

MAINE STATE LEGISLATURE

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(EMERGENCY)

ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 313

H. P. 266 House of Representatives, January 22, 1975
Referred to the Committee on Judiciary. Sent up for concurrence and
ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. LaPointe of Portland.

STATE OF MAINE

**IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE**

**AN ACT Relating to Suspension of Employees of State Institutions with
Pay Pending Disposition of Criminal Charges.**

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

Whereas, under the existing Personnel Law and rules and provisions of law relative to fiscal operations of the State Government, it is not possible to suspend a state employee with pay during the pendency of criminal proceedings against him involving alleged acts against residents of state institutions; and

Whereas, recent indictments against certain employees of a state institution involving such charges and the institutions inability to effectively dispose of such matters under the Personnel Law and rules during the pendency of such proceedings in a manner recognizing the existence of the presumption of innocence until guilt is proven requires an amendment to the Personnel Law; and

Whereas, in such circumstances it is necessary to respect the constitutional rights of such persons charged with criminal offenses involving acts against residents of state institutions and necessary to recognize the obligation of the State to protect such residents from future harm; and

Whereas, it is vitally necessary that this Act be passed in order to achieve the appropriate balance; i.e., recognition of the constitutional rights of an

accused person and fulfillment of the state's obligation to protect persons in its care; 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:

5 MRSA § 678, as last amended by PL 1973, c. 390, § 4, is further amended by adding a new paragraph at the end to read:

Notwithstanding any other provision of law, the head of any institution under the control of the Department of Mental Health and Corrections as the appointing authority may suspend with pay any employee who is charged by indictment with the commission of a criminal offense involving acts alleged to have been perpetrated upon any resident or residents of any such institution. Any such suspension with pay may be authorized by the appointing authority only when to permit the employee to remain on duty at the institution would be against the best interest of any one or more of the residents of the institution, and such authorization for suspension with pay shall obtain only during the pendency of the criminal proceedings in the trial court. Sections 751 to 753 shall not apply to suspension with pay ordered by the appointing authority under this paragraph.

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 Act is set forth in the emergency preamble.