

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
107TH LEGISLATURE

(Filing No. H-553)

COMMITTEE AMENDMENT "A" to H.P. 1219, L.D. 1807,  
Bill, "AN ACT to Provide Minimum Standards for the Protection  
of the Rights of Residents of Public Institutions."

Amend said Bill by striking out all of sections 1 to  
4 and inserting in place thereof the following:

'Sec. 1. 15 MRSA §2720 is enacted to read:

§2720. Use of seclusion

A child may be placed in seclusion whenever the child has  
demonstrated that anything less restrictive would be in-  
effectual in the control of his behavior, such behavior  
presenting a high likelihood of harm to himself or to others,  
or a substantial and imminent threat of destruction of  
property or a demonstrated proclivity to absent himself from  
the center without leave. The use of seclusion shall not  
exceed the period of time necessary to alleviate any such  
behavior so that the child may be safely removed therefrom.  
The use of seclusion must first be approved by the superintendent.

The use of seclusion shall be subject to the following  
conditions:

1. Diet. The child shall be provided with a sufficient  
quantity of wholesome and nutritious food.

2. Sanitary and other conditions. Adequate sanitary  
and other conditions required for the health of the child  
shall be maintained.

3. Seclusion exceeding 12 hours. When seclusion exceeds  
12 hours, the superintendent shall cause the center physician  
or member of the center medical staff to visit the child

forthwith and at least once in each succeeding 24-hour period the child remains in seclusion, to examine into the state of health of the child. The superintendent shall give full consideration to recommendations of the physician or medical staff member as to the child's dietary needs and the conditions of his confinement required to maintain the health of the child. Use of seclusion shall be discontinued if the physician states that such use is harmful to the mental or physical health of the child.

4. Approval. In no event shall seclusion exceed 72 hours without the approval of the Director of Corrections. Such approval shall be put in writing together with the reasons therefor and kept on file. A written justification shall be forwarded by the superintendent to the Director of Corrections when recommendations of the physician or medical staff members regarding the child's dietary or other health needs while in seclusion are not carried out.

Sec. 2. 34 MRSA §7 is repealed and the following enacted in place thereof:

§7. Rules and regulations

The central principle underlying all rules, regulations, procedures and practices relating to residents of the several institutions within the department and hospitals as defined by section 2251, subsection 3, shall be that such persons shall retain all rights of an ordinary citizen, except those expressly or by necessary implication taken from them by law.

1. Rules and regulations. The department shall establish such rules and regulations as it may determine appropriate or necessary for the care and management of the property of all institutions described in section 1, the production and distribution of industrial products of said institutions and for the execution of the statutory purposes and functions of all such institutions. It may provide for the training of nurses.

2. Rights. Any person residing in an institution described in section 1 has a right to nutritious food in adequate quantities, adequate professional medical care, an acceptable level of sanitation, ventilation and light, a reasonable amount of space per person in any sleeping area, a reasonable opportunity for physical exercise and recreational activities, protection against any physical or psychological abuse and a right to a reasonably secure area for the maintenance of permitted personal effects.

Sec. 3. 34 MRSA §529 is enacted to read:

§529. Disciplinary action; conditions of solitary confinement and segregation

Punishments for violations of the rules of the institutions under the general administrative supervision of the Bureau of Corrections may be imposed in accordance with the procedures set forth in the rules and regulations governing such institutions. As to the Men's Correctional

Center, Women's Correctional Center and the Maine State Prison, punishment may consist of warnings, loss of privileges, confinement to a cell and segregation or solitary confinement or a combination thereof and at the Maine State Prison may include loss of earned good conduct time. In no event shall corporal punishment be imposed. As to the juvenile institutions, punishment may consist of warnings and loss of privileges. All punishments involving solitary confinement, segregation or loss of earned good time shall be first approved by the head of the institution.

The bureau shall develop and describe in writing a fair and orderly procedure for processing disciplinary complaints against persons in any of the institutions under its general administrative supervision and shall establish rules, regulations and procedures to insure the maintenance of a high standard of fairness and equity. The rules shall describe offenses and the punishments for them that may be imposed. Any punishment that may affect the term of commitment, sentence and parole eligibility and any complaint, the disposition of which may include the imposition of segregation or solitary confinement of a person in such an institution, shall not be imposed without an impartial hearing at which the resident shall have a right to be present, to present evidence on his own behalf, to call one or more witnesses, which right shall not be unreasonably withheld or restricted, to question any

witness who testifies at the hearing, which right shall not be unreasonably withheld or restricted and to be represented by counsel substitute as prescribed in the regulations. The person shall be informed in writing of the specific nature of his alleged misconduct and a record shall be maintained of all disciplinary complaints, hearings, proceedings and the dispositions thereof. In all cases, the person charged shall have the right to appeal final dispositions prior to imposition to the head of the institution and if at any stage of the proceedings the resident is cleared of the charges within a complaint or the complaint is withdrawn, all documentation relative to the complaint shall be expunged.

The imposition of segregation and solitary confinement shall be subject to the following conditions:

1. Diet. The person shall be provided with a sufficient quantity of wholesome and nutritious food.

2. Sanitary and other conditions. Adequate sanitary and other conditions required for the health of the person shall be maintained.

3. Confinement exceeding 24 hours. When solitary confinement or segregation exceeds 24 hours, the head of the institution shall cause the institution physician or a member of the institution's medical staff to visit the person forthwith, and at least once in each succeeding 24-hour period in such confinement thereafter, to examine into the state of health of the person. The head of the institution shall give full

consideration to recommendations of the physician or medical staff member as to the person's dietary needs and the conditions of his confinement required to maintain the health of the person. Such confinement shall be discontinued if the physician states that it is harmful to the mental or physical health of the person.

4. Reports. In the event that any person shall be held in such confinement for a period in excess of 5 days, the head of the institution shall forward a report thereof to the Director of Corrections giving the reasons therefor. A written report shall be forwarded by the head of the institution to the Director of Corrections when the recommendations of the physician or medical staff member regarding any person's dietary or other health needs while in such confinement are not carried out.

Sec. 4. 34 MRSA §709, as last repealed and replaced by PL 1971, c. 397, §5, is repealed.

Statement of Fact

This legislation creates a general "bill of rights" for residents of Maine mental health and correctional institutions in order to prohibit mistreatment of such persons while they are being treated, serving their sentences or simply being held in custody in such facilities.

Reported by Report "A" of the Committee on Human Resources.

Reproduced and distributed under the direction of the Clerk of the House.  
5/30/75

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