

MAINE STATE LEGISLATURE

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April 19, 1963

Mrs. Diane Marles, Social Worker

Social Service Division,
Pineland Hospital and Training Center
Mental Health and Corrections

Courtland B. Perry, Asst. Atty. Gen'l.

Status--Geraldine Gilbert

Under date of April 18, 1963, you requested of this office an opinion, relative to the present status of one, Geraldine Gilbert, committed to your institution under the provisions of Chapter 152-A, Section 17, Sub-section IV G, of the R.S., of Maine, 1954, as enacted by Chapter 342, Section 1 of the P.L., of 1959, and asked, specifically, if this patient is presently considered to be still a committed involuntary patient, or has the repeal and replacement of the above Section by Chapter 296, P.L., of 1961, placed this patient in a voluntary status and subject to discharge in accordance with the provisions of Section 143-G, Chapter 27 of the R.S., of Maine, 1954.

A sticky technical question of law is raised here. It is, however, clear that Section 143-G of Chapter 27, is inapplicable since this Section refers to the discharge of mentally ill children and the patient in question was committed as, and is mentally retarded. The technical question exists as to the possibility of a patient so committed being discharged, pursuant to Section 146-A of Chapter 27 of the R.S., referred to in new Section 17, Sub-section IVG, Chapter 152-A of the R.S.

In view of the Pineland staff's professional opinion, that the best interest of the patient would be served by continuing participation in the Pineland program, it would behoove you to take the position which I consider to be well founded in law that the patient is still under involuntary Municipal Court commitment. The commitment of this patient was proper at the time, the Court having jurisdiction to dispose of the case by committing the patient to Pineland, which commitment was

perfected prior to the effective date of the repealer, and in view of the nature of the subject matter of the legislation in question the repeal and replacement of Chapter 152-A, Section 17, Sub-section IV C of the R.S., operated prospectively and not retrospectively, thus, applying only to cases, either pending at, or arising after, the effective date of the repealer, to wit: September 16, 1961.

Courtland H. Perry
Assistant Attorney General

CHP/x

cc: Attorney General's Office