

MAINE STATE LEGISLATURE

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(EMERGENCY)
FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2204

H. P. 1745

House of Representatives, January 2, 1974

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

E. LOUISE LINCOLN, Clerk

Presented by Mr. Dyar of Strong.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT Amending Laws Relating to Pineland Center.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Pineland Center is presently viewed by the Legislature and by the Department of Mental Health and Corrections as an institution for the mentally retarded; and

Whereas, certain existing laws contain numerous inconsistencies with such presently held views by references to mental illness; and

Whereas, certain of the laws relating to the Pineland Center are insufficient to protect the rights of patients of the Pineland Center to judicial hearings; and

Whereas, other inconsistencies presently obtained in the laws relating to the Pineland Center requiring correction in order to permit the orderly administration of such institution; and

Whereas, it is vitally necessary that these inconsistencies and deficiencies be corrected at the earliest possible time; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. R. S., T. 34, § 2151, amended. The first sentence of section 2151 of Title 34 of the Revised Statutes, as repealed and replaced by section 4 of chapter 350 of the public laws of 1971, and as amended, is further amended to read as follows:

Pineland 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, except as provided in section 2155, who are mentally ill.~~

Sec. 2. R. S., T. 34, § 2152, sub-§ 1, ¶ B, repealed and replaced. Paragraph B of subsection 1 of section 2152 of Title 34 of the Revised Statutes, as last repealed and replaced by section 1 of chapter 349 of the public laws of 1969, is repealed and the following enacted in place thereof:

B. Certification. Certification by a licensed physician or licensed psychologist that he has examined or tested the person, and in his opinion such person is mentally retarded and in need of care, treatment, training or education.

Sec. 3. R. S., T. 34, § 2152, sub-§ 3, amended. The last sentence of the first paragraph of subsection 3 of section 2152 of Title 34 of the Revised Statutes, as amended by chapter 53 of the private and special laws of 1973, is further amended to read as follows:

Any such application shall be accompanied by a certificate of a ~~psychiatrist~~ licensed psychologist 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 Center, or a written statement by the applicant that the person has refused to submit to examination.

Sec. 4. R. S., T. 34, § 2152, sub-§ 3, amended. The first sentence of the 5th paragraph of subsection 3 of section 2152 of Title 34 of the Revised Statutes, is amended to read as follows:

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.

Sec. 5. R. S., T. 34, § 2152, sub-§ 3, amended. The first sentence of the 8th paragraph of subsection 3 of section 2152 of Title 34 of the Revised Statutes, as amended by chapter 53 of the private and special laws of 1973, is amended to read as follows:

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 Center, it shall order his commitment.

Sec. 6. R. S., T. 34, § 2153, amended. Section 2153 of Title 34 of the Revised Statutes is amended to read as follows:

§ 2153. Habeas corpus

Any person detained pursuant to section 2152, subsection 1, 2 or 3 shall be entitled to the writ of habeas corpus upon proper petition by his parent, spouse or any adult relative or friend, or upon his own petition, to any justice generally empowered to issue the writ of habeas corpus in the county in which said person is detained.

Sec. 7. R. S., T. 34, § 2154, repealed and replaced. Section 2154 of Title 34 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2154. Conditional release of patients

The Superintendent of the Pineland Center may at his discretion, except in instances of placement in the Pineland Center under Title 15, section 101 or 103, release any patient for a definite or indefinite length of time to any responsible person under such conditions as the superintendent may specify, which release may at any time be revoked or extended. 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. No such patient shall be allowed to leave the institution temporarily until notice of such conditional release and the new location of the patient has been given to the legal guardian or adult next of kin, if any, of the patient, unless the patient, if sui juris, requests, in writing, that such notice not be given. 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. 8. R. S., T. 34, § 2155, repealed. Section 2155 of Title 34 of the Revised Statutes, as amended by chapter 53 of the private and special laws of 1973, is repealed.

Sec. 9. R. S., T. 34, § 2156, amended. The 2nd sentence of the first paragraph of section 2156 of Title 34 of the Revised Statutes is repealed and the following enacted in place thereof:

Notice of impending discharge shall be given within a reasonable length of time preceding actual discharge to the legal guardian or adult next of kin, if any, of the patient, unless the patient, if sui juris, requests in writing that such notice not be given.

Sec. 10. R. S., T. 34, § 2156, amended. The 2nd paragraph of section 2156 of Title 34 of the Revised Statutes, as amended by chapter 53 of the private and special laws of 1973, is amended to read as follows:

No patient received under section 2152, subsection 1 or 2 shall be detained for more than 10 days after the parent, guardian or person or agency having right to custody of such patient, or the patient himself, if sui juris, 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 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 2152, subsection 3.

Sec. 11. R. S., T. 34, § 2156, amended. The last paragraph of section 2156 of Title 34 of the Revised Statutes, as amended by chapter 53 of the private and special laws of 1973, is amended to read as follows:

The superintendent of the Pineland Center shall inform **the patient, if sui juris**, the legal guardian, spouse, parent, relative or a friend of any patient received under section 2152, subsection 1 or 2, 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. **Such advice of entitlement to request release shall be given by the superintendent to every patient, if sui juris, upon such patient's reaching his or her majority.**

Sec. 12. R. S., T. 34, § 2157, amended. The first paragraph of section 2157 of Title 34 of the Revised Statutes is amended to read as follows:

Any person received pursuant to section 2152, subsection 3 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, **or upon his own petition, if sui juris**, to the probate court for the county from which such person was originally received.

Sec. 13. R. S., T. 34, § 2158, repealed and replaced. Section 2158 of Title 34 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 2158. Expenses of examination and commitment

Any expenses incurred in the conduct of proceedings pursuant to section 2152, subsection 3 or section 2157 shall be borne by the municipality in which the proposed patient is a legal resident and the probate court, by its order, shall specify and direct payment of any such expenses.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

The purpose of this bill is reflected in the emergency preamble.