

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIRST LEGISLATURE

Legislative Document

No. 1161

S. P. 418

In Senate, February 7, 1963

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

CHESTER T. WINSLOW, Secretary

Presented by Senator Campbell of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-THREE

AN ACT Revising Laws Relating to Pineland Hospital and Training Center.

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

Sec. 1. R. S., c. 27, § 143, repealed. Section 143 of chapter 27 of the Revised Statutes, as amended by section 1 of chapter 21 of the public laws of 1957, repealed and replaced by section 4 of chapter 189 of the public laws of 1959 and as amended by section 28 of chapter 304 of the public laws of 1961, is repealed.

Sec. 2. R. S., c. 27, §§ 143-A - 143-C, repealed. Sections 143-A, 143-B and 143-C of chapter 27 of the Revised Statutes, as enacted by section 5 of chapter 189 of the public laws of 1959, and as amended, are repealed.

Sec. 3. R. S., c. 27, § 145, repealed. Section 145 of chapter 27 of the Revised Statutes, as amended by section 2 of chapter 21 of the public laws of 1957 and by section 26 of chapter 378 of the public laws of 1959, is repealed.

Sec. 4. R. S., c. 27, § 146, repealed. Section 146 of chapter 27 of the Revised Statutes, as amended by section 2 of chapter 21 of the public laws of 1957, is repealed.

Sec. 5. R. S., c. 27, § 146-A, repealed. Section 146-A of chapter 27 of the Revised Statutes, as enacted by chapter 315 of the public laws of 1957, is repealed.

Sec. 6. R. S., c. 27, § 147, repealed. Section 147 of chapter 27 of the Revised Statutes is repealed.

Sec. 7. R. S., c. 27, §§ 144-A - 144-H, additional. Chapter 27 of the Revised Statutes is amended by adding 8 new sections, to be numbered 144-A to 144-H, to read as follows:

‘Pineland Hospital and Training Center.

Sec. 144-A. Purposes. Pineland Hospital and Training Center, heretofore established at New Gloucester in the County of Cumberland, shall be maintained for the training, education, treatment and care of persons who are mentally retarded and of persons who are between the ages of 6 and 16 who are mentally ill.

The head of the Pineland Hospital and Training Center shall be called the superintendent and shall be a qualified psychiatrist or or pediatrician. He shall be responsible for the training, education, treatment and care of all persons received into the Pineland Hospital and Training Center; he shall be responsible for the release of all such persons, except those placed in the Pineland Hospital and Training Center under section 118 or 119, and shall have direct supervision, management and control of the grounds, buildings and property and officers and employees of the Pineland Hospital and Training Center, subject to the approval of the department.

Sec. 144-B. Admittance and commitment procedures. The superintendent of the Pineland Hospital and Training Center, subject, except in the case of emergency admittance, to the availability of suitable accommodations and in the order of priority established by the department, shall receive for observation, diagnosis, training, education, treatment or care any person whose admittance is applied for under any of the following procedures.

The words “proposed patient” as used in subsection III shall mean any person with respect to whom application is made for admittance to the Pineland Hospital and Training Center for training, education, treatment or care under such section. The word “patient” as used in sections 144-D to 144-F shall mean any person received into Pineland Hospital and Training Center for training, education, treatment or care.

I. Voluntary admittance.

A. Application. Application for voluntary admittance of any person to the Pineland Hospital and Training Center may be made to the department in writing by a parent, relative, spouse or guardian of the person, a health or public welfare officer, or the head of any institution in which such person may be; and

B. Certification. Certification by either a psychiatrist or a licensed physician and a certified psychologist that they have examined the person, and that in their opinion such person is mentally retarded or being between the ages of 6 and 16 is mentally ill and is in need of institutional care, such as is provided at the Pineland Hospital and Training Center.

II. Emergency admittance. Whenever it is made to appear to the superintendent of the Pineland Hospital and Training Center that a person, a proper subject for the Pineland Hospital and Training Center, is in need of immediate care and treatment and admittance is requested by a licensed physician with the approval of a parent, relative, spouse or guardian of the person, the person may be admitted solely on the basis thereof within 7 days of such

request. For observation and during pendency of this procedure, the superintendent may detain the person at the Pineland Hospital and Training Center for a period not longer than 30 days. A report of the circumstances of such emergency admittance shall be made promptly to the department and, if continued care and treatment is indicated, an application without certification for voluntary admittance shall be requested.

III. Admittance by order of probate court. Whenever it is made to appear that a person is a proper subject for Pineland Hospital and Training Center and voluntary admittance cannot be accomplished, application may be made to the judge of probate, within whose jurisdiction the individual may be, by a friend, a licensed physician, a health or public welfare officer, or the head of any institution in which such person may be. Any such application shall be accompanied by a certificate of a psychiatrist or a licensed physician stating that he has examined the person and is of the opinion that the person is mentally retarded, or being between the ages of 6 and 16, is mentally ill and is a proper subject for Pineland Hospital and Training Center, or a written statement by the applicant that the person has refused to submit to examination.

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 known, and to this spouse or a parent or one of his adult children, or if none of these persons exist or if their whereabouts are unknown, then to one of his next of kin or to a friend. 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.

As soon as practicable after notice of the commencement of proceedings is given or it is determined that notice should be omitted, the court shall appoint 2 licensed physicians, one of whom shall be a psychiatrist, or shall appoint a licensed physician and a certified psychologist to examine the proposed patient and report to the court their findings as to the mental condition of the proposed patient and his need for training, education, treatment or care at the Pineland Hospital and Training Center.

The examination shall be held at a hospital or other medical facility, at the home of the proposed patient or at any other suitable place not likely to have a harmful effect on his health. A proposed patient to whom notice of commencement of proceedings has been omitted shall not be required to submit to an examination against his will, and on the report of the appointed examiners of refusal to submit to an examination, the court shall give notice to the proposed patient as provided under this section and order him to submit to such examination.

If the report of the appointed examiners is to the effect that the proposed patient is not mentally retarded or mentally ill, the court may without taking any further action terminate the proceedings and dismiss the application; otherwise, it shall forthwith fix a date for and give notice of a hearing to be held not less than 5 nor more than 15 days from receipt of the report.

Notice of the hearing shall be given at least 72 hours prior to the time of said hearing, in the same manner as is required for notice of receipt of application, to the person or persons receiving notice of receipt of application, to the applicant in hand or by certified mail, and to such other persons as the court may direct.

The proposed patient, the applicant and all other persons to whom notice is required to be given shall be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses, and the court may in its discretion receive the testimony of any other persons. The proposed patient shall not be required to be present, and all persons not necessary for the conduct of the proceedings shall be excluded, except as the court may direct in its discretion. The court may order a public hearing upon the request of the patient or any member of his family. The hearings shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the proposed patient. The court shall receive all relevant and material evidence which may be offered. An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither he nor others provide counsel, the court shall appoint counsel.

If, upon completion of the hearing and consideration of the record, the court finds that the proposed patient is mentally retarded or mentally ill, and because of his retardation or illness is in need of education, training, treatment or care at the Pineland Hospital and Training Center, it shall order his commitment; otherwise it shall dismiss the proceedings.

Unless otherwise directed by the court, it shall be the responsibility of the sheriff of the county in which the probate court has jurisdiction to assure the carrying out of the order within such period as the court shall specify. The court is authorized to appoint a special commissioner who shall be a member of the bar of the State to assist in the conduct of commitment proceedings. In any case in which the court refers an applicant to the commissioner, the commissioner shall either recommend dismissal of the application or hold a hearing as provided in this section and make recommendations to the court regarding the commitment of the proposed patient.

The Superintendent of the Pineland Hospital and Training Center admitting a patient pursuant to proceedings under this section shall forthwith make a report of such admittance to the department.

Sec. 144-C. Writ of habeas corpus. Any person detained pursuant to section 144-B, subsection I, II or III, shall be entitled to the writ of habeas corpus upon proper petition by his parent, spouse or any adult relative or friend to any justice generally empowered to issue the writ of habeas corpus in the county in which said person is detained.

Sec. 144-D. Conditional release of patients. The Superintendent of the Pineland Hospital and Training Center may at his discretion, except in instances of placement in the Pineland Hospital and Training Center under section 118 or 119, release any patient for a definite or indefinite length of time to any respon-

sible person under such conditions as the superintendent may specify, which release may at any time be revoked or extended; provided, however, that no such patient shall be allowed to leave the institution temporarily until an agreement has been procured by the superintendent from some responsible person or persons to provide such patient with proper care during his period of temporary absence from the institution. In the event, that any such patient should fail to return to the institution at any time required by the superintendent, full power to retake and return such patient is expressly conferred upon the superintendent, whose written order shall be a sufficient warrant authorizing any officer named therein to return such patient to the institution.

Sec. 144-E. Mentally ill child reaching age 18. No child received in the children's psychiatric unit of the Pineland Hospital and Training Center shall be detained beyond his 18th birthday and if the mental condition of the child at that time is such that further hospital care is necessary because of mental illness, the superintendent of the Pineland Hospital and Training Center shall cause application to be made for the admittance of said child to one of the hospitals for the mentally ill.

Sec. 144-F. Discharge of patients. If any patient received under section 144-B, subsection I, II or III, is deemed by the Superintendent of the Pineland Hospital and Training Center not to be a proper person for further training, education, treatment or care in that institution, he shall be discharged. Notice of impending discharge shall be given to the person or agency initiating the original application within a reasonable length of time preceding actual discharge.

No patient received under section 144-B, subsection I or II, shall be detained for more than 10 days after the parent, guardian or person or agency having right of custody of such patient has filed with the superintendent a written request for discharge, except that, upon application to the probate court or a judge thereof, whether in session or in vacation, supported by a certification by the Superintendent of the Pineland Hospital and Training Center that in his opinion such release would be unsafe for the patient or for others, release may be postponed for such period not to exceed 10 days as the court or a judge thereof may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 144-B, subsection III.

The Superintendent of the Pineland Hospital and Training Center shall inform the legal guardian, spouse, parent, relative or a friend of any patient received under section 144-B, subsection I or II, in writing, on admittance, of the patient's right to release as provided in this section and shall provide reasonable arrangements for making and presenting requests for release.

Sec. 144-G. Petition for rehearing to determine need for continuing training, education, treatment or care. Any person received pursuant to section 144-B, subsection III, shall be entitled to a rehearing to determine his need for continuing training, education, treatment or care on the petition of his legal guardian, spouse, parent or of a relative or friend to the probate court for the county from which such person was originally received.

Upon receipt of the petition the court shall conduct or cause to be conducted, by a special commissioner, proceedings in accordance with section 144-B, sub-

section III, except that notice of receipt of application may be omitted. Such proceedings shall not be required to be conducted if the petition is filed less than 6 months after issuance of the original order of commitment or less than one year after the filing of a previous petition under this section.

Sec. 144-H. Expenses of examination and commitment. The probate court conducting proceedings under section 144-B, subsection III, section 144-F or 144-G, shall order that the Department of Mental Health and Corrections be made chargeable in the first instance for expenses of examination and commitment as in cases covered by section 135-A, subsection I, and reimbursement shall be sought for such expenses in accordance with section 135-A, subsections I and II.'

Sec. 8. R. S., c. 25, § 253, amended. The first sentence of section 253 of chapter 25 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:

'No child under 16 years of age shall be placed in any almshouse in this State or be suffered by the overseers of the poor to remain in such almshouse except in cases of emergency, and then for a period not exceeding 60 days ~~provided that children.~~ **Children** under 2 years of age may be kept in almshouses when their mother is also an inmate; ~~provided further, that with.~~ **With** the consent of the department children when in need of medical or surgical treatment may be kept in hospitals or infirmaries connected with such almshouses for such length of time as they are in need of such treatment; ~~provided also that when.~~ **When**, upon a certificate of 2 physicians who are guardians of some legally organized medical college and have practiced 3 years in this State, it shall be made to appear that any child is a proper subject for the Pineland Hospital and Training Center, such child may, with the consent of and under such regulations as the department may determine, be kept in the almshouse until such time as it can, under the provisions of section ~~145~~ of chapter 27, **section 144-A**, be committed to said school.'

Sec. 9. R. S., c. 27, § 13, amended. The last sentence of the first paragraph of section 13 of chapter 27 of the Revised Statutes, as amended, is further amended to read as follows:

'If prior to the expiration of the original sentence it is the opinion of the head of the institution which has charge of the patient that the patient should remain in the custody of the institution after the expiration of such sentence, the patient may be recommitted to either of the state hospitals upon complaint of the head of the institution which has charge of the patient under sections 169, 172, 173 or 175, or to the Pineland Hospital and Training Center under section ~~145~~ **144-A.**'

Sec. 10. R. S., c. 152-A, § 17, sub-§ IV, ¶ G, amended. Paragraph G of subsection IV of section 17 of chapter 152-A of the Revised Statutes, as enacted by section 1 of chapter 342 of the public laws of 1959 and as repealed and replaced by chapter 296 of the public laws of 1961, is amended to read as follows:

'**G.** Dismiss the action and refer the juvenile to the Department of Mental Health and Corrections for admission to the Pineland Hospital and Training Center in the manner provided in chapter 27, ~~sections 143-B, 145, 146-A and~~

~~147~~ section 144-A, on the condition that the court has received a report, as provided in section 6, that the juvenile is mentally retarded or mentally ill.'

Sec. 11. R. S., c. 153, § 3, amended. The last paragraph of section 3 of chapter 153 of the Revised Statutes, as repealed and replaced by section 9 of chapter 372 of the public laws of 1959, is amended to read as follows:

'The fees to which judges of probate are entitled by law shall be taxed and collected and paid over by the registers of probate to the county treasurers for the use of their counties with the exception of the fees provided in section 6 of this chapter and chapter 27, section 145, which shall be retained by the judge who collects the same in addition to his salary.'