

131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

No. 1975

H.P. 1266

House of Representatives, May 18, 2023

An Act to Implement a Statewide Public Health Response to Substance Use and Amend the Laws Governing Scheduled Drugs

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

ROBERT B. HUNT
Clerk

Presented by Representative CRAFTS of Newcastle.
Cosponsored by Senator HICKMAN of Kennebec and

Representatives: BOYER of Poland, FAULKINGHAM of Winter Harbor, LANIGAN of Sanford, MILLIKEN of Blue Hill, PERRY of Calais, SHEEHAN of Biddeford, Senators: BAILEY of York, BRENNER of Cumberland.

1	Be it enacted by the People of the State of Maine as follows:
2	PART A
3	Sec. A-1. 22 MRSA Sub-t. 4, Pt. 3, headnote is amended to read:
4	PART 3
5	DRUG ABUSE <u>SUBSTANCE USE</u>
6	Sec. A-2. 22 MRSA c. 1605 is enacted to read:
7	CHAPTER 1605
8	SUBSTANCE USE, HEALTH AND SAFETY FUND
9	§7281. Substance Use, Health and Safety Fund
10	1. Fund established. The Substance Use, Health and Safety Fund, referred to in this
11	section as "the fund," is established as a nonlapsing fund in the department. Interest earned
12	by the fund must be credited to the fund.
13	2. Use of funds. Money deposited in the fund must be used by the department to
14	oversee, approve and provide grants and funding to agencies, organizations and service
15	providers, including the federally recognized Indian tribes in this State and service
16 17	providers that are affiliated with federally recognized Indian tribes in this State, to increase voluntary access to community care for persons who need services related to substance use
18	as set forth in this subsection.
19	A. The department shall provide grants and funding to ensure the following services
20	and any other services specified by the department by rule are available within each
21	county:
22	(1) At least one receiving center in each county. A receiving center may be a new
23	facility or an expansion of an existing facility. A receiving center must provide:
24	(a) A location for law enforcement and community members to bring persons
25	who need services related to substance use as an alternative to jail or ar
26	emergency department;
27	(b) Immediate screening of the acute needs of persons who use drugs and
28	referral to appropriate services;
29	(c) Comprehensive health needs screening. The screening must prioritize the
30	self-identified needs of the person and must seek to identify all potentia
31 32	service needs, including, but not limited to, immediate medical or acute care physical health, mental health, substance use, housing, employment and
33	training and child care needs;
34	(d) Individual health needs planning that prioritizes the self-identified needs
35	of the person and may address the person's need and desire for substance use

employment and training, child care and other services; (e) A welcoming environment for persons who may be intoxicated and receive nutrition, hydration and clothing; (f) Short-term accommodations for persons who are awaiting coordin other levels of care; and (g) Referrals to other services, including those in subparagraphs (2) to (2) Intensive case management; (3) Ongoing peer counseling, support and recovery services, as well outreach workers to engage directly with marginalized community memb could benefit from services and education, including, but not limited to opervention education, access to naloxone hydrochloride and sterile supplication of the decision of the decis	ems, housing,
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cost of services for which another 3rd party is responsible in violation of 42 United 1 2 States Code, Section 1396a(25). 3 G. A behavioral health resource network shall make good faith efforts to engage hospitals in the network's respective county to coordinate appropriate referrals and 4 aftercare for patients who need services related to substance use. 5 6 **3. Source of funds.** By June 30, 2024, and annually thereafter, the Legislature shall appropriate to the fund an amount sufficient to fully fund the receiving centers and health 7 services pursuant to this section. 8 9 4. Money must provide additional funding. Money transferred to the fund and distributed pursuant to this section must, to the maximum extent consistent with law, be in 10 addition to and may not replace any existing allocations or appropriations for the purposes 11 of providing the services identified in subsection 2. 12 13 5. Limit on money used for administrative purposes. No more than 4% of the money deposited into the fund in any fiscal year may be used for administrative purposes. 14 15 **6. Rules.** The department shall adopt major substantive rules as described in Title 5, chapter 375, subchapter 2-A to effectuate the provisions of this section. 16 PART B 17 18 Sec. B-1. 15 MRSA §3103, sub-§1, ¶B, as amended by PL 2017, c. 1, §19 and PL 19 2021, c. 669, §5, is further amended to read: 20 B. Offenses involving illegal drugs or drug paraphernalia as follows: 21 (1) The possession of a useable amount of cannabis, as provided in Title 22, section 2383, subsection 1-A, unless the juvenile is authorized to possess cannabis 22 23 for medical use pursuant to Title 22, chapter 558-C; and 24 (2) The use or possession of drug paraphernalia as provided in Title 17-A, section 25 1111-A. subsection 4-B: and 26 (3) Illegal transportation of drugs by a minor as provided in Title 22, section 2389, 27 subsection 2; 28 Sec. B-2. 17-A MRSA §1106-A, sub-§2, as amended by PL 2001, c. 383, §125 29 and affected by §156, is repealed. **Sec. B-3.** 17-A MRSA §1107-A, as amended by PL 2021, c. 434, §§2 and 3, is 30 31 repealed. 32 Sec. B-4. 17-A MRSA §1107-B is enacted to read: 33 §1107-B. Possession of scheduled drugs 34 Unless otherwise specified, possession of a schedule W, X, Y or Z drug is not a criminal 35 offense. Sec. B-5. 17-A MRSA §1111-A, sub-§4-B, as amended by PL 2017, c. 409, Pt. 36 37 B, §7, is repealed. **Sec. B-6. 17-A MRSA §1126, sub-§1,** as enacted by PL 2019, c. 113, Pt. B, §17, 38

is amended to read:

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- **1. Fine based on value of scheduled drugs at time of offense.** As authorized by section 1706, subsection 3, if the State pleads and proves the value at the time of the commission of a crime of a scheduled drug that is the basis for a conviction under section 1103, 1105-A, 1105-B, 1105-C, 1105-D, or 1106 or 1107-A, the convicted person may be sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State, of that scheduled drug.
- **Sec. B-7. 17-A MRSA §1126, sub-§2,** as amended by PL 2021, c. 434, §9, is further amended to read:
- **2.** Mandatory minimum fine barring court finding exceptional circumstances. In addition to any other authorized sentencing alternative specified in section 1502, subsection 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a minimum fine of \$400, none of which may be suspended, except as provided in subsection 3, for an individual convicted of a crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; 1111-A, subsection 4-A; 1116; 1117; or 1118.
- **Sec. B-8. 17-A MRSA §1902, sub-§5,** as enacted by PL 2019, c. 113, Pt. A, §2, is repealed.

17 SUMMARY

This bill establishes the Substance Use, Health and Safety Fund in the Department of Health and Human Services. Money deposited in the fund must be used by the department to oversee, approve and provide grants and funding to agencies, organizations and service providers, including the federally recognized Indian tribes in this State and service providers that are affiliated with federally recognized Indian tribes in this State, to increase voluntary access to community care for persons who need services related to substance use, as set forth in the bill. By June 30, 2024, and annually thereafter, the Legislature must appropriate to the fund an amount sufficient to fully fund the services as set forth in the bill.

The bill repeals the laws that make possession of a schedule W, X, Y or Z drug and use of drug paraphernalia a crime. It also repeals the laws governing the civil violation of use of drug paraphernalia and possession with intent to use drug paraphernalia.