

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FIFTH LEGISLATURE

Legislative Document

No. 854

S. P. 297

In Senate, February 18, 1971

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Carswell of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-ONE

AN ACT Relating to the Regional Care Facility for the Severely and
Profoundly Mentally Retarded at Bangor.

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

R. S., T. 34, c. 184-A, additional. Title 34 of the Revised Statutes is amended by adding a new chapter 184-A to read as follows:

CHAPTER 184-A

**REGIONAL CARE FACILITY FOR THE SEVERELY AND
PROFOUNDLY MENTALLY RETARDED AT BANGOR**

§ 2081. Administration

The Regional Care Facility for the Severely and Profoundly Mentally Retarded, located upon property owned by the State of Maine at Bangor, hereafter in this chapter called the "Regional Care Facility," shall be maintained primarily for the care, treatment and training of severely mentally retarded and profoundly mentally retarded children and other persons who are severely mentally retarded and profoundly retarded and shall be under the control of the department and operated subject to policies established by the Director of the Bureau of Mental Retardation approved by the commissioner. The Regional Care Facility shall be under the direction of an administrator appointed by the Director of the Bureau of Mental Retardation, subject to the Personnel Law, who by reason of education and experience shall be qualified to administer a residential facility providing services to severely and profoundly mentally retarded persons.

§ 2082. Admission

A severely mentally retarded person or profoundly mentally retarded person as defined by applicable clinical standards may be admitted to the Regional Care Facility as follows:

1. Under the age of 20 years. If such person is under the age of 20 years, application for admission may be made by the parent or guardian of such person.
2. Over the age of 20 years. If such person is over the age of 20 years, application for admission may be made by the guardian of such person.

Admission of any person to the Regional Care Facility shall be discretionary with the administrator of the facility, or his designee, subject to applicable policies for the operation of the Regional Care Facility. Eligibility for admission shall be determined upon evaluation made by the clinical staff of the Regional Care Facility following receipt of application for admission.

§ 2083. Emergency admission

When in the case of a person under the age of 20 years, in the absence of a parent or guardian, or in the case of a person over the age of 20 years, in the absence of a guardian, such person is considered to be severely mentally retarded or profoundly mentally retarded and in immediate need of services available at the Regional Care Facility, and in the interest of the individual and in the public interest admission to the Regional Care Facility is considered required, any person standing in loco parentis to such person, any adult next of kin of such person, a friend or the welfare director or overseer of the poor of the municipality in which such person resides, may petition the probate court for the county in which such person resides for a judicial determination of the need of such person for admission to the Regional Care Facility. Following receipt of the petition the judge of probate shall forthwith appoint a guardian ad litem to represent such person, shall give notice of such appointment and of the pending proceeding to any adult next of kin of such person, and to the administrator of the Regional Care Facility and shall within 2 days from such appointment hold a hearing to determine the need of such person for admission to the Regional Care Facility. At the hearing the probate court shall receive testimony from the administrator of the Regional Care Facility, or his designee, bearing upon the need of such person for admission to the Regional Care Facility and his eligibility therefor. Upon being satisfied that such person is severely mentally retarded or profoundly mentally retarded and eligible for admission to the Regional Care Facility, the judge of probate may order the admission of such person thereto. All expenses incident to the conduct of proceedings under this section shall be borne by the municipality wherein any person with respect to whom proceedings are initiated, under this section, resides. Admission ordered by the court shall be subject to the availability of suitable accommodations, determined by the administrator.

§ 2084. Discharge or withdrawal

Upon 14 days written notice to the parent or guardian of any person admitted to the Regional Care Facility, if the person is under the age of 20 years, or to the guardian of the person if he is over the age of 20 years, the administrator of the Regional Care Facility may discharge any such person to the custody of the parent or guardian, whichever is applicable, or to the custody of any suitable person, agency or institution, subject to the approval of such parent or guardian.

Upon 10 days written notice to the administrator of the Regional Care Facility, any person admitted thereto, may be withdrawn therefrom by the parent or guardian of the person, if he is under the age of 20 years, or by the guardian of the person, if he is over the age of 20 years; provided that in the case of a person admitted to the Regional Care Facility when, in the opinion of the administrator of such facility, withdrawal of such person to the custody of the person making application therefor would be harmful to the severely or profoundly mentally retarded person, the administrator of the Regional Care Facility may petition for a judicial determination of such person's need for continuing residence at the Regional Care Facility as provided in section 2083, within 10 days from the receipt of the request for withdrawal, and in such case, the severely or profoundly mentally retarded person shall remain at the Regional Care Facility until disposition of the matter by the probate court. For the purpose of a judicial proceeding initiated under this section, the probate court for Penobscot County shall have jurisdiction, and residence for the purpose of payment of expenses incident to such proceeding shall be the residence of the severely or the profoundly mentally retarded person at the time of admission to the Regional Care Facility.

STATEMENT OF FACT

This Act will provide an operational framework for the Regional Care Facility for the Severely and Profoundly Mentally Retarded at Bangor. This is a new institution currently under construction and with respect to which there is no existing applicable legislation.