



128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 1620

H.P. 1115

House of Representatives, May 24, 2017

An Act To Reform Welfare for Increased Security and Employment

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 FREDETTE of Newport. (GOVERNOR'S BILL)
Cosponsored by Senator HAMPER of Oxford and
Representatives: CHACE of Durham, ESPLING of New Gloucester, HEAD of Bethel,
MALABY of Hancock, SANDERSON of Chelsea.

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

2 **Sec. 1. 5 MRSA §204-A**, as enacted by PL 1999, c. 746, §1, is repealed and the
3 following enacted in its place:

4 **§204-A. Annual report**

5 **1. Domestic violence data.** The Attorney General, working with the district
6 attorneys of the State, shall submit a report that compiles data from domestic violence
7 prosecutors statewide to the joint standing committee of the Legislature having
8 jurisdiction over appropriations and financial affairs, the joint standing committee of the
9 Legislature having jurisdiction over criminal justice matters and the joint standing
10 committee of the Legislature having jurisdiction over judiciary matters on an annual
11 basis.

12 **2. Public assistance fraud statistics.** Annually, after the end of the calendar year,
13 but no later than January 30th, the Attorney General shall issue a press release and post
14 on the Attorney General's publicly accessible website the following welfare fraud-related
15 statistics: the number of welfare fraud case referrals from the Department of Health and
16 Human Services, the number of cases accepted, rejected and prosecuted by the Office of
17 the Attorney General, the final disposition of each completed case, the current number of
18 unread cases and the current backlog of unprocessed cases.

19 **Sec. 2. 22 MRSA §16-B** is enacted to read:

20 **§16-B. Verification of integrity of reported information by applicants for public**
21 **assistance**

22 The department shall use commercially available data to conduct an electronic
23 verification of information provided on an application for benefits for public assistance as
24 defined in section 16, subsection 1, paragraph C. The electronic verification must, at a
25 minimum, be conducted on all new applications for benefits and must include searches
26 for income, residency and available assets.

27 **Sec. 3. 22 MRSA §21, sub-§1**, as amended by PL 1997, c. 530, Pt. A, §8, is
28 repealed.

29 **Sec. 4. 22 MRSA §21, sub-§3-A** is enacted to read:

30 **3-A. Electronic benefits transfer card or EBT card.** "Electronic benefits transfer
31 card" or "EBT card" means a card issued by the department under an electronic benefits
32 transfer system for the delivery of benefits to recipients.

33 **Sec. 5. 22 MRSA §21, sub-§§10 and 11**, as enacted by PL 1995, c. 675, §1, are
34 amended to read:

35 **10. Program.** "Program" means the ~~AFDC program~~, food stamps or Medicaid
36 program or another program.

1 **11. Recipient.** "Recipient" means a recipient of benefits under the AFDC, food
2 stamp or Medicaid programs or another program.

3 **Sec. 6. 22 MRSA §22, first ¶**, as amended by PL 1997, c. 530, Pt. A, §10, is
4 further amended to read:

5 The department is authorized to establish an electronic ~~benefit~~ benefits transfer
6 system for the issuance of benefits under the AFDC, food stamp, Temporary Assistance
7 for Needy Families, statewide food supplement program under section 3104, the
8 Temporary Assistance for Needy Families program under chapter 1053-B, the Women,
9 Infants and Children Special Supplemental Food Program of the federal Child Nutrition
10 Act of 1966 and the Parents as Scholars and Medicaid programs and for child care
11 subsidies under chapter 1052-A; all recipients of benefits under these programs or another
12 program approved for addition under subsection 2 must participate in the EBT system.

13 **Sec. 7. 22 MRSA §22, sub-§3**, as enacted by PL 1995, c. 675, §1, is repealed.

14 **Sec. 8. 22 MRSA §§24 to 26** are enacted to read:

15 **§24. Photographs on electronic benefits transfer cards**

16 The commissioner shall place a photograph of a recipient of benefits under a program
17 specified in section 22 on the recipient's electronic benefits transfer card if agreed to in
18 writing by the recipient. When a recipient of benefits is a minor or incapacitated
19 individual, the commissioner may place a photograph of the recipient's parent or legal
20 guardian on the EBT card.

21 **1. Government-issued identification card.** An electronic benefits transfer card
22 with a photograph of a recipient is deemed a government-issued identification card,
23 except in the case of a minor or incapacitated individual when a photograph of the
24 recipient's parent or legal guardian is on the EBT card.

25 **2. Secretary of State.** The Secretary of State shall provide photographs to the
26 commissioner for use on electronic benefits transfer cards when the recipient of the card
27 agrees to such use pursuant to this section. The commissioner shall maintain photographs
28 received from the Secretary of State for use on EBT card replacements. The department
29 shall compensate the Secretary of State for the actual cost of providing the photographs.

30 **§25. Restrictions of the number of replacement electronic benefits transfer cards**

31 When the department determines that the number of requests by a recipient of
32 benefits for a replacement electronic benefits transfer card is excessive, the department
33 shall require the recipient or a member of the recipient's household to contact the
34 recipient's local office of the department to provide an explanation for the requests. Upon
35 a 5th request for a replacement card within a 12-month period, the department may not
36 issue a replacement card until the recipient or a member of the recipient's household
37 reports to the recipient's local office of the department to explain the excessive number of
38 replacement requests.

1 **§26. Posting of electronic benefits transfer card transaction data**

2 The commissioner shall post to the department's publicly accessible website data
3 showing each individual transaction made with an electronic benefits transfer card. The
4 data must include but need not be limited to the date, time, exact amount, transaction
5 type, vendor, town and state of every transaction. Only nonidentifying data may be used.
6 The data may not include the name, social security number or record case number of any
7 recipient of public benefits; however, a nonidentifying unique identifier may be assigned.
8 The data must be posted once monthly in a file format that is an electronic image of the
9 data and in a spreadsheet format to the department's publicly accessible website.

10 **Sec. 9. 22 MRSA §3104, sub-§13**, as corrected by RR 2015, c. 1, §20, is
11 repealed.

12 **Sec. 10. 22 MRSA §3104, sub-§14**, as amended by PL 2009, c. 291, §2, is
13 repealed.

14 **Sec. 11. 22 MRSA §3104, sub-§§15 to 21** are enacted to read:

15 **15. Felony drug offenders ineligible; drug testing and treatment program**
16 **requirements.** A recipient of food assistance through the food supplement program may
17 be denied food assistance as described in this subsection.

18 A. Food assistance through the food supplement program may not be provided to any
19 individual convicted under federal or state law on or after July 1, 2017 of any offense
20 that is classified as a felony by the law of the jurisdiction involved and that includes
21 as an element of the offense the manufacture, cultivation, distribution, possession or
22 use of a controlled substance as defined in Section 102(6) of the federal Controlled
23 Substances Act, 21 United States Code, Section 802(6) or controlled substance
24 analogue as defined in Section 102(32) of the federal Controlled Substances Act, 21
25 United States Code, Section 802(32).

26 B. Notwithstanding the provisions of paragraph A, an individual is eligible for food
27 assistance through the food supplement program if the individual completes a drug
28 treatment program approved by the department, submits to and passes a drug test and
29 further agrees to submit to drug testing if requested by the department pursuant to a
30 drug testing plan.

31 C. An individual who fails to submit to testing or to successfully pass a drug test is
32 ineligible for food assistance through the food supplement program until the
33 individual successfully passes a drug test. An individual who fails to successfully
34 complete a drug treatment program is ineligible for food assistance through the food
35 supplement program until the individual successfully completes a drug treatment plan
36 approved by the department and the individual passes a drug test and agrees to submit
37 to additional drug testing if requested by the department pursuant to a drug testing
38 plan.

39 D. The provisions of paragraphs B and C do not apply to an individual who has been
40 convicted of a 2nd or subsequent felony offense as provided in paragraph A. An
41 individual who has been convicted of a 2nd or subsequent felony offense is

1 permanently disqualified from receiving food assistance through the food supplement
2 program.

3 **16. Certain felons convicted of violent crimes and sexual assault ineligible.** An
4 individual who is convicted in any jurisdiction on or after January 1, 2018 under federal
5 or state law of aggravated sexual abuse under 18 United States Code, Section 2241;
6 murder under 18 United States Code, Section 1111; an offense under 18 United States
7 Code, Chapter 110; a federal or state offense involving sexual assault, as defined in
8 Section 40002(a) of the federal Violence Against Women Act of 1994, 42 United States
9 Code, Section 13925(a); or an offense under a law of this State that is substantially
10 similar to a federal offense described in this subsection and who is not in compliance with
11 the terms of the individual's sentence, parole or probation or is a fleeing felon is ineligible
12 to receive food assistance through the food supplement program.

13 **17. Ineligibility for noncooperation with child support services.** Without a
14 showing of good cause, a noncustodial or custodial parent found to have not cooperated
15 with the department in the collection of child support is ineligible to participate in the
16 food supplement program. The disqualification period ends when the department
17 determines that the parent is cooperating with the department in the collection of child
18 support.

19 **18. Certain lottery and gambling winners ineligible.** A recipient of food
20 assistance through the food supplement program may be denied food assistance as
21 described in this subsection.

22 A. Lottery and gambling winnings of \$5,000 or more, actually received after any
23 offsets to the winnings required by law by an individual in the recipient's household
24 within one calendar month, disqualifies the household from receiving food assistance
25 through the food supplement program until financial eligibility guidelines set forth in
26 department rule are met.

27 B. The department shall enter into an agreement with the Department of
28 Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery
29 Operations, pursuant to which the bureau shall provide the department with reports
30 no less than monthly to assist the department in determining whether an individual in
31 the recipient's household has received lottery and gambling winnings of \$5,000 or
32 more within one calendar month.

33 **19. Asset test for eligibility in full effect and not waived.** For a household to be
34 eligible for food assistance through the food supplement program pursuant to broad-based
35 or narrow-based categorical eligibility provisions of rules adopted by the department to
36 implement the food supplement program, the household's countable assets must total less
37 than \$5,000. The commissioner shall ensure that the asset limit is in full effect and not
38 waived, notwithstanding any provision of federal statute or regulation allowing for such
39 categorical eligibility determinations to be made under a less strict standard.

40 **20. Noncitizen income included.** Eligibility for the federally funded food
41 supplement program is limited to citizens and individuals with qualified noncitizen status
42 as determined by the United States Department of Agriculture. Noncitizen individuals
43 residing within a household receiving food supplement program benefits who are unable

1 or unwilling to provide qualifying immigration documentation, as determined by the
2 United States Department of Agriculture, may not be included when determining
3 household size for the purposes of assigning a benefit level to the household for food
4 assistance or comparing the monthly income of the household with the income eligibility
5 standards. The gross nonexempt earned and unearned income and resources of
6 individuals disqualified under this subsection must be counted in their entirety as
7 available to the remaining household members.

8 **21. Work requirement for certain able-bodied adults without dependents.** The
9 commissioner shall ensure that the work requirement and time-limited assistance
10 provisions for able-bodied adults who are 18 years of age or older and under 50 years of
11 age with no dependents found in Section 6(o) of the federal Food and Nutrition Act of
12 2008 are in full effect and not waived. Food assistance for an able-bodied adult who is 18
13 years of age or older and under 50 years of age with no dependents in the household is
14 limited to 3 months in a 36-month period if the adult does not meet the requirements of
15 Section 6(o) of the federal Food and Nutrition Act of 2008.

16 **Sec. 12. 22 MRSA §3108**, as enacted by PL 1995, c. 629, §1, is repealed.

17 **Sec. 13. 22 MRSA §3174**, as corrected by RR 1991, c. 1, §29 and amended by PL
18 1997, c. 530, Pt. A, §34, is further amended by adding after the 2nd paragraph a new
19 paragraph to read:

20 The department shall review and reevaluate eligibility for all recipients of aid,
21 assistance or benefits available through a program of medical assistance administered
22 pursuant to this chapter no less than once every 12 months, notwithstanding any federal
23 statute, regulation or waiver allowing for less frequent reviews.

24 **Sec. 14. 22 MRSA §3174**, as corrected by RR 1991, c. 1, §29 and amended by
25 PL 1997, c. 530, Pt. A, §34, is further amended by adding after the 3rd paragraph a new
26 paragraph to read:

27 An individual subject to the federal Temporary Assistance for Needy Families work
28 requirements under Section 407 of the federal Personal Responsibility and Work
29 Opportunity Reconciliation Act of 1996 and the federal Deficit Reduction Act of 2005,
30 Public Law 109-171 who has been sanctioned under the Temporary Assistance for Needy
31 Families program for failing to meet such work requirements is ineligible to receive aid,
32 assistance or benefits available through a program of medical assistance administered
33 pursuant to this chapter.

34 **Sec. 15. 22 MRSA §3762, sub-§18**, as enacted by PL 2011, c. 380, Pt. PP, §2, is
35 repealed and the following enacted in its place:

36 **18. Lifetime limit on assistance.** As used in this subsection, "family group" or
37 "household" means an applicant for or recipient of TANF assistance, child care subsidy
38 or employment services and all individuals living with the applicant or recipient in which
39 there is a relationship of legal responsibility or a qualifying caretaker relationship
40 including a person cohabitating with the applicant or recipient who is legally responsible
41 for the child. A family group is not eligible for TANF assistance if the family group

1 contains at least one adult member who has received TANF assistance, including federal
2 TANF assistance received in any other state, for 36 or more calendar months since
3 October 1, 1996, unless the commissioner determines a hardship exists and grants an
4 extension allowing receipt of TANF assistance for a total of 60 months. An extension
5 beyond 60 months may not be granted. A hardship exists when the recipient:

6 A. Is a caretaker of a disabled family member living in the household;

7 B. Has a disability that precludes employment on a long-term basis or requires
8 substantial rehabilitation;

9 C. Needs a time limit extension to overcome the effects of domestic violence or
10 sexual assault; or

11 D. Is involved with child protection services provided by the department, has an
12 open plan as defined in the department's rules and is living with the child.

13 The department shall adopt rules to implement this subsection. Rules adopted pursuant to
14 this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter
15 2-A.

16 **Sec. 16. 22 MRSA §3762, sub-§19**, as enacted by PL 2011, c. 380, Pt. PP, §2, is
17 amended to read:

18 **19. Pretermination notice process.** No later than 120 days prior to the end of a
19 family's ~~60th~~ 36th month of receiving assistance, the department shall offer the adult
20 recipient an opportunity to hold a meeting to review the family's case and:

21 A. Explain the exemption and extension criteria established in subsection 18 to the
22 family and determine if those criteria apply to the family; and

23 B. Explain that any determination made pursuant to this subsection may be appealed
24 in accordance with the hearing process established in subsection 9, paragraph B.

25 For a family whose assistance is to be terminated, a supervisory review by the department
26 is required. The review must include but is not limited to an evaluation of the need for
27 additional information to determine if cause for an exemption or extension exists. If the
28 conclusion of the evaluation determines additional vocational, health, mental health or
29 other information is necessary, the department shall work in collaboration with the adult
30 recipient in the development of the information prior to the determination of status or
31 termination.

32 For a family whose assistance is to be terminated pursuant to this subsection, the
33 department shall provide information to the family regarding any other resources that
34 may be available to help meet that family's basic needs.

35 **Sec. 17. 22 MRSA §3762, sub-§§21 and 22** are enacted to read:

36 **21. Denial of assistance for welfare-related theft or fraud conviction.** A recipient
37 of TANF assistance may be denied TANF assistance as described in this subsection.

38 A. If an individual has been convicted of the crime of theft or fraud pursuant to
39 applicable state law and the theft or fraud is found to be in connection to TANF, the

1 food supplement program or child care subsidies under chapter 1052-A, all adults in
2 the household are permanently ineligible for TANF assistance.

3 B. If a member of a household has been convicted of the crime of theft or fraud
4 pursuant to applicable state law and the theft or fraud is found to be in connection to
5 TANF, the food supplement program or child care subsidies under chapter 1052-A,
6 the recipient shall name a protective payee as approved by the commissioner or the
7 commissioner's designee to administer TANF assistance on behalf of eligible children
8 in the household. An adult in such a household may not have access to the TANF
9 assistance.

10 **22. Requirement for education program funding and child care.** The
11 department, through the Parents as Scholars program established in chapter 1054-B and
12 the TANF child care for work program, shall provide to a recipient of TANF assistance
13 child care and funding for the pursuit of any degree or certification if the occupation has
14 at least an average job outlook listed in the occupational outlook data of the United States
15 Department of Labor, Bureau of Labor Statistics. For occupations with less than an
16 average job outlook, educational plans require approval of the commissioner or the
17 commissioner's designee.

18 **Sec. 18. 22 MRSA §4311, sub-§1,** as amended by PL 2015, c. 267, Pt. SSSS, §1,
19 is further amended to read:

20 **1. Departmental reimbursement.** When a municipality incurs net general
21 assistance costs in any fiscal year prior to July 1, 2015 in excess of .0003 of that
22 municipality's most recent state valuation relative to the state fiscal year for which
23 reimbursement is being issued, as determined by the State Tax Assessor in the statement
24 filed as provided in Title 36, section 381, the Department of Health and Human Services
25 shall reimburse the municipality for 90% of the amount in excess of these expenditures
26 when the department finds that the municipality has been in compliance with all
27 requirements of this chapter. If a municipality elects to determine need without
28 consideration of funds distributed from any ~~municipally controlled~~ municipally
29 controlled trust fund that must otherwise be considered for purposes of this chapter, the
30 department shall reimburse the municipality for 66 2/3% of the amount in excess of such
31 expenditures when the department finds that the municipality has otherwise been in
32 compliance with all requirements of this chapter.

33 ~~The~~ Subject to the provisions of section 4323, the department shall reimburse each
34 municipality and each Indian tribe 70% of the direct costs incurred by that municipality
35 or tribe on or after July 1, 2015 for the general assistance program granted by that
36 municipality or tribe. For the purposes of this subsection, "Indian tribe" has the same
37 meaning as in section 411, subsection 8-A.

38 **Sec. 19. 22 MRSA §4323, sub-§2,** as enacted by PL 1983, c. 577, §1 and
39 amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

40 **2. Violation; penalty.** If the department finds any violation of this chapter after
41 review, it shall notify the municipality that it has 30 days in which to correct that
42 violation and specify what action ~~shall~~ must be taken in order to achieve compliance. If
43 the violation includes improper expenditures for which the municipality has sought

1 reimbursement pursuant to section 4311, the department may permanently withhold
2 reimbursement in an amount commensurate with the violation. The municipality shall
3 file a plan with the department setting forth how it will attain compliance. The
4 department shall notify the municipality if the plan is acceptable and that it will review
5 the municipality for compliance within 60 days of accepting the plan. Any municipality
6 ~~which that~~ fails to file an acceptable plan with the department or ~~which that~~ is in violation
7 of this chapter at the expiration of the 60-day period ~~shall be~~ is subject to a civil penalty
8 of not less than \$500. The Department of Health and Human Services shall enforce this
9 section in any court of competent jurisdiction. Every 30-day period that a municipality is
10 in violation of this chapter after review and notification ~~shall constitute~~ constitutes
11 a separate offense. In addition to the civil penalty, the department shall withhold
12 reimbursement to any municipality ~~which that~~ is in violation of this chapter until it
13 reaches compliance.

14 **Sec. 20. 22-A MRSA §206, sub-§9** is enacted to read:

15 **9. Annual reporting.** The commissioner shall report annually as set out in this
16 subsection.

17 A. After the end of the state fiscal year and no later than July 30th of each year, the
18 commissioner shall issue a press release and post on the department's publicly
19 accessible website a report of the total annual spending in the following programs:
20 the MaineCare program, the Temporary Assistance for Needy Families program
21 under Title 22, chapter 1053-B, the statewide food supplement program under Title
22 22, section 3104 and municipal general assistance under Title 22, chapter 1161. This
23 report must include a specific breakdown of General Fund funds spent and other
24 spending, including spending figures from the 5 previous years for comparison.

25 B. After the end of the calendar year and no later than January 30th of each year, the
26 commissioner shall issue a press release and post on the department's publicly
27 accessible website the following welfare fraud-related statistics for the MaineCare
28 program, the Temporary Assistance for Needy Families program under Title 22,
29 chapter 1053-B, the statewide food supplement program under Title 22, section 3104
30 and municipal general assistance under Title 22, chapter 1161: the number of cases
31 investigated, the number of cases referred to the Office of the Attorney General for
32 prosecution, the number of cases referred to district attorneys' offices for prosecution
33 and the number of cases successfully prosecuted. The department shall follow the
34 same procedure outlined in this paragraph for all intentional program violations.

35 C. After the end of the state fiscal year and no later than July 30th of each year, the
36 commissioner shall issue a press release and post on the department's publicly
37 accessible website each individual contract the department has with providers of
38 services. The report must include the following information for each contract: the
39 provider's name, the program office, the contract period, the total contract dollar
40 value, the amount of General Fund funds allocated to the contract and a description of
41 the services provided pursuant to the contract. The report must indicate whether the
42 contract was a sole-source contract or the result of a competitive bidding process.

43 D. After the end of the state fiscal year and no later than July 30th of each year, the
44 commissioner shall issue a press release and post on the department's publicly

1 accessible website each individual grant the department receives from the Federal
2 Government. The report must include the following information: the program office,
3 the grant period, the total grant award, the number of fully or partially funded staff
4 funded by the grant and a description of the grant. The report must indicate whether
5 or not the grant is discretionary and the amount of General Fund funds necessary to
6 support the grant.

7 E. After the end of the state fiscal year and no later than July 30th of each year, the
8 commissioner shall issue a press release and post on the department's publicly
9 accessible website the total out-of-state travel costs for employees of the department.
10 The report must include travel costs by year for each of the previous 5 years, listed by
11 individual division or agency within the department as well as by funding type.

12 **SUMMARY**

13 This bill makes a number of changes to the statutes relating to programs administered
14 by the Department of Health and Human Services.

15 The bill makes changes to the laws relating to electronic benefits transfer cards by
16 allowing the department to place photographs on the cards and to restrict the number of
17 replacement cards issued. It removes reference to the Aid to Families with Dependent
18 Children, or AFDC, program in the laws relating to electronic benefits transfer cards.

19 The bill requires reporting by the department on welfare fraud, electronic benefits
20 transfer card transactions, provider contracts, grant funding, department out-of-state
21 travel costs and spending in the MaineCare program, the Temporary Assistance for
22 Needy Families program, the statewide food supplement program and municipal general
23 assistance. The bill also requires the Attorney General to report information on welfare
24 fraud cases.

25 The bill provides for annual eligibility evaluations under the MaineCare program.

26 The bill allows the department to withhold municipal reimbursement for general
27 assistance if a municipality is found to have committed a violation that includes improper
28 expenditures.

29 The bill changes the statewide food supplement program eligibility requirements as
30 they relate to felony drug offenders, certain felons convicted of violent crimes and sexual
31 assault, noncooperation with child support collection and certain lottery and gambling
32 winners.

33 The bill ensures the asset test for the statewide food supplement program eligibility
34 remains in effect and is not waived. It also ensures the federal work requirement and time
35 limit provisions for able-bodied adults without dependents are in effect and not waived.

36 The bill limits eligibility for the federally funded food supplement program to
37 citizens and individuals with qualified noncitizen status as determined by the United
38 States Department of Agriculture.

1 Under current law, the lifetime limit on Temporary Assistance for Needy Families
2 assistance is 60 months. This bill reduces that limit to 36 months, absent hardship.

3 The bill repeals the laws governing the food stamp standard utility allowance.

4 The bill makes individuals convicted of the crimes of theft or fraud in connection to
5 the Temporary Assistance for Needy Families program, the statewide food supplement
6 program or child care subsidies ineligible to receive Temporary Assistance for Needy
7 Families assistance.

8 Finally, the bill requires education programs paid for through the Temporary
9 Assistance for Needy Families program to be for occupations that have at least an average
10 job outlook as determined by the United States Department of Labor, Bureau of Labor
11 Statistics.