

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

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

**Sec. 1. 20-A MRSA §7001, sub-§1-B** is amended to read:

**1-B. Child with a disability.** "Child with a disability" means:

A. ~~For children from birth to under 3 years of age:~~

~~(1) A child who needs early intervention services because the child has a significant developmental delay, as measured by both diagnostically appropriate instruments and procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development; or~~

~~(2) A child with a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, with the condition being such that the child needs early intervention services; or~~

B. For children at least 3 years of age and under 20 years of age evaluated in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1414, subsections (a) to (c) as measured by both standardized, norm-referenced diagnostic instruments and appropriate procedures with delays or impairments such that the children need special education:

(1) A child at least 3 years of age and under 6 years of age with a significant developmental delay, at the discretion of the intermediate educational unit or school administrative unit, as defined in rules adopted by the department, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; adaptive development; or

(2) A child with at least one of the following:

- (a) Intellectual disability;
- (b) Hearing impairment, including deafness;
- (c) Speech or language impairment;
- (d) Visual impairment, including blindness;
- (e) Serious emotional disturbance;
- (f) Orthopedic impairment;
- (g) Autism;
- (h) Traumatic brain injury;
- (i) Other health impairment;
- (j) Specific learning disabilities;
- (k) Deafness and blindness; and
- (l) Multiple disabilities.

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

**Sec. 2. 20-A MRSA §7001, sub-§1-C**, as enacted by PL 2005, c. 662, Pt. A, §15, is amended to read:

**1-C. Early intervention services.** "Early intervention services" means developmental services that are provided under public supervision; are provided at no cost except where federal or state law provides for a system of payments by families, including a schedule of sliding fees; are designed to meet the developmental needs of a ~~child~~ an infant or toddler with a disability, as identified by the individualized family service plan team, in one or more areas including physical development, cognitive development, communication development, social or emotional development and adaptive development; meet the standards of the State; are provided by qualified personnel; to the maximum extent appropriate, are provided in natural environments, including the home, and community settings in which ~~children~~ infants or toddlers without disabilities participate; and are provided in conformity with an individualized family service plan.

**Sec. 3. 20-A MRSA §7001, sub-§2-D** is enacted to read:

**2-D. Infant or toddler with a disability.** "Infant or toddler with a disability" means a child from birth to under 3 years of age:

A. Who needs early intervention services because the child has a significant developmental delay, as measured by both diagnostically appropriate instruments and procedures, in one or more of the following areas: cognitive development; physical development, including vision and hearing; communication development; social or emotional development; and adaptive development; or

B. With a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, with the condition being such that the child needs early intervention services.

**Sec. 4. 20-A MRSA §7209, sub-§1** is amended to read:

**1. Department of Education.** The department shall serve as the lead agency for the statewide system pursuant to 20 United States Code, Section 1435, including the identification and coordination of all available resources within the State for services to eligible children from birth to under 4 years of age, and shall exercise general supervisory authority over child find as provided in 20 United States Code, Section 1412 (a) (3) and the provision of a free, appropriate public education to children at least 4 years of age and under 6 years of age.

A. The commissioner is responsible for developing and adopting rules necessary to carry out the provisions of the federal Individuals with Disabilities Education Act, Part B, Section 619 and Part C, 20 United States Code, Section 1400 et seq.

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

B-1. The commissioner or the commissioner's designee is responsible for developing and implementing a funding mechanism for the operation of the state intermediate educational unit established pursuant to subsection 3 and the delivery of services to eligible children with disabilities from birth to under 6 years of age.

C. The commissioner or the commissioner's designee is responsible for ensuring legal and policy compliance throughout the early childhood special education program by reviewing or performing regular audits of program records.

D. The commissioner or the commissioner's designee is responsible for ensuring fiscal compliance throughout the early childhood special education program by reviewing or performing regular audits of program records.

E. The department shall develop a corrective action plan with timelines to achieve compliance with federal or state law. The department shall report at least quarterly to the state interagency coordinating council described in 20 United States Code, Section 1441, to the state advisory panel described in 34 Code of Federal Regulations, Sections 300.167 to 300.169 and to other advisory bodies that may be appropriate about individual regional sites that are under a corrective action plan. These reports must describe any progress or slippage by individual regional sites in meeting compliance requirements. For an individual regional site under a corrective action plan, the reports must describe how long the department expects the regional site to remain under a corrective action plan.

F. The commissioner or the commissioner's designee is responsible for the provision of services for infants and toddlers with disabilities and children with disabilities who are 3 years of age pursuant to subsection 9.

**Sec. 5. 20-A MRSA §7209, sub-§3** is amended to read:

**3. State intermediate educational unit establishment; administrative functions.** The commissioner shall establish and supervise the state intermediate educational unit. The state intermediate educational unit is established as a body corporate and politic and as a public instrumentality of the State for the purpose of conducting child find activities as provided in 20 United States Code, Section 1412 (a) (3) for children from ~~birth~~ at least 4 years of age to under 6 years of age, ~~ensuring the provision of early intervention services for eligible children from birth to under 3 years of age~~ and ensuring a free, appropriate public education for eligible children at least 4 years of age and under 6 years of age. The state intermediate educational unit shall perform the following statewide coordination and administration functions:

A. Establish standard policies and procedures for a statewide salary and benefits administration system, including personnel classifications, position descriptions and

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

salary ranges, and a standard package of health, retirement and other fringe benefits for Child Development Services System personnel, beginning in fiscal year 2006-07;

B. Develop a statewide salary and benefits administration system and perform the payroll functions for Child Development Services System personnel;

B-1. Bargain collectively under Title 26, chapter 9-A if the employees of the regional sites choose to be represented by an agent for purposes of collective bargaining. In such circumstances, the state intermediate educational unit must be considered the public employer for purposes of collective bargaining;

C. Establish a centralized system for statewide fiscal administration to be implemented by September 1, 2006. The state intermediate educational unit shall establish internal controls and implement accounting policies and procedures in accordance with standards set forth by the State Controller;

D. Develop and implement a centralized data management system to be fully operational beginning July 1, 2007;

E. Establish a standard, statewide template for regional site contracts with therapeutic service providers, including policies and procedures for the review of contracts, beginning in fiscal year 2006-07;

F. Refine program accountability standards for compliance with federal mandates, including the development of a performance review system to monitor and improve regional site performance through the use of efficiency ratings aligned with the accountability standards and through a compliance plan that requires the regional site to address the unmet needs of eligible children in accordance with specific targets and time frames;

G. Design and implement a statewide plan to provide professional development and training to Child Development Services System personnel;

H. Employ professional and other personnel at the state level and at the regional sites, including those necessary to ensure the implementation of the centralized fiscal and data management systems. All state intermediate educational unit employees are employees for the purposes of the Maine Tort Claims Act; and

I. Enter into contracts, leases and agreements and any other instruments and arrangements that are necessary, incidental or convenient to the performance of its duties and the execution of its powers under this chapter.

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

**Sec. 6. 20-A MRSA § 7209, sub-§ 3-A** is amended to read:

**3-A. State intermediate educational unit; program functions.** The state intermediate educational unit established pursuant to subsection 3, through a network of regional sites as appropriate, shall:

A. Engage in child find activities for children at least 4 years of age until 6 years of age as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

B. Engage in child count activities for children at least 4 years of age until 6 years of age as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

~~C. Engage in appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 3 years of age, in accordance with Part C of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;~~

~~D. Ensure that eligible children with disabilities, from birth to under 3 years of age, receive early intervention services, in accordance with the payment provisions established by the State;~~

E. Ensure that eligible children with disabilities, from 4 years of age to under 6 years of age, receive free, appropriate public education services;

~~F. Coordinate with eligible families the development of individualized family service plans for children with disabilities from birth to 2 years of age or coordinate an individualized education program for a child 4 years of age to under 6 years of age;~~

G. Ensure that children from ~~birth~~ from 4 years of age until 6 years of age who are referred to the Child Development Services System also receive appropriate referrals for support outside of the system, including appropriate public and private programmatic resources, regardless of a child's eligibility for early intervention or free, appropriate public education; and

H. Engage in appropriate training and staff development for identification of and to provide intervention services for children with autism.

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

**Sec. 7. 20-A MRSA §7209, sub-§4, ¶ E** is amended to read:

E. To report annually by February 15th to the joint standing committee of the Legislature having jurisdiction over education and cultural affairs, the joint standing committee of the Legislature having jurisdiction over health and human services matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on the performance of the Child Development Services System. This report must be posted on the publicly accessible website of the department. The report must include:

(1) The following financial information for the Child Development Services System ~~in total and separately~~ for the services provided to eligible children from ~~birth to under 3 years of age and~~ at least 4 years of age and under 6 years of age ~~when the information can be separated for these age categories:~~

(a) Actual expenditures compared to the budget for each of the last 3 fiscal years for each regional site, the central office and the total Child Development Services System by function, including case management, direct services and administration;

(b) Actual expenditures compared to the budget for each of the last 3 fiscal years for each regional site, the central office and the total Child Development Services System by expense type, including salaries, benefits, contracted services and transportation;

(c) Actual revenues received compared to the budget for each of the last 3 fiscal years by revenue source; and

(d) The total dollar value of MaineCare claims paid through the Department of Health and Human Services for each of the last 3 fiscal years for services provided pursuant to children's individualized education programs or ~~individualized family service plans~~ that were billed directly to the MaineCare program by contracted service providers;

(2) The following data for the Child Development Services System ~~in total and separately~~ for the services provided to eligible children ~~from birth to under 3 years of age and~~ at least 4 years of age and under 6 years of age, including descriptions of any notable variations in these data among regional sites and any notable year-to-year trends over the past 5 years:

(a) The number of children referred to the Child Development Services System in the prior year by referral source, including the screening

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

programs in Title 22, sections 1532, 8824 and 8943, and the percentage of children referred found eligible for services;

(b) The number of children who entered the Child Development Services System in the prior year, categorized by primary disability;

(c) The number of children who exited the Child Development Services System in the prior year, categorized by primary disability and the reason for exit;

~~(d) The number of children who transitioned in the prior year from early intervention services for children from birth to under 3 years of age to special education and related services for children at least 3 years of age and under 6 years of age;~~

(e) The unduplicated count of children who received direct services as of December 1st in the prior year;

(f) The number of children who received direct services in the prior year by regional site and in total for the Child Development Services System, categorized by primary disability;

(g) For each primary disability category, the number of children who received, in the prior year, each primary type of therapy or service;

(h) The percentage of children who received direct services in the prior year who had MaineCare coverage for all or some of the services specified in their individualized education programs ~~or individualized family service plans~~ and the percentage of children who received direct services in the prior year who had private insurance coverage for all or some of the services specified in their individualized education programs or ~~individualized family service plans~~;

(i) Beginning January 1, 2015, the number of children who received direct services in the prior year who were born in the State and the number of children who received direct services in the prior year who were born in the State and who were delivered at home;

(j) Beginning January 1, 2015, the total number of children who were referred in the prior year for support outside of the Child Development Services System under subsection 3-A, paragraph G and the number of children who received direct services in the prior year who were referred

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

for support outside of the Child Development Services System under subsection 3-A, paragraph G; and

(k) Beginning January 1, 2015, the number of children who received direct services in the prior year who received all of the services in their ~~individualized family service plan~~ or individualized education program and the number of children who received direct services in the prior year who received less than 90% of the services in their ~~individualized family service plan~~ or individualized education program;

(3) A listing of the regional sites and their locations and the following data for the Child Development Services System in total and by regional site, including descriptions of any notable variations in these statistics among regional sites and any notable year-to-year trends over the past 5 fiscal years:

(a) The total number of employees by function and the number of new employees hired in the prior fiscal year by function;

(b) The number of private providers that contracted with the Child Development Services System to provide direct services, including transportation services, and the number of contracted providers delivering each type of service in the prior fiscal year;

(c) The number of children who received direct services provided by Child Development Services System employees in the prior fiscal year and the number of children who received direct services provided by contracted private providers in the prior fiscal year;

(d) The number of preschool or day care programs operated by each regional site, the average enrollment in each program, the percentage of enrollees that are children receiving services under individualized education programs ~~or individualized family service plans~~ and expenses and revenues for the prior fiscal year associated with the programs in each site; and

(e) The number of children who received direct services in the prior fiscal year while placed in preschool programs operated by public school systems;

(4) Statistics and analysis of the following Child Development Services System performance measures for the prior fiscal year, including descriptions of any



Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

notable variations in these measures among regional sites and any notable year-to-year trends over the past 5 fiscal years:

(a) Measures of compliance with key federal requirements related to timeliness, quality and effectiveness of service as set out in required annual federal reporting under the federal Individuals with Disabilities Education Act;

(b) Measures of compliance with key state requirements related to timeliness, quality and effectiveness of service as set out in statute and rules;

(c) Measures of productivity for Child Development Services System employees providing case management and direct services to children;

(d) Measures of per unit costs, including the average cost of delivered services per child by primary disability type, the average cost per unit of each type of therapy or service delivered by Child Development Services System staff and the average cost per unit of each type of therapy or service delivered by contracted providers;

(e) Beginning January 1, 2015, the average age, both in aggregate and by primary disability type, at which children who were born in the State began receiving services from the Child Development Services System and the average age, both in aggregate and by primary disability type, at which children who were born in the State and who were delivered at home began receiving services from the Child Development Services System; and

(f) Any other performance goals and measures established by the Child Development Services System to monitor effectiveness, efficiency and the cost of the Child Development Services System, which may include results of surveys of parents and guardians on the quality and effectiveness of services;

(5) Beginning January 1, 2015, a report by each regional site in the Child Development Services System demonstrating trends of Child Development Services System employee costs and the results of coordination, utilization and development of services with a broad base of community resources, including private providers and public schools, midwives, resources from other agencies and other resources serving families and children from ~~birth~~ 4 years of age to

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

under 6 years of age, consistent with the provisions of Title 22, section 3571, subsection 3; and

(6) A description of current and emerging trends and challenges that are having an effect on or are expected to have an effect on costs, services or service delivery methods of the Child Development Services System; and

**Sec. 8. 20-A MRSA §7209, sub-§9** is enacted to read:

**9. Department of Education early intervention; program functions.** The Department of Education shall:

A. Engage in child find activities for children from birth to under 4 years of age as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

B. Engage in child count activities for children from birth to under 4 years of age as required by the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

C. Engage in appropriate data collection, training, staff development and direct service provision to eligible children with disabilities, from birth to under 4 years of age, in accordance with Part C and Part B § 619, as appropriate, of the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.;

D. Ensure that eligible children with disabilities, from birth to under 3 4 years of age, receive early intervention services or free, appropriate public education, as appropriate, in accordance with the payment provisions established by the State;

E. Coordinate with eligible families for the development of individualized family service plans for infants and toddlers with disabilities or individualized education plans for children with disabilities who are 3 years of age;

F. Ensure that children from birth to under 4 years of age also receive appropriate referrals for support outside of the system, including appropriate public and private programmatic resources, regardless of a child's eligibility for early intervention or free, appropriate public education;

G. Engage in appropriate training and staff development for identification of and to provide intervention services for children with autism; and

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

H. Report annually, no later than February 15<sup>th</sup>, to the joint standing committees having jurisdiction over education and cultural affairs, health and human services matters and appropriations and financial affairs on the performance of department in its provision of services to eligible children from birth to under 3 years of age. The report must include each component for the provision of services of eligible children from birth to under 3 years of age, as appropriate, of the report required under subsection 4, paragraph E and include the number of children who transitioned in the prior year from early intervention services for children from birth to under 3 years of age to special education and related services for children at least 3 years of age and under 6 years of age.

**Sec. 8. 20-A MRSA § 7252-A** is amended to read:

**§7252-A. Early intervention; special education programs; approval**

Early intervention and special education programs may be established for the delivery of early intervention and special education services to infants and toddlers with disabilities and children with disabilities in accordance with section 7204, subsection 4. An early intervention program may be provided by the Department of Education, an intermediate educational unit, an approved private school or a state licensed agency. A special education program may be offered by a school administrative unit, an approved private school or a state licensed agency. All early intervention and special education programs offered by approved private schools or state licensed agencies must:

**Sec. 9. 22 MRSA § 1532, sub-§ 2** is amended to read:

**2. Referrals.** The department shall in a timely fashion refer newborn infants with confirmed treatable congenital, genetic or metabolic conditions or critical congenital heart disease to the ~~Child Development Services System as defined in Title 20-A, section 7001, subsection 1-A~~ Department of Education. The department shall in a timely fashion refer a newborn infant to the ~~Child Development Services System~~ Department of Education if at least 6 months have passed since an initial positive test result of a treatable congenital, genetic or metabolic condition without the specific nature of the condition having been confirmed. The department and the Department of Education shall execute an interagency agreement to facilitate all referrals made pursuant to this section. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the ~~Child Development Services System~~ Department of Education may make direct contact with the families of children who are referred. The referrals may be made electronically. For purposes of quality assurance and improvement, the ~~Child Development Services System~~ Department of Education shall supply aggregate data to the department at least annually on the numbers of children referred to the ~~Child Development Services System~~ Department of Education under this

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

section who were found eligible and ineligible for early intervention services. The department shall supply data at least annually to the ~~Child Development Services System~~ Department of Education on how many children in the newborn blood spot screening program as established by rule of the department under section 1533, subsection 2, paragraph G were screened and how many were found to have a disorder.

**Sec. 10. 22 MRSA § 3174-PP** is amended to read:

**§3174-PP. Medicaid reimbursement for eligible services provided through the Child Development Services System, Department of Education and school administrative units**

**1. Consultation.** Prior to adopting or amending any rule that pertains to the administration of a program of Medicaid coverage established by the department pursuant to this chapter for services that qualify for reimbursement and are provided through the auspices of the ~~Child Development Services System~~, the Department of Education and school administrative units in accordance with the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., the Office of MaineCare Services shall consult with the following interested parties on the proposed adoption or amendment of rules:

**Sec. 11. 22 MRSA §8824, sub-§1-A**, as amended by PL 2007, c. 695, Pt. A, §28, is further amended to read:

**1-A. Referral to ~~Child Development Services~~ Department of Education.** The department shall adopt rules according to which it shall in a timely fashion refer children identified in subsection 1 as having a high likelihood of having a hearing impairment to the ~~Child Development Services System~~ Department of Education. The rules must also describe the timetables under which the department shall refer to the ~~Child Development Services System~~ Department of Education children identified by the department in accordance with subsection 1 as having possible hearing impairment but for whom hearing impairment has been neither confirmed nor disconfirmed by 6 months of age. The Department of Education and the Department of Health and Human Services shall execute an interagency agreement to facilitate the referrals in this subsection. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the ~~Child Development Services System~~ Department of Education may make direct contact with the families of children who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, ~~the Child Development Services System~~ Department of Education shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred under this subsection who are found eligible for early intervention services and on the number of children found not eligible for early intervention services.

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

**Sec. 12. 22 MRSA §8943**, as amended by PL 2007, c. 450, Pt. A, §9, is further amended to read:

**§ 8943. Central registry**

The department shall establish and maintain a central registry for cases of birth defects to accomplish the purposes of this chapter and facilitate research on birth defects. The submission of information to and distribution of information from the central registry are subject to the requirements of this chapter and other provisions of law. Information that directly or indirectly identifies individual persons contained within the registry is confidential and must be distributed from the registry in accordance with rules adopted by the department. The department shall adopt rules according to which it will in a timely fashion refer to the ~~Child Development Services System~~ Department of Education children with confirmed birth defects who may be eligible for early intervention. The department and the Department of Education shall execute an interagency agreement to facilitate the referrals under this section. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, ~~the Child Development Services System~~ Department of Education may make direct contact with the families of children who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, ~~the Child Development Services System~~ Department of Education shall supply to the department aggregate data at least annually on the number of children referred under this section who were found eligible for early intervention services and on the number of children found not eligible for early intervention services. In addition, the department shall supply data at least annually to ~~the Child Development Services System~~ Department of Education on how many children had data entered into the registry. For a child whose parent or legal guardian objects on the basis of sincerely held religious belief, the department may not require the reporting of information about that child to the central registry or enter into the central registry information regarding birth defects of that child.

**Sec. 13. Implementation Plan; Report.** The Department of Education shall develop a detailed implementation plan in accordance with the action steps as identified in the Early Childhood Special Education Implementation Plan Report, Part C Implementation plan, dated December 1, 2020, as authorized pursuant to Public Law 2019, chapter 343, Part VVVV. No later than January 15, 2022, the Department of Education shall submit the implementation plan and a report on all steps, benchmarks and milestones toward implementation of the transition of Part C services from Child Development Services to the Department of Education, to the Joint Standing Committees on Education and Cultural Affairs and Health and Human Services. The Joint Standing Committee on Education and Cultural Affairs may report out legislation related to the implementation plan and report to the Second Regular Session of the 130<sup>th</sup> Legislature.

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

**Sec. 14. Part C Extended Option for children with disabilities who are 3 years of age.** The Department of Education shall explore the potential to elect extend eligibility of IDEA Part C early intervention services to children with disabilities 3 years of age and older pursuant to IDEA Section 635(c) and 34 CFR 303.211. The Department of Education shall include its determination pursuant to this section in its report under Section 13. If the Department of Education moves forward with the Part C extended option, the Department of Education shall include any suggested legislation, if necessary, to implement the Part C extended option.

**Sec. 15. Budget.** The Department of Education shall develop a budget to include costs for state positions for early intervention teams for Part C of the federal Individuals with Disabilities Education Act, for Part C early intervention funding, and develop any additional statutory language necessary for the transition of the Part C program to the department. The Department of Education shall identify all existing contracts and leases for the Part C program and develop a plan to transfer necessary contracts to the Department of Education.

**Sec. 16. Annual reports.** The Department of Education shall report to the Joint Standing Committees on Education and Cultural Affairs and Health and Human Services, no later than January 15, 2023 and January 15, 2024, on the progress towards full implementation of transition Part C services from Child Development Services to the Department of Education. The Joint Standing Committee on Education and Cultural Affairs may report out legislation related to each report to the First or Second Regular Session of the 131<sup>st</sup> Legislature, respectively.

**Sec. 17. Infants and toddlers with disabilities.** On July 1, 2024 the responsibility for early intervention services for infants and toddlers with disabilities transfers to the office of special services within the Department of Education.

**Sec. 18. Contingent effective date.** Those sections of this Act that amend the Maine Revised Statutes do not take effect unless the Commissioner of Education certifies that all steps, benchmarks and milestones toward implementation of the transition of Part C services from Child Development Services to the Department of Education have been completed and notifies the Joint Standing Committee on Education and Cultural Affairs, the Secretary of State, the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.

## SUMMARY

This bill proposes to transition the responsibility for the provision of early intervention services for infants and toddlers with disabilities and the provision of free, appropriate public education for children with disabilities who are three years of age from Child Development Services to the Department of Education. The bill requires the Department of Education to develop and report back to the Joint Standing Committee on Education and Cultural Affairs an implementation plan and annual reports on progress towards on steps, benchmarks and milestones, and provides a contingent effective date.

**Resolve, Directing the Department of Education to establish oversight, direction and benchmarks for a centralized billing process for special education services and report on updates to child find.**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this resolve directs the Department of Education to study the establishment of oversight direction and benchmarks for a centralized billing process for special education services and improved child find and report back to the Joint Standing on Education and Cultural Affairs ; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now therefore, be it

**Sec. 1. Department of Education to establish oversight, direction and benchmarks for centralized billing for special education services. Resolved:** That the Department of Education shall collaborate with the Department of Health and Human Services to establish oversight procedures, direction and benchmarks to develop a central billing system to process claims to MaineCare and private insurance that maximizes revenue through automation and efficiencies for infants and toddlers with disabilities and children with disabilities, birth to age 20. Benchmarks may include, but are not limited to:

- A. Identification of necessary revisions to the MaineCare Billing Manual section for early intervention services, including necessary codes, modifiers and requirements that would need to be built into the new system;
- B. Determination of whether payment would go directly from the private insurance plan and MaineCare directly to the contracted provider or on a pay-and-chase basis where the State reimburses the contracted provider and chases the 3<sup>rd</sup> party reimbursement from the private insurance plan and MaineCare; and
- C. Timeline for the development of a Request for Proposals for a central billing system.

**Sec. 2. Report. Resolved;** That the Department of Education shall report back to the Joint Standing Committees on Education and Cultural Affairs and Health and Human Services, no later than February 15, 2022 on the oversight procedures, direction and benchmarks and

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

progress on the development of a central billing system pursuant to section 1. The Joint Standing Committee on Education and Cultural Affairs may report out a bill to the Second Regular Session of the 130<sup>th</sup> Legislature.

**Sec. 3. Department of Education to Report on Updates to Child Find. Resolved:** That the Department of Education shall report to the Joint Standing Committee on Education and Cultural Affairs, no later than February 15, 2022 on efforts to develop, improve and oversee the implementation of the statewide child find plan. The report must include, but is not limited to, meetings and recommendations from the Interagency Coordinating Council, updates on current child find initiatives, an examination of how the State can move forward on expanded eligibility criteria to enable more children with less significant developmental delays to be served in comparison with eligibility criteria in other states, ways to access and leverage the Department of Health and Human Service's referral system, and any additional recommendations on improving child find efforts throughout the State. The Joint Standing Committee on Education and Cultural Affairs may report out a bill related to the report to the Second Regular Session of 130<sup>th</sup> Legislature.

**Sec. 4. Emergency Clause.** In view of the emergency cited in the preamble, this Resolve takes effect when approved.

### SUMMARY

This resolve directs the Department of Education in collaboration with the Department of Health and Human Services, to establish oversight procedures, direction and benchmarks to develop a central billing system to process claims to MaineCare and private insurance that maximizes revenue through automation and efficiencies for infants and toddlers with disabilities and children with disabilities, birth to age 20 and report back to the Joint Standing Committee on Education and Cultural Affairs no later than February 15, 2022. The resolve also directs the Department of Education to report back, no later than February 15, 2022, on efforts to develop, improve and oversee the implementation of the statewide child find plan.



**Resolve, Directing the Department of Education to establish the process for transitioning the provision of early childhood special education services for children with disabilities from 4 years of age to under 6 years of age from regional Child Development Services to school administrative units**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** this resolve directs the Department of Education to establish the process for transitioning the provision of early childhood special education services for children with disabilities from 4 years of age to under 6 years of age from regional Child Development Services to school administrative units; and

**Whereas,** the work must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now therefore, be it

**Sec. 1. Department of Education to establish the process for transitioning the provision of early childhood special education services for children with disabilities from 4 years of age to under 6 years of age from regional Child Development Services to school administrative units. Resolved:** That the Department of Education shall establish a process, timeline and implementation for transitioning the provision of early childhood special education services for children with disabilities from 4 years of age to under 6 years of age from Child Development Services to school administrative units. The process, timeline and implementation established by the Department of Education must:

- A. Include the implementation plan components as presented in the Independent Review of the State's early childhood special education: Maine Early Education Special Education Implementation Plan by Public Consulting Group, dated December 1, 2020;
- B. Define a role for the department and regional offices to contract with private providers in situations where a school administrative unit is unable to provide the appropriate level of service to meet a child with a disability's individualized education program plan;
- C. Provide specificity regarding funding through the State and MaineCare that does not flow through the Essential Programs and Services funding formula pursuant to Title 20-A, Chapter 606-B; and

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

D. Provide steps, benchmarks and milestones for the department, child development services and school administrative units to meet before and during any transition period developed, including but not limited to an independent project manager not employed by the Department of Education; and

E. A detailed plan of the evaluation and assessment tools to be developed to determine whether the department, Child Development Services and school administrative units are meeting steps, benchmarks and milestones, and which provides that if progress towards implementation is not being met, the transition must cease until a solution can be determined.

**Sec. 2. Advisory committee established. Resolved:** That the advisory committee is established to advise the Department of Education on matters related to developing the implementation plan pursuant to section 1. No later than 30 days after the effective date of this Resolve, the Commissioner of Education shall invite the following members to join the advisory committee:

1. The Commissioner of Health and Human Services, or the commissioner's designee;
2. One member who is a contracted service provider of early intervention and free, appropriate public education services;
3. One member who is a representative of a Head Start agency or program, representing Head Start programs in the State;
4. One member who is a teacher in an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children within a public elementary school from a large school administrative unit;
5. One member who is a principal of a public elementary school of an urban school administrative unit that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children;
6. One member representing the Maine Developmental Disabilities Council;
7. One member representing a statewide association of speech, language and hearing therapists recommended by the Maine Speech Language Hearing Association;
8. One member who is a parent of a child with a disability between 3 years of age and 5 years of age recommended by the Maine Parent Federation;

Draft Language for Public Hearings pursuant to the discussions of the Joint Standing Committee on Education and Cultural Affairs regarding Child Development Services and the Independent Review of the State's Early Childhood Special Education Services

9. One member who is a representative of a child care program recommended by the Maine Association for the Education of Young Children;

10. One member who is a special education direction from a small school administrative unit recommended by the Maine Administrators of Services for Children with Disabilities;

11. One member who is a superintendent of a rural school administrative unit that has implemented an early childhood education program for children 4 years of age that includes coordination of programs and services for eligible children recommended by the Maine School Superintendents Association; and

12. One member representing a statewide association of occupational therapists recommended by the Maine Occupational therapy Association.

**Sec. 3. Report. Resolved:** That the Department of Education shall report back to the Joint Standing Committee on Education and Cultural Affairs no later than February 15, 2022 on the process, timeline and implementation plan established pursuant to section 1 and any suggested legislation, including the timeline, contingencies necessary to implement the legislation, and implementation plan, to implement the transition of services from child development services to school administrative units. The report must address each of the components listed in section 1 with specificity. The report must also include recommendations on the appropriate placement of the provision of services for children 3 years of age and the transition of these services from childhood development services to school administrative units or the Department of Education. The Joint Standing Committee on Education and Cultural Affairs may submit legislation related to the report to the Second Regular Session of the 130<sup>th</sup> Legislature.

### SUMMARY

This resolve directs the Department of Education to establish a process, timeline and implementation for transitioning the provision of early childhood special education services for children with disabilities from 4 years of age to under 6 years of age from Child Development Services to school administrative units, establishes an advisory committee to advise the Department of Education, and requires the Department of Education to report back to the Joint Standing Committee on Education and Cultural Affairs, no later than February 15, 2022.