

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: April 16, 2021
To: Joint Standing Committee on Health & Human Services
From: Erin Dooling, Esq., Legislative Analyst

LD 1009 Resolve, To Create a Health Care Ombudsman Position To Serve in Maine's County Jails

	<i>LD 1009, as drafted</i>
SUMMARY	This resolve directs DHHS to designate an intensive case manager working in the county jails to serve as a health care ombudsman to oversee county jail inmates with medical and mental health care needs and connect them to the health care services for which they qualify. The health care ombudsman also assists county jail inmates in receiving the medications they need in a timely fashion.
ISSUES / SUGGESTED AMENDMENTS FROM TESTIMONY	<ul style="list-style-type: none">• <i>Maine County Commissioners Ass'n</i>: Suggests “monitor” instead of “oversee”• <i>DHHS</i>: DHHS doesn't have authority over county jails; typical ICM credentials are not sufficient to oversee private clinical providers; significant fiscal impact with this increased oversight• <i>Larry Dansinger</i>: Clarify scope and authority of ombudsman• <i>Maine Sheriffs' Ass'n</i>: Ombudsman could be most helpful after a person is released to coordinate community supports; Clarify role of ombudsman during resident's incarceration
DRAFTING ISSUES	<ul style="list-style-type: none">• Implications of resolve v. bill• What does “oversee” mean?• Clarify powers/authority of ombudsman
FISCAL IMPACT	Not yet determined

ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

- *Submitted to DHHS*: What is DHHS's position on the sponsor's proposed amendment?
- What have other states done regarding jail navigators or ombudsman? *Unable to determine*

	<i>Sponsor's proposed amendment</i>
SUMMARY	<p>This resolve would create a working group to design jail resource navigators for Maine county jails. Jail navigator services must be designed to support all county jails with needed resources and services for persons who are incarcerated. The group will research availability of funding to sustain these programs.</p> <p>Membership of the group includes 17 members: 2 Senators, 2 Representatives, Consumer Council System of Maine, community health providers, member with expertise in researching and funding, members with experiences in the criminal justice system, legal services organizations, statewide social services, housing services, Maine Sheriff's Association, new Mainers, SUD treatment, supporter of Maine's incarcerated population, advocated to reduce recidivism. The Chairs are directed to invite participation of executive branch representatives and any relevant community organizations.</p> <p>January 2023 report back date to Criminal Justice Committee who will have authorize to report out legislation.</p>
ISSUES / SUGGESTED AMENDMENTS FROM TESTIMONY	<ul style="list-style-type: none"> • <i>Maine County Commissioners Ass'n</i>: Include a representative from an association representing Maine county commissioners in the membership • <i>Disability Rights Maine</i>: In addition to mental health treatment, a person in jail may also need legal services or information about SUD treatment options.
DRAFTING ISSUES	<ul style="list-style-type: none"> • Duties of the working group are currently in the summary – what needs and services? Limited to health care? • Does not comply with Joint Rule 353 on legislative studies (see below) <ul style="list-style-type: none"> ○ Who is appointing the members? Who are the Chairs? How many meetings are authorized? Who is staffing the study? • Legislators appointed to study will exceed the term of their offices by the time of the report back
FISCAL IMPACT	Not yet determined

Rule 353. Legislative Studies.

To assist in the exercise of its duties, the Legislature may establish legislative study committees or may alternatively refer matters to joint standing committees or subcommittees of joint standing committees for study. This Joint Rule establishes standards that govern the drafting of legislative study instruments and the authorization of legislative studies. All legislative studies must be consistent with this Joint Rule and with Legislative Council policies adopted under this Joint Rule. Any bill, resolve or joint order proposing a legislative study that is inconsistent with this rule must be reviewed and approved by the Legislative Council.

1. Definitions. For the purposes of this Joint Rule, the following terms have the following meanings:

- A. The term “legislative study” or “legislative study committee” means any group of individuals established in an Act, Resolve or Joint Order or by the Legislative Council, except those exempted under policies adopted by the Legislative Council, whose duties include studying and reporting to the Legislature on any matter or advising the Legislature on any matter and that requires the use of legislative resources;
- B. The term “legislative resources” means the expenditure of any funds appropriated or allocated to the Legislative Account, the appointment of one or more persons by the Legislature, the inclusion of one or more legislators as members of the legislative study committee or the use of Legislative Council staff; and
- C. The term “non-legislative study” or “non-legislative study group” means any group of individuals directed by legislation to report back to the Legislature on any issue but that is not otherwise a legislative study.

2. Establishing legislative studies. A legislative study may only be created by joint study order, unless the instrument directs an agency or a person who is not a legislator to take an action or has an existence that extends beyond the Legislature in which it is introduced. A joint standing committee may report out a joint study order requesting that a study be conducted.

3. Appointment of members. A majority of legislative study members must be legislators and the legislative study committee must be chaired by legislators appointed in a manner consistent with subsection 4. The legislative study committee must include members of the 2 parties holding the largest number of seats in the Legislature. All members of legislative study committees established by joint study order must be appointed by the presiding officers: Senate members by the President and House members by the Speaker. Members of a legislative study created by joint study order who are not legislators must be appointed either by the President or the Speaker. Legislative studies may include a minority of non-legislative members appointed by someone outside the Legislature. Joint appointment of members is not permitted.

4. Appointment of chairs. Legislative studies having more than 5 members must be cochaired by legislators. The first appointed Senate member must be the Senate chair and the first appointed House member must be the House chair. Legislative studies having 5 or fewer members must have a single legislative chair appointed by the presiding officer of the body of the originating study order or legislation. The chair of a legislative study having 5 or fewer members shall appoint a chair pro tem from among the appointed members to serve in the chair's absence.

5. Committee size. Legislative study committees may consist of no fewer than 3 and no more than 13 members.

6. Staffing. Unless the Legislative Council directs otherwise, Legislative Council staff will only be assigned to legislative studies that conform to this Joint Rule.

7. Reporting dates. All reports of legislative study committees that are to be submitted to a first regular session must be completed and submitted not later than the first Wednesday in November preceding the convening of the first regular session of the next legislature. All reports of legislative study committees that are to be submitted to a second regular session must be completed and submitted not later than the first Wednesday in December preceding the convening of the second regular session. Upon request of the study committee, the Legislative Council may extend the reporting date, except that the extension may not go beyond December 15th in odd numbered years or beyond the first Wednesday of December in even numbered years.

8. Legislation may not be introduced by legislative studies or non-legislative study groups. Legislative and non-legislative study committees or groups may include proposed legislation in their reports to the Legislature, but

are not authorized to introduce legislation. Upon receipt of a report submitted by a legislative or non-legislative study committee or group, the joint standing committee to which the report is submitted, or the appropriate joint standing committee of jurisdiction in the event that the report is submitted to the Legislature as a whole, may introduce a bill during the session to which the report is submitted to implement its recommendations on matters relating to the study.

9. Compensation. Legislative members are entitled to receive the legislative per diem and reimbursement of necessary expenses for their attendance at authorized meetings of a study committee. Public members not otherwise compensated by their employers or other entities whom they represent are entitled to receive reimbursement of necessary expenses and, upon demonstration of financial hardship, a per diem equal to the legislative per diem for their attendance at authorized meetings of a study committee.

10. Study table. All joint study orders or legislation proposing legislative studies must be placed on a special study table in the Senate or House. The Legislative Council shall review the proposed studies and authorize the allocation of budgetary and staffing resources for those studies.

11. Legislative Council study policies. The Legislative Council shall adopt policies governing legislative studies at the beginning of each legislative biennium. Those policies may include conditions on the funding of legislative studies, exceptions to this Joint Rule, drafting standards or other provisions necessary to satisfy the requirements of this Joint Rule.