

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1088

S. P. 385

In Senate, February 6, 1963

Referred to Committee on Health and Institutional Services. Sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Cram of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

**AN ACT Relating to Disposition of Convicts and Persons Detained in County
Jails Alleged to be Mentally Ill.**

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

Sec. 1. R. S., c. 27, §§ 122 - 124, repealed. Sections 122, 123 and 124 of chapter 27 of the Revised Statutes, as amended, are repealed.

Sec. 2. R. S., c. 27, §§ 122-A - 122-B, additional. Chapter 27 of the Revised Statutes is amended by adding 2 new sections, to be numbered 122-A and 122-B, to read as follows:

‘Sec. 122-A. Convict or person detained alleged to be mentally ill; prehearing procedure. When, in the opinion of 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 is in need of care or treatment in a mental hospital.

Upon receipt of such application and certificate, the court shall appoint 2 licensed physicians to examine the proposed patient and report to the court their findings as to the mental condition of such person, and his need for care or treatment in a mental hospital.

If the report of the licensed physicians is to the effect that the individual

examined is not mentally ill the court shall, without taking further action, terminate the proceedings and dismiss the application, otherwise it shall forthwith fix a date and time for a hearing and shall, not less than 24 hours from the date set for hearing give notice thereof to the proposed patient, informing him that he has a right and will be given an opportunity to appear and be heard in the matter and shall also give notice of hearing in hand or by certified mail to the legal guardian, spouse, parent or adult next of kin of the proposed patient, if any such person exists and his whereabouts is known.

Sec. 122-B. Procedure at hearing. If counsel to represent the proposed patient is not provided by him or by any person on his behalf the court shall appoint counsel to represent the proposed patient at the hearing. The hearing shall be private, unless otherwise requested by the proposed patient, and shall be conducted in a setting not likely to be harmful to the mental health of the proposed patient and shall be conducted in as informal a manner as shall be consistent with orderly procedure. The court shall hear the testimony of the 2 appointed licensed physicians and shall receive all other relevant and material evidence that may be offered.

If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is mentally ill and because of his mental illness is in need of care or treatment in a mental hospital, it shall order that he be committed to and received into either hospital for the mentally ill for custody, care and treatment, otherwise it shall dismiss the proceedings.

In every instance of commitment of a convict under this section, the court shall certify to the head of the admitting hospital on the commitment order the expiration date of the convict's sentence, and in every instance of commitment of a person detained, the court shall certify to the head of the admitting hospital on the commitment order, the existence, if known, of any criminal action which may be pending against him.'

Sec. 3. R. S., c. 27, § 125, amended. Section 125 of chapter 27 of the Revised Statutes, as amended by section 21 of chapter 304 of the public laws of 1961, is further amended to read as follows:

'Sec. 125. Persons recovering before expiration of sentence. If a person so committed as ~~insane~~ mentally ill 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 jail in which he was serving his original sentence, and shall be there detained until the time when his original sentence would have expired.

In the event that a convict so committed is hospitalized beyond the expiration date of his original sentence, his release and discharge shall be controlled by provisions of this chapter applicable to persons committed by the probate court. In the event that a person detained is so committed, and has not been certified to have any criminal action pending against him, his release and discharge shall be controlled by provisions of this chapter applicable to persons committed by the probate court.'

Sec. 4. R. S., c. 27, § 126, amended. Section 126 of chapter 27 of the Revised Statutes, as last repealed and replaced by section 78 of chapter 417 of the public laws of 1961, is amended to read as follows:

'Sec. 126. Costs and expenses; attorneys and physicians compensation. ~~The fee of each physician for such examination and certificate and testifying before said judge shall be \$15. All the fees costs and expenses incident to any such hearing, and the compensation of any court appointed attorney and any court appointed licensed physician rendering services under sections 122-A or 122-B shall be paid by the county wherein the convict or person detained was convicted; compensation paid under this section shall be first approved by the court and by the county commissioners of such county shall be taxed by the judge, and in any cases arising in any 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.'~~