

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
SENATE  
107TH LEGISLATURE

COMMITTEE AMENDMENT "A "to S.P. 368, L.D. 1204, Bill,  
"AN ACT Amending Laws Relating to Hospitalization of the  
Mentally Ill."

Amend said Bill by striking out all of section 6 and  
inserting in place thereof the following:

'Sec. 6. 34 MRSA §2332-A is enacted to read:

§ 2332-A. Emergency restraint and transportation

Any law enforcement officer in the State having reasonable  
grounds to believe, based upon his personal observation, that  
any person is a mentally ill individual and that due thereto  
he presents a threat of imminent and substantial physical harm  
to himself or to other persons, may take such person into  
protective custody and, in any such case, shall deliver such  
person forthwith for examination by the nearest known and  
available licensed physician or licensed psychologist as  
provided for in section 2333.

In the event that a certificate of mental illness and  
likelihood of serious harm shall not be executed by the examiner  
under section 2333, the officer shall release the person formerly  
believed to be mentally ill from protective custody, and, with  
the permission of such person, shall return this person  
forthwith either to his place of residence, if within the  
territorial jurisdiction of the officer, or to the place where  
such person was taken into protective custody; provided that,  
if such person is also then under arrest for a violation of law,  
he shall be retained in custody until released in accordance with

the law. In the event that the examiner shall execute the certificate provided for under section 2333, the officer having protective custody of the person examined shall have authority to detain him for as long as is necessary to obtain the endorsement by a judicial officer provided for under section 2333; provided that the officer shall undertake to secure such endorsement forthwith upon execution of the certificate by the examiner.

Costs of transportation furnished under this section shall be paid as are costs of transportation provided under section 2333.'

Further amend said Bill in section 11 by inserting in the last line after the figures "2333" the following underlined words 'or under section 2372'

Further amend said Bill in section 13 by striking out everything after the amending clause and inserting in place thereof the following:

'In addition to proving that the patient is a mentally ill individual and poses a likelihood of serious harm as defined in section 2251, subsection 7, paragraphs A, B or C, the applicant is required to show that inpatient hospitalization is the means most appropriate for the treatment of such person. The applicant in each case shall submit to the court at the time of hearing testimony indicating the individualized treatment plan to be followed by the hospital staff in the event of commitment under this section. Any expense for witnesses for this purpose shall be borne by the applicant.'

Further amend said Bill in section 14 by striking out in the 4th, 5th and 6th lines after the amending clause (same in L.D.) the underlined words and punctuation "and that inpatient hospitalization is the least drastic means appropriate for treatment of the patient and that an individualized treatment plan has been submitted to the court," and inserting in place thereof the underlined words and punctuation 'and that inpatient hospitalization is the means most appropriate for treatment of the patient, and further, if the court is satisfied with the individualized treatment plan offered by the hospital,'

Further amend said Bill in section 15 by inserting at the end of the 2nd sentence before the period the following underlined words and figures: 'or under section 2334'

#### Statement of Fact

First, the amendment makes alterations in section 6 of the bill, which codifies the common law rule allowing law enforcement officers to impose restraints upon individuals suspected to be mentally ill. The amendment attempts to ensure that any officer who does use restraint must take the individual as soon as possible to a physician or psychologist, but it also allows any officer after the examination and certification of mental illness, to detain the individual until the endorsement by a judicial officer is obtained. Finally, the amendment adds a new paragraph to section 6 of the bill, which states that any person taken into protective custody has no right of action against the law enforcement officer or the examiner.

The amendment also ensures that there is no overlap in the various examiners of the alleged mentally ill person. An examiner at one stage of the commitment process cannot be the examiner at any other stage of the process.

Finally, the amendment modifies sections 13 and 14 of the bill by providing that a hospital must prove to the District Court that inpatient hospitalization is the "means most appropriate" rather than "the means least drastic" for the treatment of the patient.

Reported by the Committee on Health & Institutional Services.

Reproduced and distributed pursuant to Senate Rule 11-A.

May 23, 1975. (Filing No. S-195).