

MAINE STATE LEGISLATURE

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1 (EMERGENCY)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TENTH LEGISLATURE
5

6 **Legislative Document**

No. 2034

7
8 S. P. 888 In Senate, February 24, 1982
Approved for introduction by the Legislative Council pursuant to
Joint Rule 26.

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

9 MAY M. ROSS, Secretary of the Senate
Presented by Senator Wood of York.

Cosponsor: Representative Murphy of Kennebunk.

10
11 STATE OF MAINE
12

13 IN THE YEAR OF OUR LORD
14 NINETEEN HUNDRED AND EIGHTY-TWO
15

16 AN ACT to Clarify the Authority of
17 the Courts to Remand Persons
18 to Alcohol Shelters.
19

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

23 Whereas, at the present time no standards exist to
24 guide courts in their remanding alcoholics to alcohol shel-
25 ters; and

26 Whereas, in the absence of such standards persons
27 charged with violent crimes or persons suffering from
28 psychiatric disorders are among those persons being remanded
29 to alcohol shelters; and

30 Whereas, alcohol shelters are designed to provide only
31 immediate, life-saving services and are unable to exercise
32 strict control over their residents consequently permitting
33 them to leave and roam loose in the surrounding community
34 causing fear in area residents; and

1 Whereas, standards must be set guiding courts to miti-
2 gate this problem as soon as possible; and

3 Whereas, in the judgment of the Legislature, these
4 facts create an emergency within the meaning of the Consti-
5 tution of Maine and require the following legislation as
6 immediately necessary for the preservation of the public
7 peace, health and safety; now, therefore,

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

9 Sec. 1. 22 MRSA §7103, sub-§§3-A and 3-B are enacted
10 to read:

11 3-A. Alcoholic shelter. "Alcoholic shelter" means a
12 facility that provides immediate life-saving services, such
13 as the provision of food and shelter, to alcoholics and
14 which:

15 A. Is operated by a nonprofit organization, the pri-
16 mary purpose of which is to provide these services to
17 alcoholics; and

18 B. Is funded, in whole or in part, by municipal, state
19 or federal funds.

20 3-B. Approved alcoholic shelter. "Approved alcoholic
21 shelter" means an alcoholic shelter which:

22 A. Meets the standards promulgated by the office pur-
23 suant to section 7115, subsection 1;

24 B. Is approved by the office pursuant to section 7115,
25 subsection 3; and

26 C. Is licensed by the office pursuant to section 7801
27 or other applicable provisions of Maine law.

28 Sec. 2. 22 MRSA §7106, sub-§8, as amended by PL 1981,
29 c. 454, §4, is further amended by adding after the 2nd sen-
30 tence a new sentence to read:

31 No funds obtained under this subchapter may be disbursed to
32 any alcoholic shelter unless that shelter is an approved
33 alcoholic shelter.

34 Sec. 3. 22 MRSA §7106, sub-§11, first sentence, as
35 amended by PL 1977, c. 78, §155, is further amended to read:

1 Establish operating and treatment standards, inspect and
2 issue a certificate of approval for any drug abuse treatment
3 facility or program, including residential treatment centers
4 and approved alcoholic shelters, which meet the standards
5 promulgated under section 7115, subsection 1, and licensed
6 pursuant to section 7801 and other applicable provisions of
7 law.

8 Sec. 4. 22 MRSA §7115, sub-§1, first sentence, as
9 enacted by PL 1973, c. 566, §1, is amended to read:

10 The department shall establish standards for approved treat-
11 ment facilities and approved alcoholic shelters, that must
12 be met for a treatment facility to be approved as a public
13 or private treatment facility and for an alcoholic shelter
14 to become an approved alcoholic shelter, and fix the fees to
15 be charged by the department for the required inspections.

16 Sec 5. 22 MRSA §7115, sub-§1, as amended by PL 1977,
17 c. 413, is further amended by adding after the first sen-
18 tence a new sentence to read:

19 The standards to be adopted for the approval of alcoholic
20 shelters shall be appropriate to the mission of alcoholic
21 shelters and shall, at a minimum, ensure that basic require-
22 ments of health and safety are met.

23 Sec. 6. 22 MRSA §7115, sub-§§2, 3, 4 and 6, as enacted
24 by PL 1973, c. 566, §1, are amended to read:

25 2. Inspection. The department periodically shall
26 inspect approved public and private treatment facilities and
27 approved alcoholic shelters at reasonable times and in a
28 reasonable manner.

29 3. List. The department shall maintain a list of
30 approved public and private treatment facilities and
31 approved alcoholic shelters.

32 4. File. Each approved public and private treatment
33 facility and each approved alcoholic shelter shall file with
34 the department on request data, statistics, schedules and
35 information the department reasonably requires. An approved
36 public or private treatment facility or approved alcoholic
37 shelter that without good cause fails to furnish any data,
38 statistics, schedules or information as requested, or files
39 fraudulent returns thereof, shall be removed from the list
40 of approved treatment facilities and approved alcoholic
41 shelters.

1 6. Books and accounts. The department may at reason-
2 able times enter and inspect and examine the books and ac-
3 counts of any approved public or private treatment facility
4 or approved alcoholic shelter refusing to consent to inspec-
5 tion or examination by the department or which the depart-
6 ment has reasonable cause to believe is operating in viola-
7 tion of this Act.

8 Sec. 7. 22 MRSA §7120-A is enacted to read:

9 §7120-A. Required attendance by alcoholics at alcoholic
10 shelters

11 No court may sentence an alcoholic to an alcoholic
12 shelter or require an alcoholic to obtain services at an
13 alcoholic shelter as a condition of probation unless that
14 shelter is an approved alcoholic shelter. No court may sen-
15 tence any alcoholic to an approved alcoholic shelter or re-
16 quire any alcoholic to obtain services at an approved alco-
17 holic shelter if that person, at any time, has been found
18 guilty of a violent crime or has been committed, voluntarily
19 or involuntarily, to a hospital for the mentally ill for
20 care and treatment of a mental illness.

21 The county commissioners of the county in whose jail
22 the convicted alcoholic would otherwise have been sentenced
23 shall pay his support at the approved alcoholic shelter to
24 which he has been committed, at a rate to be agreed upon by
25 the commissioners and the director of the shelter. In no
26 case may that rate be less than the rate paid by those com-
27 missioners for the boarding of their prisoners in any other
28 county jail.

29 Sec. 8. 22 MRSA §7801, sub-§1, ¶¶D and E, as enacted
30 by PL 1975, c. 719; §6, are amended to read:

31 D. A child placing agency; or

32 E. A day care facility; or

33 Sec. 9. 22 MRSA §7801, sub-§1, ¶F is enacted to read:

34 F. An approved alcoholic shelter

35 Sec. 10. 34 MRSA §1008, first ¶, as enacted by PL
36 1975, c. 191, §2, is amended by adding at the end 2 new sen-
37 tences to read:

38 No prisoner may be granted a furlough to an alcoholic
39 shelter unless that shelter is an approved alcoholic shelter

1 as defined in Title 22, section 7103, subsection 3-B. No
2 furlough to an approved alcoholic shelter may be granted to
3 any prisoner who, at any time, has been found guilty of a
4 violent crime or has been committed, voluntarily or involun-
5 tarily, to a hospital for the mentally ill for care and
6 treatment of a mental illness.

7 **Emergency clause.** In view of the emergency cited in
8 the preamble, this Act shall take effect when approved.

9 **STATEMENT OF FACT**

10 There are 3 purposes of this bill:

11 1. To limit the types of convicted alcoholics that can
12 be sentenced, required to attend as a condition of probation
13 or medically furloughed to alcoholic shelters;

14 2. To establish standards for approval of alcoholic
15 shelters that ensure minimal health and safety standards;
16 and

17 3. To require that counties whose prisoners are sent
18 to shelters pay those shelters for the cost of supporting
19 those prisoners.

20 Several programs exist for the treatment and care of
21 alcoholics: Residential rehabilitation, detoxification and
22 alcoholic shelters. Only residential rehabilitation and
23 detoxification programs are approved by the Office of Alco-
24 holism and Drug Abuse Prevention at the present time.
25 Courts are increasingly requiring alcoholics convicted of
26 criminal offenses to participate in the activities these
27 structured programs provide as a condition of probation.

28 The possibility of courts sentencing alcoholics to the
29 less-structured environment of shelters, or requiring alco-
30 holics to attend shelters as a condition of probation, and
31 the actual practice of some county sheriffs granting medical
32 furloughs to prisoners in the county jail to attend shel-
33 ters, has caused concern in communities where this may occur
34 or is occurring. This bill addresses those concerns by pro-
35 hibiting judges and sheriffs from placing anyone who has
36 been convicted of a violent crime or voluntarily or involun-
37 tarily committed to a mental hospital under the control of
38 an alcoholic shelter for care or treatment. In this way,
39 alcoholics with a propensity for violence would not have ac-
40 cess to the less-structured environment of a shelter from
41 which they might escape.

1 This bill in no way restricts the authority of courts
2 to require a convicted alcoholic, as a condition of proba-
3 tion, to attend a structured and approved treatment program
4 as is presently done.

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