

MAINE STATE LEGISLATURE

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March 16, 1962

Superintendent: MHE, AHE, PHECO

Gerritland D. Perry, Ass't. Attorney General

Mental Health and Corrections

Municipal Courts - Psychiatric Examination or Observation of Juvenile or Adult Offenders

QUESTION PRESENTED: May a municipal court order that either of the State hospitals examine or hold for observation any juvenile or adult offender whom it considers to be mentally ill—or mentally retarded in the case of a juvenile; mentally ill in the case of an adult offender?

Part I

Section 6 of Chapter 152-A of the Revised Statutes of Maine, 1954 is as follows:

"If, in any proceeding before a juvenile court, the court has cause to believe that the juvenile is mentally retarded, or mentally ill, the court may require such juvenile to be examined by any qualified psychiatrist and the result of said examination shall be reported to the court for its guidance.

"The expenses of any examination authorized by this section shall be paid by the county in which the juvenile court ordering such examination is sitting."

It is the opinion of this office that a municipal court operating under the above section has no authority to order any psychiatrist to examine a juvenile. The section provides the court with authority to order a juvenile examined by a psychiatrist who is willing to make such examination. It is contemplated by the section in question that the municipal court shall engage the services of an individual psychiatrist whom it deems examination of a juvenile necessary, not that the court may send such juvenile to a State hospital for examination.

It is the further opinion of this office that a municipal court operating under the same section has no authority to send a juvenile to a State hospital for observation.

Part II

Section 3-A of Chapter 146 of the Revised Statutes of Maine, 1954, as added by Chapter 216 of the Public Laws of 1961 which relates to examination of adult offenders, is as follows:

"A municipal court judge may order a person accused of an offense to be examined by a physician on the same day as the order to determine whether or not such person is insane. The cost of such examination shall be paid from the treasury of the county in which the municipal court is located."

It is the opinion of this office that a municipal court operating under the above section has no authority to order any person accused of an offense to be examined at a State hospital in order to determine insanity, but that the law intends that the court shall engage the services of a private physician for the purpose of examining such accused persons. It is the further opinion of this office that a municipal court operating under the section in question has no authority to order an accused person sent to a State hospital for observation.

Courtland D. Ferry
Assistant Attorney General

CRP/slw
cc: Atty. General's Dept.