

**CHAPTER 6****AUTISM****SUBCHAPTER 1****AUTISM ACT OF 1984****§6001. Legislative intent**

It is the intent of the Legislature that social and habilitative services directed at persons who have been diagnosed as having autism or other pervasive developmental disorders be developed and planned for, to the extent that resources permit, by the Department of Health and Human Services. [PL 2011, c. 542, Pt. A, §132 (AMD).]

**SECTION HISTORY**

PL 1983, c. 824, §U (NEW). PL 1993, c. 410, §CCC44 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2011, c. 542, Pt. A, §132 (AMD).

**§6002. Autism defined**

**1. Generally.** Autism refers to a developmental disorder characterized by a lack of responsiveness to other people, gross impairment in communicative skills and unusual responses to various aspects of the environment, all usually developing within the first 30 months of age.

[PL 2007, c. 309, §1 (NEW).]

**2. Adult with autism.** An adult with autism is an adult who:

A. Has received a diagnosis that falls within the category of Pervasive Developmental Disorders, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, published by the American Psychiatric Association and as may be updated by rule adopted by the department in response to updates or changes in the Diagnostic and Statistical Manual of Mental Disorders; and [PL 2007, c. 309, §1 (NEW).]

B. Has been assessed as having an adaptive behavior score at a level of functional impairment as determined by the department. [PL 2007, c. 309, §1 (NEW).]

[PL 2007, c. 309, §1 (NEW).]

**SECTION HISTORY**

PL 1983, c. 824, §U (NEW). PL 2007, c. 309, §1 (RPR).

**§6003. Rules**

The department shall adopt rules governing the definition of autism and other pervasive developmental disorders in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375. [PL 1995, c. 560, Pt. K, §63 (AMD).]

**SECTION HISTORY**

PL 1983, c. 824, §U (NEW). PL 1993, c. 410, §CCC44 (AMD). PL 1995, c. 560, §K63 (AMD).

**§6004. Report**

The commissioner shall submit a report in coordination with the Commissioner of Education on efforts to plan for and develop social and habilitative services for persons who have autism and other

pervasive developmental disorders to the Governor and the joint standing committees of the Legislature having jurisdiction over health and institutional services matters and educational and cultural affairs. This report must be submitted no later than January 15th of every odd-numbered year and must be submitted in conjunction with the plan required by section 5003-A, subsection 3. [PL 2011, c. 348, §11 (AMD).]

The committee shall study the report and make recommendations to the Legislature with respect to improving the quality and availability of services to children and adults who have pervasive developmental disorders. [PL 1983, c. 824, Pt. U (NEW).]

#### SECTION HISTORY

PL 1983, c. 824, §U (NEW). PL 1993, c. 410, §CCC45 (AMD). PL 1995, c. 560, §K64 (AMD). PL 2007, c. 356, §28 (AMD). PL 2007, c. 356, §31 (AFF). PL 2011, c. 348, §11 (AMD).

### SUBCHAPTER 2

#### CHILDREN'S SERVICES

##### §6201. Definitions

As used in this subchapter, unless the context indicates otherwise, the following terms have the following meanings. [PL 1985, c. 503, §12 (NEW).]

##### 1. Bureau.

[PL 1995, c. 560, Pt. K, §66 (RP).]

##### 2. Child in need of treatment. "Child in need of treatment" means:

A. [PL 1993, c. 738, Pt. E, §3 (RP); PL 1993, c. 738, Pt. E, §6 (AFF).]

B. A child 17 years of age or younger who has treatment needs related to mental illness, an intellectual disability, autism, other developmental disabilities or emotional or behavioral needs that are not under current statutory authority of other state agencies; or [PL 2011, c. 542, Pt. A, §133 (AMD).]

C. A person 18 years of age or older and under 21 years of age who has treatment needs related to mental illness, an intellectual disability, autism, other developmental disabilities or emotional or behavioral needs if the department has determined that it is in the interest of that person to receive treatment through the department. [PL 2011, c. 542, Pt. A, §133 (AMD).]

[PL 2011, c. 542, Pt. A, §133 (AMD).]

**2-A. Respite care.** "Respite care" means temporary care-giving to a child or adult for the purpose of relieving that person's family or another primary care-giver. Persons who have completed the training program for respite care providers through the department are eligible for any insurance provided to family foster home providers pursuant to Title 5, section 1728-A. In any action for damages against a respite care provider insured pursuant to Title 5, section 1728-A, for damages covered under that policy, the claims for and award of those damages, including costs and interest, may not exceed \$300,000 for any and all claims arising out of a single occurrence. When the amount awarded to or settled for multiple claimants exceeds the limit imposed by this section, any party may apply to the Superior Court for the county in which the governmental entity is located to allocate to each claimant that claimant's equitable share of the total, limited as required by this section. Any award by the court in excess of the maximum liability limit must be automatically abated by operation of this section to the maximum limit of liability. Nothing in this subsection may be construed to make respite care a state activity nor may it expand in any way the liability of the State or respite care provider.

[RR 2003, c. 2, §104 (COR).]

**3. Treatment.** "Treatment" means the provision of services to children in need of treatment and their families, the services consisting primarily of:

A. Psychiatric, psychological, counseling, developmental and other therapeutic modalities; and [PL 1985, c. 503, §12 (NEW).]

B. Social, interpersonal and other living skills, related supportive services and habilitative training. [PL 1985, c. 503, §12 (NEW).]

[PL 1985, c. 503, §12 (NEW).]

#### SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1987, c. 778, §3 (AMD). PL 1993, c. 738, §E3 (AMD). PL 1993, c. 738, §E6 (AFF). PL 1995, c. 560, §§K66-68 (AMD). PL 1995, c. 560, §K83 (AFF). PL 2001, c. 354, §3 (AMD). RR 2003, c. 2, §104 (COR). PL 2011, c. 542, Pt. A, §133 (AMD).

#### §6202. Policy

**1. Services.** It is the policy of the State to provide an efficient, coordinated statewide system of services to children in need of treatment and their families, including a comprehensive system of family support services, insofar as resources permit.

[PL 1987, c. 349, §23 (AMD).]

**2. Spiritual treatment.** Nothing in this subchapter may replace or limit the right of any child to treatment in accordance with a recognized religious method of healing, if the treatment is requested by the person or by the person's parent or guardian.

[RR 2019, c. 2, Pt. B, §102 (COR).]

**3. Setting.** It is the policy of the State that the setting for the services described in this subchapter shall, consistent with the availability of appropriate resources:

A. Impose the fewest possible restrictions on the liberty of children in need of treatment; and [PL 1985, c. 503, §12 (NEW).]

B. Be as close as possible to the patterns and norms of the mainstream of society, recognizing regional, cultural and ethnic characteristics. [PL 1985, c. 503, §12 (NEW).]

[PL 1985, c. 503, §12 (NEW).]

**4. Other agencies.** Nothing in this subchapter may be construed to constrain or impair the Department of Corrections, Department of Education, Department of Health and Human Services or any other state agency in carrying out statutorily mandated responsibilities to children and their families or to alter or diminish any services, benefits or entitlements received by virtue of the statutory responsibilities.

[PL 1989, c. 700, Pt. A, §165 (AMD); PL 2003, c. 689, Pt. B, §6 (REV).]

#### SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1987, c. 349, §H23 (AMD). PL 1989, c. 700, §A165 (AMD). PL 2003, c. 689, §B6 (REV). RR 2019, c. 2, Pt. B, §102 (COR).

#### §6203. Commissioner's duties

**1. System.** In order to facilitate the development and operation of a coordinated, statewide system of services to children in need of treatment and their families, the commissioner shall:

A. Provide a decentralized administrative structure for the provision of services to children in need of treatment and their families; [PL 1985, c. 503, §12 (NEW).]

B. Work toward the provision of normalized services through the establishment of in-home, community-based, family-oriented programs for the child in need of treatment. If treatment in an out-of-home or out-of-community setting becomes necessary, it should be in the least restrictive

setting consistent with needs of the child, commensurate with the resources available to the bureau and in coordination with services and resources of other state agencies serving children and their families; [PL 1985, c. 503, §12 (NEW).]

C. Continue coordination and linkage with other agencies, programs and systems that serve children and their families on a state, regional and local level, so as to encourage effective and efficient procedures and practice in the delivery of services to children in need of treatment and their families; [PL 1985, c. 503, §12 (NEW).]

D. Place a high priority on continued participation with the Department of Education in preventive intervention services to families of children in need of treatment; [RR 2003, c. 2, §105 (COR).]

E. Strive to ensure that all services and programs are adequately staffed by persons appropriately qualified by training and experience; [PL 1985, c. 503, §12 (NEW).]

F. Publicize the availability of services to children in need of treatment to ensure that these services are accessible to the greatest possible number of children and their families; [PL 1985, c. 503, §12 (NEW).]

G. Ensure that all children in need of treatment and their families are notified of their rights to advocacy services available in this State; [PL 1987, c. 349, Pt. H, §24 (AMD).]

H. Ensure that rules are adopted that specify the procedures by which a parent or guardian of a child in need of treatment may appeal decisions made relative to services provided by the bureau; [PL 1991, c. 452, §2 (AMD).]

I. Provide a comprehensive system of support services, including respite care, to families with children in need of treatment; [PL 1991, c. 452, §3 (AMD).]

J. Require that any new contract for mental health services be awarded through a request-for-proposal procedure and any contract for mental health services of \$500,000 per year or more that is renewed be awarded through a request-for-proposal procedure at least every 8 years, except for the following.

(1) Renewal contracts for a provider are not subject to the request-for-proposal procedure requirement if all contracts executed with that provider under this subsection are performance-based contracts.

(2) Notwithstanding subparagraph (1), the department shall subject a contract to a request-for-proposal procedure when necessary to comply with paragraph L; [PL 1993, c. 624, §3 (AMD).]

K. Establish a procedure to obtain assistance and advice from consumers of mental health services regarding the selection of contractors when requests for proposals are issued for mental health services; and [PL 1993, c. 624, §3 (AMD).]

L. Require that a contract under this subsection that is subject to renewal be awarded through a request-for-proposal procedure if the department determines that:

(1) The provider has breached the existing contract;

(2) The provider has failed to correct deficiencies cited by the department;

(3) The provider is inefficient or ineffective in the delivery of services and is unable or unwilling to improve its performance within a reasonable time; or

(4) The provider can not or will not respond to a reconfiguration of service delivery requested by the department. [PL 1993, c. 624, §4 (NEW).]

[RR 2003, c. 2, §105 (COR).]

**2. Plan.** The commissioner shall serve as an advocate for children in need of treatment; shall monitor, review and evaluate not less than annually the allocation and adequacy of services provided by the department; and shall prepare and maintain a plan that meets the following criteria.

A. The plan must indicate the most effective and efficient manner in which to implement services and programs for children in need of treatment and their families, while safeguarding and respecting the legal and human rights of these children and families. [PL 1995, c. 560, Pt. K, §70 (AMD).]

B. The plan must specifically indicate how gaps in services for children in need of treatment and their families can best be met. [PL 1995, c. 560, Pt. K, §70 (AMD).]

C. The plan must establish a procedure for setting priorities among the various services required by children in need of treatment and their families, in cooperation with other agencies of State Government that provide services to children and families, including, but not limited to, the Department of Corrections and Department of Education. [RR 2003, c. 2, §106 (COR).]

D. The plan must specifically indicate the department's efforts in ensuring that services to children in need of treatment and their families are effectively coordinated with existing resources and procedures of all the department's institutions and programs. [PL 1995, c. 560, Pt. K, §70 (AMD).]

E. The plan must be prepared in the even-numbered years for submission to the joint standing committee of the Legislature having jurisdiction over human resources and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs no later than January 30th of the odd-numbered years. [PL 1995, c. 560, Pt. K, §70 (AMD).]

F. The plan must ensure that children with divergent treatment needs are not inappropriately mixed while in residence at state-operated facilities for children with special needs. [PL 1995, c. 560, Pt. K, §70 (AMD).]

G. The plan must indicate the State's progress in ensuring the development of an array of family support services to enable families to more adequately maintain their children in need of treatment in their natural homes and communities. [PL 1995, c. 560, Pt. K, §70 (AMD).]

[RR 2003, c. 2, §106 (COR).]

## SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1987, c. 349, §§H24-26 (AMD). PL 1989, c. 700, §§A166,167 (AMD). PL 1991, c. 452, §§2-4 (AMD). PL 1993, c. 624, §§3,4 (AMD). PL 1995, c. 560, §§K69,70 (AMD). RR 2003, c. 2, §§105,106 (COR).

### §6204. Department duties

**1. Duties.** The department shall:

A. Strengthen the capacity of families, natural helping networks, self-help groups and other community resources to support and serve children in need of treatment; [PL 1985, c. 503, §12 (NEW).]

B. Facilitate the planning, promoting, coordination, delivery and evaluation of a complete and integrated statewide system of services to children in need of treatment and their families; and [PL 1985, c. 503, §12 (NEW).]

C. Support those services appropriate to children in need of treatment and their families, including, but not necessarily limited to, the following:

- (1) Advocacy;
- (2) Assessment and diagnosis;
- (3) Child development;

- (4) Consultation and education;
- (5) Crisis intervention;
- (6) Family guidance and counseling;
- (7) Preventive intervention;
- (8) Professional consultation and training;
- (9) Respite care and other family support services; and
- (10) Treatment. [PL 1987, c. 349, Pt. H, §27 (AMD).]  
[PL 1995, c. 560, Pt. K, §71 (AMD).]

**2. Powers.** The department may perform the duties described in subsection 1 and may provide services to children in need of treatment through state-operated facilities and programs or through contracts and grants to public and private agencies. In all cases, the department shall ensure that services are provided in the least restrictive setting consistent with the child's needs, commensurate with the resources available to the department and in coordination with services and resources of other state agencies serving children and families. Emphasis must be placed on maintaining each child in the child's natural home or in an alternative placement within the community whenever possible.  
[PL 1995, c. 560, Pt. K, §71 (AMD).]

**2-A. Improvement and expansion of day treatment services for emotionally handicapped children.** The department shall work cooperatively with the Department of Corrections and Department of Education to improve and expand day treatment programs for emotionally handicapped school-age children so that they and their families may receive necessary, appropriate and coordinated therapeutic and educational services in home and community settings, reducing the likelihood that out-of-home or residential treatment placements will be required. The department shall license these programs pursuant to sections 3603 and 3606. The Department of Education shall approve these programs pursuant to Title 20-A, chapter 206. The 2 departments shall jointly develop standards to ensure a consistent high quality throughout the State.  
[RR 2003, c. 2, §107 (COR).]

**3. Appointment of director.**  
[PL 1995, c. 560, Pt. K, §71 (RP).]

**4. Qualifications of director.**  
[PL 1995, c. 560, Pt. K, §71 (RP).]

**5. Term.**  
[PL 1995, c. 560, Pt. K, §71 (RP).]

**6. Duties and powers of director.**  
[PL 1995, c. 560, Pt. K, §71 (RP).]

#### SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1985, c. 777, §2 (AMD). PL 1987, c. 349, §H27 (AMD). PL 1989, c. 700, §A168 (AMD). PL 1995, c. 560, §K71 (AMD). RR 2003, c. 2, §107 (COR).

#### §6205. Services for juveniles committed to Long Creek Youth Development Center

**1. Department authority.** The department may provide consultation services to any juvenile with an intellectual disability or autism committed to the Long Creek Youth Development Center if those services are requested by the Commissioner of Corrections or the commissioner's designee. Consultation services may include participation by appropriate department professionals on the Classification Committee of the Long Creek Youth Development Center in order to assist in the design

of individual treatment plans to provide habilitation, education and skill training to juveniles with an intellectual disability or autism in residence at the Long Creek Youth Development Center.

[PL 2017, c. 148, §29 (AMD).]

**2. Support services.** Whenever a program has been designed for a juvenile with an intellectual disability or autism by the Classification Committee of the Long Creek Youth Development Center and the classification committee has included participation by the department professionals, the department shall provide, insofar as possible, support services to implement that program.

[PL 2017, c. 148, §29 (AMD).]

**3. Case management.** The department may provide case management services to juveniles with intellectual disabilities or autism who are released from the Long Creek Youth Development Center.

[PL 2017, c. 148, §29 (AMD).]

#### SECTION HISTORY

PL 1993, c. 738, §E4 (NEW). PL 1993, c. 738, §E6 (AFF). PL 1995, c. 560, §K72 (AMD). PL 1999, c. 401, §J4 (AMD). PL 2001, c. 439, §G6 (AMD). PL 2003, c. 706, §A14 (AMD). PL 2011, c. 542, Pt. A, §134 (AMD). PL 2017, c. 148, §29 (AMD).

### SUBCHAPTER 3

#### ADVISORY COMMITTEE

##### **§6241. Maine Advisory Committee on Children with Special Needs**

**(REPEALED)**

#### SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1989, c. 503, §B164 (AMD). PL 1993, c. 360, §§F1,2 (AMD). PL 1995, c. 560, §§K73,74 (AMD). PL 1999, c. 668, §126 (RP).

##### **§6242. Nonlapsing funds**

Any unencumbered balance of General Fund appropriations remaining at the end of each fiscal year in the Mental Health Services - Child Medicaid account may not lapse but must be carried forward to be used for the same purposes. [PL 1995, c. 665, Pt. N, §2 (NEW).]

#### SECTION HISTORY

PL 1995, c. 665, §N2 (NEW).

### SUBCHAPTER 4

#### STATE-OPERATED FACILITIES FOR CHILDREN WITH SPECIAL NEEDS

##### **§6251. Maintenance of facilities**

**(REPEALED)**

#### SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1995, c. 560, §K75 (AMD). PL 2007, c. 539, Pt. N, §70 (AMD). MRSA T. 34-B §6251 (RP).

##### **§6252. Elizabeth Levinson Center**

**(REPEALED)**

## SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1995, c. 560, §K76 (AMD). PL 2003, c. 389, §25 (AMD). PL 2007, c. 539, Pt. N, §71 (AMD). MRSA T. 34-B §6252, sub-§6 (RP).

**§6253. Military and Naval Children's Home****(REPEALED)**

## SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1989, c. 749, §1 (RP).

**§6253-A. Bath Children's Home****(REPEALED)**

## SECTION HISTORY

PL 1989, c. 749, §§2,3 (NEW). PL 1991, c. 567, §2 (AMD). PL 1993, c. 360, §§H3,4 (AMD). PL 1993, c. 427, §5 (AMD). PL 1995, c. 560, §K77 (AMD). MRSA T. 34-B §6253-A, sub-7 (RP).

**§6254. Services in institutions****(REPEALED)**

## SECTION HISTORY

PL 1985, c. 503, §12 (NEW). PL 1995, c. 395, §G18 (AMD). PL 1995, c. 395, §G20 (AFF). PL 1995, c. 560, §§K78-80 (AMD). PL 1997, c. 393, §A40 (RP).

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