

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 205

H. P. 163

House of Representatives, January 17, 1973

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Silverman of Calais.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT Relating to the Rendering of Treatment and Services to Minors for
Drug Abuse without Parental Consent.**

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

Sec. 1. R. S., T. 17, § 902, amended. The last paragraph of section 902 of Title 17 of the Revised Statutes, as enacted by section 1 of chapter 237 of the public laws of 1971, is amended to read as follows:

Licensed or certified persons **or institutions** rendering treatment or services in connection with problems associated with the abuse of drugs pursuant to Title 32, sections 2606, 3154, 3817 and 4185-A and **Title 22, section 1823** shall be exempt from the necessity of disclosure under this section of "possession" or "use" violations of Title 22, chapter 551, subchapter II, chapter 557 and chapter 558, known to such licensed or certified person **or institution** to have been committed by the person receiving treatment or services for problems associated with the abuse of drugs.

Sec. 2. R. S., T. 32, § 2606, repealed and replaced. Section 2606 of Title 32 of the Revised Statutes, as enacted by section 60-A of chapter 590 of the public laws of 1969 and as amended by section 2 of chapter 237 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 2606. Treatment of minors

Any person licensed under this chapter who renders medical care to a minor for treatment of venereal disease or abuse of drugs is under no obligation to obtain the consent of said minor's parent or guardian or to inform such parent or guardian of such treatment. Nothing in this section shall be construed so as to prohibit the licensed person rendering such treatment from

informing such parent or guardian. For purposes of this section "abuse of drugs" means the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

Sec. 3. R. S., T. 32, § 3292, repealed and replaced. Section 3292 of Title 32 of the Revised Statutes, as enacted by section 1 of chapter 591 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 3292. Treatment of minors

Any person licensed under this chapter who renders medical care to a minor for treatment of venereal disease or abuse of drugs is under no obligation to obtain the consent of said minor's parent or guardian or to inform such parent or guardian of such treatment. Nothing in this section shall be construed so as to prohibit the licensed person rendering such treatment from informing such parent or guardian. For purposes of this section "abuse of drugs" means the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

Sec. 4. R. S., T. 32, § 3817, repealed and replaced. Section 3817 of Title 32 of the Revised Statutes, as enacted by section 4 of chapter 237 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 3817. Services to minors for drug abuse

Any person licensed under this chapter who renders psychological services to a minor for problems associated with the abuse of drugs is under no obligation to obtain the consent of said minor's parent or guardian or to inform such parent or guardian of such services. Nothing in this section shall be construed so as to prohibit the licensed person rendering such services from informing such parent or guardian. For purposes of this section "abuse of drugs" means the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

Sec. 5. R. S., T. 32, § 4185-A, repealed and replaced. Section 4185-A of Title 32 of the Revised Statutes, as enacted by section 4 of chapter 237 of the public laws of 1971, is repealed and the following enacted in place thereof:

§ 4185-A. Services to minors for drug abuse

Any person certified under this chapter who renders social work services to a minor for problems associated with the abuse of drugs is under no obligation to obtain the consent of said minor's parent or guardian or to inform such parent or guardian of such treatment. Nothing in this section shall be construed so as to prohibit the licensed person rendering such treatment from informing such parent or guardian. For purposes of this section "abuse of drugs" means the use of drugs solely for their stimulant, depressant or halu-

cinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

Sec. 6. R. S., T. 22, § 1823, additional. Title 22 of the Revised Statutes is amended by adding a new section 1823 to read as follows:

§ 1823. Treatment of minors

Any hospital licensed under this chapter which provides facilities to a minor in connection with the treatment of such minor for venereal disease or abuse of drugs is under no obligation to obtain the consent of said minor's parent or guardian or to inform such parent or guardian of the provision of such facilities so long as such facilities have been provided at the direction of the person or persons referred to in Title 32, sections 2606, 3292, 3817 or 4185-A.

STATEMENT OF FACT

The purpose of this Act is to clarify ambiguities which exist in the current law. The purpose of the law was to insure that minors having problems with drug abuse could be cared for by doctors, social workers or psychologists, without parental consent or without information being given to parents. At times young persons having problems with drug abuse are reluctant to seek professional help which they need because of the fear that the person treating them would be required to advise their parents and secure consent to treat them for their drug problem.

The current law states that the practitioner rendering the treatment is under no obligation to obtain the consent of the parent or guardian. However, the law further states that if the licensed person rendering treatment wishes to notify or obtain consent from the parent or guardian, such notification or consent must be given or secured within 48 hours from the initiation of treatment. This stringent time control can have a detrimental effect on treatment since, at some time in the course of treatment, the person rendering treatment might determine that the parents of such a minor had to be involved in the treatment process.

The law is also ambiguous as to what is meant by "problems associated with the abuse of drugs." For example, if an individual drove off the road in an automobile as the result of being under the influence of drugs, the question can be raised as to whether treatment of injuries incurred as a result of the accident could be made without obtaining parental consent since the accident was a result of the patient's "abuse of drugs". This Act would clarify the terminology by defining "abuse of drugs" and also providing that medical treatment, without consent, could only be rendered for abuse of drugs.

Finally, the current law does not make any provision concerning the utilization of hospitals in the treatment of minors for abuse of drugs. Currently, if a physician admits a minor to a hospital because of that minor's abuse of

drugs, the hospital is under an obligation to obtain the consent of a parent or guardian before it is able to provide its facilities. This Act would amend the law by adding a new section to specify that the hospital would not be required to obtain the consent of the parent or guardian so long as it was providing facilities at the direction of a physician, osteopath, psychologist, or social worker.