

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 258

H. P. 221

House of Representatives, January 14, 1981

Submitted by the Department of Mental Health & Corrections pursuant to Joint Rule 24.

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mrs. Prescott of Hampden.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Ensure Notification of Families and Guardians of Patients at State Mental Health Institutes.

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

Sec. 1. 34 MRSA § 2374, last ¶, as enacted by PL 1973, c. 349, § 1, is repealed and the following enacted in its place:

The head of a public hospital, whenever one of the above situations specified in this section exists, shall immediately make a good faith attempt to notify, by telephone or personal communication or by letter, the parent or guardian of a minor patient or the legal guardian of an adult incompetent patient, if any is known, that such action has or will take place. The head of a public hospital shall similarly notify the spouse or adult next of kin of an adult competent patient, if any is known, unless the patient requests in writing that the notice not be given, or unless the patient was transferred from or will be returned to a state correctional facility. The hospital shall have no liability when good faith attempts to notify parents, spouse or guardian have failed.

Sec. 2. 34 MRSA § 2375, 3rd sentence, as enacted by PL 1973, c. 349, § 2, is repealed and the following enacted in its place:

Prior to such release, the head of a public hospital shall make a good faith attempt

to notify, by telephone or personal communication or by letter, the parent or guardian of a minor patient or the legal guardian of an adult incompetent patient, if any, of the intent to release the patient on convalescent status and of the plan of treatment, if any. The head of a public hospital shall similarly notify the spouse or adult next of kin, if any, of a competent adult patient unless the patient requests in writing that the notice not be given. The hospital shall have no liability when good faith attempts to notify parents, spouse or guardian have failed.

Sec. 3. 34 MRSA § 2375, last ¶, first sentence, as enacted by PL 1973, c. 349, § 3, is repealed and the following enacted in its place:

If the convalescent status of a patient in a public hospital is to be changed, either because of a decision of the head of the hospital or because of a request made by a voluntary patient, the head of a public hospital shall immediately make a good faith attempt to notify, by telephone or personal communication or by letter, the parent or guardian of a minor patient or the legal guardian of an adult incompetent patient, if any is known, of the contemplated change. The head of a public hospital shall similarly notify the spouse or adult next of kin of an adult competent patient, if any, unless the patient requests in writing that the notice not be given. The hospital shall have no liability when good faith attempts to notify parents, spouse or guardian have failed.

STATEMENT OF FACT

The purpose of this bill is to retain the non-notification option for competent adults while assuring notification to parents and guardians requiring such information to fulfill their responsibilities. It is noted that current practice at the state mental health institutes is in line with the amended version of the Maine Revised Statutes, Title 34, sections 2374 and 2375.