

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 155

H. P. 111

House of Representatives, January 10, 1963

Referred to the Committee on Judiciary, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Pierce of Bucksport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

**AN ACT Providing for Civil Commitment for the Treatment of
Narcotic Addicts.**

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

Sec. 1. R. S., c. 25, § 167, amended. Section 167 of chapter 25 of the Revised Statutes, as amended by section 1 of chapter 212 of the public laws of 1961, is further amended to read as follows:

'Sec. 167. Persons suffering from excessive use of alcohol. A person alleged to be suffering from the effects of ~~the use of an opiate, chloral hydrate, other narcotic, barbiturate or~~ the excessive use of alcohol may be committed to the care of any hospital, including any state hospital for the mentally ill or any legally qualified physician of not less than 5 years' actual practice for treatment. The medical authorities of said hospital or said physician to whom said patient is committed may restrain said patient, so committed, in such manner as may be necessary for his protection, for a period of not more than 90 days.'

Sec. 2. R. S., c. 25, § 168, amended. Section 168 of chapter 25 of the Revised Statutes, as amended by section 2 of chapter 212 of the public laws of 1961, is further amended to read as follows:

'Sec. 168. Agreement for personal restraint. Before any restraint shall be imposed under the authority of section 167, a voluntary agreement shall be made in writing by the person suffering from the effects of ~~the use of an opiate, cocaine, chloral hydrate, other narcotic, barbiturate or~~ the excessive use of alcohol, to the imposition of restraint upon his actions, if necessary, and such agreement must be witnessed by the husband, wife or parent of the person aforesaid, or one of the municipal officers of the city or town in which the person,

so suffering, is a resident, and approved, after reasonable notice, by a Justice of the Superior Court or the judge of probate in the county where the patient resides.'

Sec. 3. R. S., c. 25, §§ 169-A - 169-K, additional. Chapter 25 of the Revised Statutes is amended by adding thereto 11 new sections, to be numbered 169-A to 169-K, to read as follows:

'Commitment of Narcotic Addicts.

Sec. 169-A. Purpose. The purpose of sections 169-A to 169-K is to protect the health and safety of the people of this State from the menace of narcotic drug addiction and to afford an opportunity to the narcotic drug addict for rehabilitation. The Legislature intends that the State criminal laws shall be enforced against narcotic drug addicts as well as other persons, and sections 169-A to 169-K shall not be substitute treatment for the usual penalties in cases of crimes committed by narcotic drug addicts.

Sec. 169-B. Narcotic addict defined. The term "narcotic addict" means any person who without bona fide medical need therefor, habitually uses any habit-forming narcotic drug as defined in chapter 68, section 33, so as to endanger the public morals, health, safety or welfare, or who is so far addicted to the use of such habit-forming narcotic drugs as to have lost the power of self-control with reference to his addiction.

Sec. 169-C. Affidavit and petition. Any person who believes that a person is a narcotic addict as defined in section 169-B, or any person who believes himself to be addicted to narcotic drugs may file an affidavit setting forth the facts and circumstances with the county attorney of any county in this State. The county attorney shall petition the Superior Court for a commitment of such person for rehabilitative confinement and care.

Sec. 169-D. Examination. Upon the filing of a proper petition and a determination by the court that there is probable cause to believe the person is a narcotic addict, the court shall order the person sought or seeking to be committed to be examined by 2 physicians. For the purpose of examination, the court may order the person committed for such reasonable period as the court may determine to a suitable hospital or other facility. Each physician shall, within such period as the court may direct, file written report of the examination, which shall include a statement of his conclusion as to whether the person is a narcotic addict.

Sec. 169-E. Reports of physicians. The reports of the examining physicians shall be delivered to the court, and if the reports are to the effect that the person is not addicted, the court shall order the petition dismissed. If the reports are to the effect that the person is addicted, the court shall set a time and place of hearing and cause notice thereof to be served on the person.

Sec. 169-F. Proceedings civil. The proceedings under this section shall be civil in nature, and the person involved in any such proceeding under this section shall not be deemed a criminal and the commitment of any such person for treatment shall not be deemed a conviction. The rules of civil procedure, including

the provisions in all existing and future amendments of said rules and modifications thereof shall apply to all proceedings hereunder except as otherwise provided in these addict commitment proceedings. The court may issue subpoenas for attendance of witnesses at the hearing and the person sought or seeking to be committed shall have the right to have subpoenas issued for such purpose. At the hearing, the person shall have the right to be represented by counsel, to present witnesses in his behalf and to cross-examine witnesses. If he is financially unable to employ counsel, the court shall, if requested, appoint counsel for him. The hearing shall be conducted without a jury. The records and files of the proceedings shall be open to inspection only to the person named in the petition or his counsel, and by public officials.

Sec. 169-G. Commitment. If at the time and place specified in the notice the person named, or his counsel, is not present, the court shall order any law enforcement officer to bring him before the court. At the hearing the court shall determine whether the person is addicted to narcotic drugs. If the issue be determined in the negative, the petition shall be denied. If the issue is determined in the affirmative, the court shall order the person committed forthwith to the custody of the Commissioner of Health and Welfare for confinement in a public institution, other than a penal institution, or to a hospital designated by the person, for rehabilitative treatment and care for a period of five years, except as sections 169-A to 169-K permit earlier discharge. Confinement in a public institution shall be at the expense of the State. In the event a person elects to designate a hospital to which he wishes to be committed, he shall be required to satisfy the Commissioner of Health and Welfare that such hospital has medical, rehabilitative and security facilities comparable to the institution which the Commissioner of Health and Welfare would ordinarily designate and, in addition, the cost of such hospitalization shall be borne by the person.

Sec. 169-H. Reports by hospitals. The head of the institution or hospital designated by the Commissioner of Health and Welfare shall submit written reports of the person's progress within such periods as the Commissioner of Health and Welfare may direct, and may at any time give notice that the person has received maximum benefits. If at the end of 6 months, the person has not received maximum benefits, the head of the institution or hospital shall submit a comprehensive report to the Commissioner of Health and Welfare setting forth the reasons why the person should not be released. In no case shall any person so committed be required to remain in the institution or hospital for a consecutive period longer than 2 years.

Sec. 169-I. Parole. After the initial confinement for rehabilitative treatment and care during which time the person has recovered from his addiction to such an extent that in the opinion of the Commissioner of Health and Welfare such person is worthy of an opportunity for parole, the commissioner shall certify such fact to the State Probation and Parole Board. The person may then be released upon parole subject to all the parole rules and regulations, including the State provisions as to the retaking of parole violators. The parole rules shall include, but not be limited to, close supervision after release from the institution or hospital, periodic and surprise testing for narcotic use, and return of the person to inpatient status at a narcotic detention and treatment

facility if evidence submitted by the parole officials to the Commissioner of Health and Welfare concludes the person has reverted to narcotic addiction.

Sec. 169-J. Discharge. If at any time the State Probation and Parole Board is of the opinion that a person committed to custody of the Commissioner of Health and Welfare under section 169-G has abstained from the use of narcotic drugs for at least 3 consecutive years and has otherwise complied with the conditions of parole, a certificate setting forth such facts shall be submitted to the Commissioner of Health and Welfare with a recommendation that the person be discharged from custody. Upon filing of such certificate the Commissioner of Health and Welfare shall discharge the person from custody.

Sec. 169-K. Notice. Any person named or described in a notice issued under sections 169-D and 169-E, such notice having been duly served upon him, and who fails, refuses or neglects to appear at the time and place therein specified, or any person named in the order of the court under section 169-G, who fails, refuses or neglects to comply with the terms and conditions of such order, shall be deemed guilty of contempt of court and shall be proceeded against accordingly.'