

MAINE STATE LEGISLATURE

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October 15, 1963

Walter P. Unger, Commissioner

Mental Health and Corrections

Courtland S. Furry, Asst. Atty. Gen'l.

Mental Health and Corrections

Disposition of Convicts and Persons Detained in County Jails Alleged to be Mentally Ill.

FACTS:

From time to time the sheriffs or keepers of jails in our several counties must seek hospitalization for mental illness of convicts or persons detained under their custody.

ISSUES:

Can such convicts or persons detained be admitted to either the Augusta or Bangor State Hospital under the standard non-judicial procedure, (R.S. 1954, c. 27, § 173 as amended), or under the emergency procedure, (R.S. 1954, c. 27, § 174 as amended)?

ANSWERS:

No.

REASONS:

The 191st Legislature enacted P.L. 1963, c. 266 relating specifically to the commitment for mental illness of convicts and persons detained in county jails.

In the event, that a sheriff or keeper of a county jail, believes that such an inmate of his jail is mentally ill, he should proceed under the provisions of R.S. 1954, c. 27, § 122-A, enactment P.L. 1963, c. 266, § 2, which section reads in part as follows:

"Convict or person detained alleged to be mentally ill; procedure. When, in the opinion of the sheriff or the keeper of a county jail any convict in such jail or any convict whose sentence has expired and is there detained has become mentally ill, he shall apply in writing giving his reasons therefor, to the District Court having territorial jurisdiction, for a judicial determination of the mental condition and need for care and treatment in a mental hospital of the convict or person detained, and shall accompany such application, with the certification of a licensed physician that he has examined the convict or person detained, and that in his opinion such person is mentally ill and in need of care or treatment in a mental hospital."

Since this enactment is specifically applicable to convicts or persons detained in county jails and contains mandatory language, it should be regarded as the only procedure available to effect the hospitalization of such persons for mental illness; thus, the language in §§ 172 or 174 copies, allowing the head of an institution to apply for the admission of a person to a mental hospital must be considered to be inapplicable to sheriffs and keepers of county jails.

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