

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION
(EMERGENCY)

ONE-HUNDREDTH LEGISLATURE

Legislative Document

No. 1680

S. P. 609

In Senate, November 27, 1961

The Committee on Judiciary suggested.

CHESTER T. WINSLOW, Secretary

Presented by Senator Marden of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT to Revise the Laws Relating to Commitment of the Mentally Ill.

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, certain provisions of the mental commitment law, chapter 303 of the public laws of 1961 contain inconsistencies which are burdensome and which have given rise to uncertainties in their administration; and

Whereas, the proper administration of portions of the commitment law are threatened by such inconsistencies, burdens and uncertainties, possibly resulting in the ultimate breakdown of such portions of the law; and

Whereas, it is vitally necessary that such inconsistencies, burdens and uncertainties be resolved that the dire consequences of their presence in the law be avoided; and

Whereas, in the judgment of the Legislature these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., c. 27, §§ 135 - 138, repealed. Sections 135 to 138 of chapter 27 of the Revised Statutes, as amended, are repealed.

Sec. 2. R. S., c. 27, §§ 135-A - 135-B, additional. Chapter 27 of the Revised Statutes is amended by adding 2 new sections, to be numbered 135-A and 135-B, to read as follows:

Sec. 135-A. Expenses of examination and commitment. The probate court conducting proceedings for the involuntary judicial hospitalization of an individual under sections 175, 185 and 186 shall order that the Department of Mental Health and Corrections be charged in the first instance for any expenses of examination, when hospitalization is not ordered and for any expenses of examination and commitment when hospitalization is ordered. The department, after being made chargeable in the first instance for such expenses, shall recover amounts paid under this section from the individual in respect of whom such expenses are incurred if able to pay, or from persons legally liable for his support under chapter 167-A, or from the town of legal settlement as if incurred for the expenses of a pauper. If he has no legal settlement in the State, such expenses shall be refunded by the State. All bills for expenses so incurred and chargeable to the State shall be filed with the Department of Health and Welfare within 3 months after the same are contracted. No person in respect of whom expenses are incurred under sections 175, 185 and 186 shall suffer any of the disabilities of pauperism or be deemed a pauper by reason of his inability to pay any of such expenses of examination or commitment.

Sec. 135-B. Revolving Fund. There is appropriated from the Unappropriated Surplus of the General Fund the sum of \$10,000 to be made available to the Department of Mental Health and Corrections. Said sum so appropriated to be a Revolving Fund for the use of said department in carrying out the terms and purposes of section 135-A. This section shall remain effective until repealed by the Legislature at which time such sum of \$10,000 hereby appropriated shall be repaid into the General Fund.'

Sec. 3. R. S., c. 27, § 175, amended. The 2nd paragraph of section 175 of chapter 27 of the Revised Statutes, as enacted by section 1 of chapter 303 of the public laws of 1961, is amended to read as follows:

'Upon receipt of an application the court shall give notice thereof **in hand** to the proposed patient, **in hand or by certified mail** to his legal guardian, if any, and to his spouse ~~or parents~~ **a parent or one of his adult children, or if none of these relatives exist or if their whereabouts are unknown** ~~and~~ then to the nearest known interested or other relative or to an interested friend. **If one of the named persons is the applicant, notice to that person may be omitted but must be given to one other of the named persons.** If the court has reason to believe that notice would be likely to be injurious to the proposed patient, notice to him may be omitted.'

Sec. 4. R. S., c. 27, § 175, amended. Section 175 of chapter 27 of the Revised Statutes, as enacted by section 1 of chapter 303 of the public laws of 1961, is amended by adding after the 5th paragraph the following paragraph:

'**Notice of the hearing shall be given, in the same manner as is required for notice of receipt of application, to the applicant and to the person or persons receiving notice of receipt of application and to such other persons as the court may direct.**'

Sec. 5. R. S., c. 27, § 186, amended. Section 186 of chapter 27 of the Revised Statutes, as enacted by section 1 of chapter 303 of the public laws of 1961, is amended to read as follows:

'Sec. 186. Petition for re-hearing to determine need for continuing hospitalization. Any patient hospitalized pursuant to section 175, or if hospitalized prior to September 16, 1961 pursuant to chapter 27, sections 104, 105, 107 and 110 shall be entitled to a ~~re-examination~~ re-hearing of the order for ~~his~~ to determine his need for continuing hospitalization on his own petition, or that of his legal guardian, parent, spouse, relative or friend, to the probate court of the county in which he ~~resides or~~ is detained at the time of the request for re-hearing. Upon receipt of the petition, the court shall conduct or cause to be conducted by a special commissioner, proceedings in accordance with ~~such~~ section 175, except that notice of receipt of application may be omitted ~~such~~. Such proceedings shall not be required to be conducted if the petition is filed ~~sooner~~ less than 6 months after the issuance of the original order of hospitalization or ~~sooner~~ less than one year after the filing of a previous petition under this section.'

Sec. 6. R. S., c. 149, § 38-B, amended. Section 38-B of chapter 149 of the Revised Statutes, as enacted by chapter 310 of the public laws of 1961, is amended to read as follows:

'Sec. 38-B. When acquitted. When the respondent is acquitted on the ground of mental disease or mental defect excluding responsibility, the verdict and the judgment shall so state and the court shall order him to be committed to the custody of the Commissioner of Mental Health and Corrections to be placed in an appropriate institution for the mentally ill or mentally retarded for custody, care and treatment.'

Emergency clause. In view of the emergency cited in the preamble, this act shall take effect when approved.