

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 756

H. P. 613

House of Representatives, February 21, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Kelleher of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Providing for the Confidentiality of Certain Records.

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

Sec. 1. 34 MRSA § 1, first ¶, last 2 sentences, are repealed as follows:

~~All orders of commitment, medical and administrative records in the department are held to be confidential. Such records may be subpoenaed by a court of record~~

Sec. 2. 34 MRSA § 1-A is enacted to read:

§ 1-A. Disclosure of information

All orders of commitment, medical and administrative records, applications and reports and facts therein pertaining to any persons receiving services from the department, from any hospital pursuant to chapter 191, or from any facility licensed by the department pursuant to section 2052-A, shall be kept confidential and shall not be disclosed by any person except insofar:

1. Consent of individual. As the individual identified or his legal guardian, if any, or, if he is a minor, his parent or legal guardian, having been given the opportunity to review the information sought to be disclosed shall consent;

2. Necessity. As disclosure may be necessary to carry out any of the statutory functions of the department, or the hospitalization provisions of chapter 191, or

3. Court directive. As may be subpoenaed by a court of record subject to any limitations contained within the privileged communication provisions of Title 32.

As to persons receiving services pursuant to chapters 184-A, 184-B, 187 and 191, nothing in this section shall preclude disclosure, upon proper inquiry, of information relating to the physical condition or mental status of an individual receiving such services to any members of his or her family, his or her relatives or friends; nor the disclosure of biographical or medical information concerning the individual to commercial or governmental insurers, or any other corporation, association or agency from which the department may receive reimbursement for the care and treatment, education, training or support of the individual; nor the disclosure or use of any information, including recorded or transcribed diagnostic and therapeutic interviews, concerning any individual receiving such services in connection with any educational or training program established between a public hospital and any college, university, hospital, psychiatric or counseling clinic or school of nursing, provided that in the disclosure or use of any such information as part of a course of instruction or training program, the patient's identity shall remain undisclosed.

Any person willfully violating any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

Sec. 3. 34 MRSA § 2159, as last amended by P & SL 1973, c. 53, is repealed.

Sec. 4. 34 MRSA § 2256, as last amended by PL 1969, c. 135, § 2, is repealed.

STATEMENT OF FACT

This bill would repeal all existing statutory provisions relating to the confidentiality of records and information concerning those persons receiving services from the Department of Mental Health and Corrections and enact one comprehensive provision which, while allowing disclosure under specific instances, would ensure that records and information concerning persons who do receive such services are kept confidential. The new section is patterned upon and would replace existing section 2256, as well as part of section 1, which only applies to Pineland Center and the 2 mental health institutes and hospitals providing mental health services. That part of section 1 which is proposed to be repealed has been so restrictive as to prevent disclosure of information when such disclosure has been requested by the individual involved and consented to by the department, as well as when such disclosure has been necessary in order to carry out statutory functions of the department.