or has any other experience that has the potential to lead to the loss of home,
18 support services and benefits or employment and cannot be resolved without the support
19 of crisis services.

20 **3. Crisis assessment.** "Crisis assessment" means a comprehensive clinical
21 assessment of a person with an intellectual disability or autism who required emergency
22 hospital service due to a crisis or an out-of-home crisis placement or has required crisis
23 services on at least 3 occasions within a 2-week period.

24 **4. Crisis assessment team.** "Crisis assessment team" means a team of clinicians
25 contracted by the department and convened to provide crisis assessments to assist a
26 personal planning team in development of a crisis stabilization plan.

27 **5. Crisis central intake service.** "Crisis central intake service" means a
28 telecommunications service maintained pursuant to section 5706 that is staffed and
29 answered at all times to notify the department of a crisis and the need for crisis services.
30 The crisis central intake service also provides remote crisis services and connects the
31 person in crisis with the appropriate regional crisis services when in-person intervention
32 is requested or necessary.

33 **6. Crisis services.** "Crisis services" means services that are provided to a person
34 with an intellectual disability or autism during crisis. Crisis services are oriented toward
35 the improvement and stabilization of the crisis to ensure the safety of the person.

1 **7. Crisis stabilization plan.** "Crisis stabilization plan" means a plan of support
2 developed by an individual support team for early intervention and stabilization in the
3 event of a crisis for the purpose of assisting the person and the personal planning team to
4 address a crisis without removing the affected person from the community.

5 **8. Crisis stabilization unit.** "Crisis stabilization unit" means a temporary out-of-
6 home placement owned by or provided through a contract with the department where a
7 person with an intellectual disability or autism in crisis can reside while receiving
8 residential crisis services.

9 **9. Individual support team.** "Individual support team" means a team that consists
10 of the person with an intellectual disability or autism, members of the personal planning
11 team, other service providers and family or friends that the personal planning team
12 determines are supportive to the person in a time of crisis.

13 **10. Intellectual disability.** "Intellectual disability" has the same meaning as set
14 forth in section 5001, subsection 3.

15 **11. On scene.** "On scene" means the location in which a provider of crisis services
16 physically meets with the person with an intellectual disability or autism who is in crisis,
17 including, but not limited to, the person's home, the support services location, an
18 emergency room or any other location in the community that meets the needs of the
19 person in crisis.

20 **12. Personal planning team.** "Personal planning team" means the team of
21 individuals convened at the direction of a person with an intellectual disability or autism
22 to develop the personal plan in accordance with section 5470-B.

23 **13. Regional crisis services.** "Regional crisis services" means crisis services that
24 are provided to a person with an intellectual disability or autism in crisis on scene in a
25 setting most conducive to meeting that person's needs.

26 **14. Residential crisis services.** "Residential crisis services" means services that are
27 provided to persons with intellectual disabilities or autism in crisis in a crisis stabilization
28 unit.

29 **§5702. Crisis services objectives**

30 Crisis services must be delivered to a person with an intellectual disability or autism
31 as a protective and supportive service with the following objectives:

32 **1. Mobilizing strengths.** Mobilizing the person's own strengths;

33 **2. Community resources.** Using community resources;

34 **3. Improve ability.** Improving the person's ability to function and to live life in
35 safety and with dignity and with as much satisfaction, enjoyment and comfort as possible;

36 **4. Prevent institutionalization.** Preventing unnecessary or inappropriate
37 institutionalizations;

1 5. Safeguard rights. Safeguarding the rights and resources and maintaining the
2 physical and mental health of the person;

3 6. Prevent injury. Preventing injury to the person;

4 7. Rights to self-determination. Recognizing and preserving the rights of self-
5 determination, autonomy and self-care of the person; and

6 8. Least restrictive environment. Providing services and interventions in the least
7 restrictive environment.

8 **§5703. Crisis and respite services system established**

9 The department shall establish a system to provide crisis and respite services
10 throughout the State as part of the system of care required by section 5003-A in
11 accordance with this subchapter.

12 1. Crisis services. The department shall maintain the capacity to intervene in each
13 crisis. Such capacity must include:

14 A. Assessment, consultation, planning, training and support for persons with
15 intellectual disabilities or autism and their families or friends both before and after a
16 crisis occurs;

17 B. Providing staff support to prevent or respond to a crisis at the site of the crisis
18 when appropriate;

19 C. Ensuring mental health supports when necessary, including access to a licensed
20 mental health provider, inpatient treatment when indicated, psychiatric services and
21 mental health aftercare services; and

22 D. Identifying appropriate professional services for the person in crisis.

23 2. Respite services. The department shall maintain and fund a statewide respite
24 system for planned or unplanned respite for persons with intellectual disabilities or autism
25 and their families or friends.

26 **§5704. Pre-crisis planning**

27 A personal planning team in accordance with section 5470-B shall consider the
28 potential for crisis as a component of personal planning. This consideration must include,
29 but is not limited to, review of historical data and behavioral trends and consideration of
30 past trauma and potential triggers; pain and how it presents; past and current medical
31 conditions; and the extent to which unmet needs and lack of or limitations on access to
32 services may contribute to risk of crisis.

33 **§5705. Crisis assessment team**

34 The department shall maintain a crisis assessment team to provide comprehensive
35 clinical assessments for persons who have required emergency hospital services, resided
36 in a crisis stabilization unit or required regional crisis services on at least 3 occasions
37 within a 2-week period.

1 **1. Crisis assessment team composition.** The crisis assessment team must include,
2 at minimum, a psychologist or a behavior analyst certified by a national behavior analyst
3 certification board who has worked with persons with intellectual disabilities or autism as
4 a primary part of the psychologist's or analyst's practice, a communication specialist and a
5 physician. The department shall consider including any or all of the following as
6 members of the crisis assessment team as needed:

7 A. A neuropsychiatrist or psychiatrist who has worked with persons with intellectual
8 disabilities or autism as a primary part of the neuropsychiatrist's or psychiatrist's
9 practice;

10 B. A clinical liaison who has a bachelor's degree or a nursing degree, direct
11 experience with persons with intellectual disabilities or autism and extensive
12 experiences that provide a working knowledge of medical, psychiatric and behavioral
13 perspectives;

14 C. An occupational therapist;

15 D. A physical therapist; or

16 E. A speech therapist.

17 **2. Crisis assessment.** A crisis assessment must include, at minimum, a
18 psychological assessment and a physical evaluation to identify causes or conditions that
19 may precipitate or elevate risk for crisis and must provide recommendations for early
20 intervention and stabilization in the event of a crisis.

21 **§5706. Crisis central intake service**

22 The department shall maintain a crisis central intake service to receive notification of
23 a crisis and need for crisis services. The crisis central intake service shall provide remote
24 crisis services in accordance with this section and connect a user of the service with the
25 appropriate regional crisis services when in-person assistance is requested or necessary to
26 support a person with an intellectual disability or autism in crisis. The crisis central
27 intake service must:

28 **1. Availability.** Be available at all times on all days via telephone, videophone or
29 text message and make other accommodations necessary to remotely communicate with a
30 person with an intellectual disability or autism in crisis or family or friends of the person
31 with an intellectual disability or autism;

32 **2. Documentation.** Document all requests for crisis services, including
33 demographic information and the scope, intensity, duration, intent and outcome of the
34 request for crisis services;

35 **3. Remote services.** Remotely provide crisis services while the person is in crisis or
36 until the person requests in-person intervention or the crisis central intake service
37 determines in-person intervention is necessary based on the information provided by the
38 user of the service and otherwise available or known to the crisis central intake service;
39 and

1 **4. Notification.** Notify and assign the closest regional crisis services staff to meet
2 the person in crisis on scene and make any other appropriate referrals.

3 **§5707. Regional crisis services**

4 The department shall maintain an adequate capacity to maintain mobile, in-person
5 regional crisis services where crisis services can be provided on scene. Regional crisis
6 services must be coordinated with the crisis central intake service to locate persons with
7 intellectual disabilities or autism in need of regional crisis services and meet the persons
8 in settings most conducive to meeting the persons' needs. Regional crisis services must:

9 **1. Availability.** Be available at all times to meet with a person in need of regional
10 crisis services on scene;

11 **2. Locations.** Maintain at all times at least 5 regional crisis services locations,
12 including, but not limited to, locations in Caribou, Bangor, Augusta, Portland and
13 Lewiston. The department shall increase the number of locations to the extent
14 determined to be necessary as a result of the data collection and reporting under section
15 5711;

16 **3. Staff requirements.** Maintain at all times at least 60 regional crisis services staff
17 to respond to notification of need for regional crisis services by the crisis central intake
18 service and provide crisis services to persons on scene. The department shall increase the
19 number of staff to the extent determined to be necessary as a result of the data collection
20 and reporting under section 5711;

21 **4. Coordination.** Stay with persons in crisis and coordinate any necessary services
22 with the crisis central intake service as necessary, including residential crisis services;
23 and

24 **5. Notification.** Notify the crisis central intake service and transport persons to
25 emergency hospital services or arrange other transportation appropriate to meet the
26 persons' needs if immediate medical attention is requested or necessary.

27 The department may not routinely use law enforcement entities to transport persons
28 in crisis. Transportation of persons in crisis by law enforcement personnel may occur
29 only if the transportation has been specifically authorized by the person's guardian or
30 personal planning team or when determined by law enforcement personnel to be
31 necessary to provide for the safety of the person or others.

32 **§5708. Residential crisis services**

33 The department shall maintain the capacity to provide out-of-home safety and support
34 by trained staff with appropriate professional backup resources for persons with
35 intellectual disabilities or autism experiencing crises that cannot be safely managed at the
36 persons' homes. Residential crisis services must:

37 **1. Number of units.** Maintain at all times the capacity to provide at least 20 crisis
38 stabilization units with no more than 2 placements in each unit. The department shall

1 increase the number of units to the extent determined to be necessary as a result of the
2 data collection and reporting under section 5711;

3 **2. Coordination.** Coordinate with the crisis central intake service and the personal
4 planning team to contact the crisis assessment team and complete a crisis assessment;

5 **3. Convening of team.** Convene an individual support team meeting for a person
6 within 10 business days of admission of that person to a crisis stabilization unit; and

7 **4. Training.** Provide any necessary training to a person, service providers and the
8 person's family to help the person transition out of residential crisis services in
9 accordance with a crisis stabilization plan.

10 **§5709. Least restrictive environment**

11 Crisis services and respite services must be provided in the least restrictive
12 environment with both a short-term goal of stabilization and a long-term goal of as much
13 independence as possible. Home-based and community-based services must be
14 maintained and funded to support persons with intellectual disabilities or autism that have
15 high behavioral needs and are at risk for out-of-home placement. The department shall
16 maintain and fund, at minimum:

17 **1. Physical adaptations.** Physical adaptations required to ensure accessibility at any
18 location where a person with an intellectual disability or autism resides and receives
19 services that are necessary to ensure the health, welfare and safety of the person and
20 enable the person to function with greater independence; and

21 **2. Enhanced services.** Enhanced home-based and community-based services for
22 persons with intellectual disabilities or autism, including, without limitation, services
23 covered by the MaineCare program that fund an increased rate as a component of service
24 to provide a higher level of clinical and individualized support for persons with high
25 behavioral needs.

26 **§5710. Post-crisis review and assessment**

27 A crisis assessment team shall perform a post-crisis review and assessment no more
28 than 10 business days after any out-of-home placement, such as a hospitalization or
29 placement in a crisis stabilization unit, of a person with an intellectual disability or autism
30 who experiences a crisis. The review must include service providers and appropriate
31 members of the person's personal planning team. The review must identify possible
32 causes of the person's crisis and must recommend for the personal planning team changes
33 in the person's environment, services and supports to prevent crises in the future.

34 **§5711. Data collection and reporting**

35 The department shall collect and report information in accordance with this section.

36 **1. Collection.** The department shall maintain information regarding use of crisis and
37 respite services sufficient to plan and budget for adequate crisis and respite services. The

1 information must include an assessment of the needs, both met and unmet, for crisis and
2 respite services.

3 **2. Education.** The department shall provide information regarding the availability
4 of services under this subchapter and the proper means to obtain them to persons with
5 intellectual disabilities or autism, their families or friends, service providers and other
6 interested parties.

7 **3. Reporting.** The department shall report annually by January 15th beginning in
8 2020 to the joint standing committee of the Legislature having jurisdiction over health
9 and human services matters performance indicators that represent measures important to
10 persons with intellectual disabilities or autism, service providers, families or friends and
11 other interested parties in assessing performance, including the aggregate data specified
12 in subsection 4. When reports indicate gaps in crisis services or performance, the
13 department shall include a supplemental report identifying the gaps with a corrective
14 action plan including requests for increased funding, if necessary, to maintain capacity.

15 **4. Content.** The information collected and reported under this section must include
16 without limitation aggregate data on the following:

17 A. Calls made to the crisis central intake service, including but not limited to:

- 18 (1) Persons who were referred to regional crisis services;
- 19 (2) Persons who were referred to residential crisis services; and
- 20 (3) Persons who were referred to emergency hospital services;

21 B. Demographics of persons accessing crisis services, including but not limited to:

- 22 (1) Age;
- 23 (2) Location;
- 24 (3) Current level of MaineCare services; and
- 25 (4) Unstaffed hours of authorized MaineCare services identified prior to
26 accessing crisis services;

27 C. Adequacy of service and performance mechanisms, including but not limited to:

- 28 (1) Average time to access the crisis central intake service;
- 29 (2) Average time between referral and arrival of regional crisis services;
- 30 (3) Average time between referral and arrival at a crisis stabilization unit;
- 31 (4) Average length of time using regional crisis services;
- 32 (5) Average length of time using residential crisis services at a crisis stabilization
33 unit;
- 34 (6) Any referrals made to a higher level of care while waiting to access crisis
35 services; and
- 36 (7) Any referrals made to a higher level of care due to unstaffed hours of
37 authorized MaineCare services;

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- D. Timeliness of post-crisis review, including but not limited to:
 - (1) Percentage of crisis assessments completed within 10 business days as required by section 5710; and
 - (2) Percentage of individual support teams that met within the required time frame; and
- E. Any other factor the department considers appropriate to determine adequacy of performance of crisis and respite services.

§5712. Training

The department shall offer regular and ongoing information, consultation and training on crisis prevention and intervention and respite services to its own staff and to service providers, persons with intellectual disabilities or autism and their families or friends.

§5713. Rulemaking

The department shall adopt rules necessary to implement this subchapter no later than January 1, 2020. Rules adopted pursuant to this paragraph are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This bill requires the Department of Health and Human Services to provide a system of crisis and respite services specific to persons with intellectual disabilities or autism and their families. It requires the department to adopt rules by January 1, 2020. The rules are major substantive rules.