

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 883

S. P. 282

In Senate, January 26, 1961

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

CHESTER T. WINSLOW, Secretary

Presented by Senator Erwin of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

**AN ACT to Revise Laws Relating to Department of Mental Health and
Corrections.**

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

Sec. 1. R. S., c. 27, § 1, amended. The first paragraph of section 1 of chapter 27 of the Revised Statutes, as amended, is further amended to read as follows:

'The Department of Mental Health and Corrections, as heretofore established, hereinafter in this chapter called the "department," shall have general supervision, management and control of the **research and planning**, grounds, buildings and property, officers and employees, and patients and inmates of all of the following **property, officers and employees, and patients and inmates of all of the following** state institutions: The ~~insane~~ hospitals **for the mentally ill**, Pineland Hospital and Training Center, the State Prison, the Reformatories for Men and Women, the juvenile institutions, the Governor Baxter State School for the Deaf, the Military and Naval Children's Home and such other charitable and correctional state institutions as may be created from time to time. All orders of commitment, medical and administrative records in the department are held to be confidential. Such records may be subpoenaed by a court of record.'

Sec. 2. R. S., c. 27, § 1, amended. The next to the last paragraph of section 1 of chapter 27 of the Revised Statutes is amended to read as follows:

'The commissioner shall appoint, ~~with the approval of the commissioner of agriculture, a~~ **subject to the Personnel Law, a departmental farm supervisor to cooperate with the several institutional farm managers to coordinate the**

~~farm activities of all institutions.~~ The salary and the expenses incurred by the **departmental** farm supervisor shall be prorated among the accounts set up for the several institutional farms.'

Sec. 3. R. S., c. 27, § 1, amended. The last paragraph of section 1 of chapter 27 of the Revised Statutes, as enacted by section 1 of chapter 373 of the public laws of 1957, is repealed and the following enacted in place thereof:

'Wherever in this chapter powers and duties are given to the department these may be and shall be assumed and carried out by such of the institutional or bureau heads as the commissioner may designate from time to time, and these powers and duties so delegated may in turn be delegated by the said institutional or bureau heads with the approval of the commissioner.'

In the case of a sudden death of any patient or inmate in any institution under the control of the department, under circumstances of reasonable suspicion, an examination and inquest shall be held as in other cases, and the superintendent or department shall cause a medical examiner to be immediately notified for that purpose.

The department is authorized and empowered to accept for the State any federal funds appropriated under federal law relating to mental health, mental illness or mental retardation or the juvenile offender, and to do such acts as are necessary for the purpose of carrying out such federal law; and to accept from any other agency of government, individual, group or corporation such funds as may be available in carrying out the provisions contained herein. The department is authorized to apply for and receive federal funds under the Housing Act of 1954, Public Law 560, Title 7.'

Sec. 4. R. S., c. 27, § 5, amended. The last paragraph of section 5 of chapter 27 of the Revised Statutes, as amended by section 22 of chapter 378 of the public laws of 1959, is further amended to read as follows:

~~It shall also fix rates and collect fees for the support of patients in state hospitals and other state institutions~~ the **Augusta State Hospital, Bangor State Hospital, Pineland Hospital and Training Center and the Military and Naval Children's Home** and provide for the training of nurses in state hospitals. In each instance in which a person is committed or otherwise legally admitted to a state hospital or other institution under the control of the department, said department shall determine the ability of the patient, or those persons legally liable as provided in chapter 167-A, to pay all or any part of the rate established by the department for support of patients. The fee thus established in each instance shall be subject to continuous review but in no event shall the fee charged exceed the maximum rate established by the department.'

Sec. 5. R. S., c. 27, § 5, amended. Section 5 of chapter 27 of the Revised Statutes, as amended by section 22 of chapter 378 of the public laws of 1959, is further amended by adding a new paragraph to read as follows:

'Such fees charged shall be a debt of the patient or any person legally liable for his support, recoverable in any court of competent jurisdiction in a civil action in the name of the State of Maine.'

Sec. 6. R. S., c. 27, § 12, amended. Section 12 of chapter 27 of the Revised Statutes is amended to read as follows:

'Sec. 12. Physical and mental examination of inmates. The department may require a physical and ~~psychopathic~~ **mental** examination of persons committed to any state penal or correctional institution **or training center for juvenile offenders and shall keep a record thereof.** It shall designate competent ~~physicians~~ **examiners** employed at the Augusta and Bangor state hospitals by the department or who may be employed by the department to conduct such examinations; and the actual expenses of physicians in making such examinations shall be paid from funds available for the use of the institution to which such person was committed. The department may transfer any such person to either of said hospitals for further study or observation of his mental condition if it is deemed advisable.

The department, upon the recommendation of the warden of the Maine State Prison, or the superintendents of the state correctional institutions and training centers for juvenile offenders, may transfer any person in any of the said institutions to either of the hospitals for the mentally ill in the department for observation and study of his mental condition if his conduct in any of the said institutions indicates such need. Children in the training centers for juvenile offenders under the age of 16 at time of need for such transfer shall be transferred to the Pineland Hospital and Training Center. Such transfers can be for any period of time up to 30 days and shall not exceed 30 days without a request for an extension for a further 30-day period. Thereafter, the person must be returned to the institution from which he was transferred, or transferred under section 13 to said hospital for treatment.'

Sec. 7. R. S., c. 27, § 13, amended. The first sentence of section 13 of chapter 27 of the Revised Statutes, as amended by section 2 of chapter 21 of the public laws of 1957, is further amended to read as follows:

'Any person who is committed to a state penal ~~charitable~~ or correctional institution **or to a training center for juvenile offenders** and is under the control of the department, who **in the opinion of the head thereof** becomes ~~insane~~ **mentally ill**, or who is found to be ~~insane~~ **mentally ill** by the examination authorized by the ~~preceding~~ section 12, shall be transferred to either of the state hospitals, **except those children in the training centers who are under 16 years of age who shall be transferred to the Pineland Hospital and Training Center,** and any person who is committed to a state penal or correctional ~~or charitable~~ institution **or to a training center for juvenile offenders** and is under the control of the department, who in the opinion of the head thereof is in such condition that he or she is a fit subject for the Pineland Hospital and Training Center, shall be transferred to the Pineland Hospital and Training Center whenever, in the judgment of the commissioner, the welfare of the patients and inmates, or of either institution, or of the person will be promoted thereby.'

Sec. 8. R. S., c. 27, § 28, amended. The last sentence of the first paragraph of section 28 of chapter 27 of the Revised Statutes is amended to read as follows:

~~The provisions of this~~ This section shall apply to the sentences of all convicts now or hereafter confined within the prison, and ~~said provisions~~ shall not be construed to prevent the allowance of good time from maximum sentences or definite sentences ~~other than life sentences.~~

Sec. 9. R. S., c. 27, § 41, amended. Section 41 of chapter 27 of the Revised Statutes is amended to read as follows:

'Sec. 41. Conveying, or attempting secretly to convey, any article to a convict. If any officer, contractor, teamster or other person delivers, or has in his possession with intent to deliver, to any convict confined in the State Prison, or deposits or conceals, in any place in or about the prison or its precincts, or in any wagon or other vehicle going thereto, any article, with intent that any convict therein shall obtain it, without consent or knowledge of the Warden or deputy warden, he shall be punished by a fine of not more than \$500, ~~and by imprisonment for not more than 6 months~~ or by imprisonment for not more than 2 years.'

Sec. 10. R. S., c. 27, § 50, repealed. Section 50 of chapter 27 of the Revised Statutes is repealed.

Sec. 11. R. S., c. 27, § 94-B, amended. The 2nd paragraph of section 94-B of chapter 27 of the Revised Statutes, as enacted by section 1 of chapter 360 of the public laws of 1959, is amended to read as follows:

'It shall be the duty of the director to carry out the purposes of the bureau ~~and, in the event of vacancy in the office of the commissioner or during his absence or disability, the director shall perform such duties and have the same powers as provided by law for the commissioner.~~

Sec. 12. R. S., c. 27, § 96, amended. The first sentence of section 96 of chapter 27 of the Revised Statutes is amended to read as follows:

'The head of each hospital shall be called the superintendent and shall be a ~~physician~~ qualified psychiatrist.'

Sec. 13. R. S., c. 27, § 96, amended. The 2nd paragraph of section 96 of chapter 27 of the Revised Statutes is repealed.

Sec. 14. R. S., c. 27, §§ 98-99, repealed. Sections 98 and 99 of chapter 27 of the Revised Statutes are repealed.

Sec. 15. R. S., c. 27, § 115, amended. The 3rd sentence of section 115 of chapter 27 of the Revised Statutes is amended to read as follows:

'Such patient shall not be detained for more than 10 days after having given notice in writing of his intention or desire ~~of leaving to be discharged from~~ the institution.'

Sec. 16. R. S., c. 27, § 115, amended. Section 115 of chapter 27 of the Revised Statutes is amended by adding a new paragraph to read as follows:

'The superintendent may permit such patient to be on temporary leave from the institution or to discharge such patient as provided in sections 141 and 142. Such patient shall not be held on temporary leave status for more than 10

days after having given notice in writing of his intention or desire to be discharged from temporary leave status.'

Sec. 17. R. S., c. 27, § 121, repealed. Section 121 of chapter 27 of the Revised Statutes is repealed.

Sec. 18. R. S., c. 27, § 122, amended. Section 122 of chapter 27 of the Revised Statutes is amended to read as follows:

'Sec. 122. Governor to appoint an examiner of insane convicts or persons detained in county jails in each county; proceedings when a convict or person detained becomes insane. The Governor shall appoint in each county in the State a competent physician, who shall be a resident of the county, to act as an examiner of insane convicts in the county jail of the county. When a convict in ~~the state prison or the~~ a county jail becomes insane or a convict whose sentence has expired is there detained, and in the opinion of the ~~warden of the state prison or~~ keeper of the jail is insane, ~~the warden shall forthwith notify the prison physician and~~ the jailer shall forthwith notify such examiner in the county of the fact, and ~~the prison physician or~~ such examiner shall forthwith investigate the case and make a personal examination of the convict or ~~party person~~ so detained; ~~and if.~~ If such physician finds such convict or person detained to be insane, he shall forthwith certify such fact in writing to the ~~warden of the state prison or~~ keeper of such jail. ~~Said warden shall apply in writing to the judge of the municipal court for the city of Rockland in the county of Knox, and such~~ Such keeper shall apply in writing to the judge of the municipal court in the place where such jail is located, if any; otherwise to the judge of the nearest municipal court in the county, and if there is no municipal court in such county, to any Justice of the Superior Court, stating the facts connected therewith, and praying that the condition of such convict or person detained ~~as aforesaid~~ may be inquired into and such decree made as to his commitment or detention as justice may require.'

Sec. 19. R. S., c. 27, § 123, amended. The first sentence of section 123 of chapter 27 of the Revised Statutes is amended to read as follows:

'Such judge or justice mentioned in ~~the preceding~~ section 122 shall thereupon appoint a time and place for a hearing by him of the allegations of such application, and shall cause a true copy of said application to be given in hand to the person so alleged to be insane at least 24 hours prior to the time of said hearing, together with a notice of the time and place of said hearing, and that he has a right and will be given an opportunity then and there to be heard in the matter; ~~he.~~ He shall call before him all testimony necessary for a full understanding of the case, and shall personally examine and interview such person, whether he shall or shall not appear at such hearing, and shall require and receive evidence of at least 2 reputable physicians not in the employ of ~~the state prison or~~ either of the said jails, all such evidence being given under oath before such judge, with the certificate signed by such physicians and filed with the papers in the case, that in their opinion such person is or is not insane.'

Sec. 20. R. S., c. 27, § 124, amended. Section 124 of chapter 27 of the Revised Statutes is amended to read as follows:

'**Sec. 124. Commitment, if person is adjudged insane.** If upon the foregoing such proceedings such judge shall determine that such convict or person detained as aforesaid is insane and that his comfort and safety or that of others interested will thereby be promoted, he shall ~~in case of such convict or person so detained in the state prison, commit him to the department for the criminal insane at the Augusta state hospital; and in the case of a convict or person so detained in either of the county jails, he shall~~ commit him to one of the ~~insane~~ hospitals for the mentally ill, with a certificate stating the fact of his insanity and directing that he shall be received and detained accordingly until he is restored or discharged by law. The certificate of said judge shall state the town in which the ~~prisoner convict~~ or person detained, so committed, resided at the time of his original commitment to ~~prison or jail~~. A certified copy of the certificate signed by the ~~prison physician~~ shall accompany said order of commitment made hereunder, and said judge shall keep a record of his doings and furnish a copy to any interested person requiring and paying for it.'

Sec. 21. R. S., c. 27, § 125, amended. Section 125 of chapter 27 of the Revised Statutes is amended to read as follows:

'**Sec. 125. Persons recovering before expiration of sentence.** If a person so committed as insane is restored or discharged from such commitment before the expiration of the term of the sentence on which he was originally committed, he shall be returned to the ~~prison or jail~~ in which he was serving his original sentence, and shall be there detained until the time when his original sentence would have expired.'

Sec. 22. R. S., c. 27, § 126, amended. Section 126 of chapter 27 of the Revised Statutes is amended to read as follows:

'**Sec. 126. Fees for examination and certificate.** The fee of each physician for such examination and certificate and testifying before said judge shall be \$5. All the fees, costs and expenses incident to any such hearing shall be taxed by the judge, and ~~in any case relating to the state prison, audited and allowed by the state~~ and in any cases arising in any ~~either~~ of the county jails, by the county commissioners for such county, who shall include therein a reasonable compensation for such judge, and said fees and costs shall be paid by the state and county respectively.'

Sec. 23. R. S., c. 27, § 128, amended. Section 128 of chapter 27 of the Revised Statutes is amended to read as follows:

'**Sec. 128. Municipal judges may hold court in towns where prison or jails are located.** ~~The judge of the municipal court of the city of Rockland is authorized for the purposes provided in the 8 preceding sections, if he shall see fit, to hold his court in the town of Thomaston, and the~~ The judge of any municipal court to which application is made by any jailer, and which court is located in a town other than that in which the jail is situated and which is within the same county, may hold his court for the purposes ~~herein~~ provided in the town where such jail is located.'

Sec. 24. R. S., c. 27, §§ 131-133, repealed. Sections 131, 132 and 133 of chapter 27 of the Revised Statutes are repealed.

Sec. 25. R. S., c. 27, § 135, amended. The first paragraph of section 135 of chapter 27 of the Revised Statutes is amended to read as follows:

'The officers ordering the commitment of a person unable to pay for his support, or becoming unable to pay for his support after commitment, or their successors, or any officers with like power to commit, shall in writing certify that fact to the department and that he has no relatives liable and of sufficient ability to pay for his support ~~and such.~~ **Such** certificate shall be sufficient evidence in the first instance to charge the town where the ~~insane mentally ill person~~ **insane mentally ill person** resided or was found at the time of his arrest for the expenses of his examination and commitment ~~and to charge the state for the expenses of his support in the hospital, and the department shall charge to the state the reasonable expense of his support which shall be paid by the state.'~~

Sec. 26. R. S., c. 27, §§ 139-140, repealed. Sections 139 and 140 of chapter 27 of the Revised Statutes are repealed.

Sec. 27. R. S., c. 27, § 141, amended. Section 141 of chapter 27 of the Revised Statutes is amended to read as follows:

'**Sec. 141. Superintendent may permit inmate to temporarily leave institution.** The superintendent of either hospital may permit any inmate thereof to leave such institution, temporarily, in charge of his guardian, relatives, friends, or by himself, ~~for a period not exceeding 6 months~~ and may receive him when returned by any such guardian, relatives, friends, or upon his own application, ~~within such period~~ without any further order of commitment, and the liability of the State, or of any person by bond given for the care, support and treatment of such ~~insane mentally ill person~~ **insane mentally ill person** as originally committed, shall remain in full force and unimpaired upon the return of such person as if he had remained continuously in such hospital. The superintendent of either hospital ~~with the approval of the department may on receipt of formal application in writing before the date of expiration of such leave of absence grant an extension of time for another 6 months~~ **may continue any patient on temporary release status so long as such is for the benefit and welfare of the patient and his guardian, relatives or friends. No patient shall be on release for more than one year without a review of his condition and a report thereof being recorded with the department.'**

Sec. 28. R. S., c. 27, § 143, amended. Section 143 of chapter 27 of the Revised Statutes, as repealed and replaced by section 4 of chapter 189 of the public laws of 1959, is amended to read as follows:

'**Sec. 143. Management; ages of inmates.** The Pineland Hospital and Training Center, heretofore established at New Gloucester in the County of Cumberland, shall be maintained for the care, ~~and~~ education **and treatment** of persons of both sexes between the ages of 5 years and 55 years who are mentally retarded.

The director of the hospital shall be called the superintendent and shall be a qualified psychiatrist or pediatrician. He shall reside constantly at the hospital. He shall admit all persons committed or otherwise received pursuant to this chapter. He shall be responsible for the care, education, treatment and release of all patients and shall have direct supervision, management and control of the grounds, buildings and property, and officers and employees of the hospital subject to the approval of the department.'

Sec. 29. R. S., c. 27, § 143-A, amended. Section 143-A of chapter 27 of the Revised Statutes, as enacted by section 5 of chapter 189 of the public laws of 1959, is amended to read as follows:

'Sec. 143-A. Further purposes of Pineland Hospital and Training Center. Said hospital and training center shall further be maintained for the care, ~~and~~ education **and treatment** of such children between the ages of 6 years and 16 years as are deemed by the superintendent of said Pineland Hospital and Training Center to be suffering from psychoses, neuroses, psychoneuroses, behavior disorders or other mental disabilities.'

Sec. 30. R. S., c. 27, § 144, repealed. Section 144 of chapter 27 of the Revised Statutes, as amended, is repealed.

Sec. 31. Amendment of words "feeble-minded" and "feeble-mindedness." Wherever in the Revised Statutes or public laws or private and special laws the words "feeble-minded" or "feeble-mindedness" appear, they shall be amended to the words 'mentally retarded' or 'mental retardation.'