

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

(Filing No. H-648)

HOUSE 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'Sec. 1. 34 MRSA §7 is repealed and the following enacted
in place thereof:

§ 7. Rules and regulations

The central principle underlying all rules, regulations,
as defined in section 2251, subsection 9,
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 defined in section 2251, subsection 8, 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 defined in
subsection 8
section 2251, /has a right to nutritious food in adequate quantities,
adequate professional medical care, an acceptable level of
sanitation, ventilation and light and a generally healthful

environment, a reasonable amount of space per person in any sleeping area, a reasonable opportunity for both indoor and outdoor exercise and recreational activities, protection against any physical or psychological abuse or unnecessary indignity and a right to a reasonably secure area for the maintenance of permitted personal effects. Measures shall be instituted and maintained within public institutions to protect against suicide or other self-destructive acts, and for preventing, as defined in section 2251, subsection 9, inhumane treatment of residents/by employees, other residents or any other persons.

Sec. 2. 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 and the county jails shall be imposed solely in accordance with the procedures set forth in the written rules and regulations governing such institutions. As to the Men's Correctional Center, Women's Correctional Center, the Maine State Prison and the county jails 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 or the use of any physical force be used by an employee, except that which is necessary for self-defense, prevention or interruption of an assault by a resident upon himself or another person, or preventing

of a riot or escape. There / shall be no discriminatory treatment based upon race, religion, nationality or political beliefs of a resident as defined in section 2251, subsection 9. / 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 county jails 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, good-time, sentence and parole eligibility and any complaint, the disposition of which may include the imposition of cell lock-up, 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 witnesses who testify at the hearing and to cross-examine adverse witnesses, which right shall not be unreasonably withheld or restricted and to be represented by counsel or counsel substitute of his choice. The person shall be informed in writing of the specific nature of his alleged misconduct and a written record shall be maintained of all disciplinary complaints, hearings, proceedings and the factual and legal findings and 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 / ^{such} resident is cleared of the charges within a complaint or the complaint is withdrawn, all documentation relative to the complaint shall be expunged. Appeal is available from an adverse decision of an institution head under the Maine Rules of Civil Procedure, Rule 80B.

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 \longleftrightarrow 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. 3. 34 MRSA §709, as last repealed and replaced by PL 1971, c. 397, §5, is repealed.

Sec. 4. 34 MRSA §2251, sub-§§ 8 and 9 are enacted to read:

8. Public institution. "Public institution" means any penal, correctional or juvenile institution or facility, mental health institution or facility, institution or facility for the mentally retarded, county jail, municipal lockup or other institution administered under or regulated by this Title.

9. Resident. "Resident" means any person sentenced, committed or otherwise legally admitted to, or temporarily detained at, a public institution, either voluntarily or involuntarily.'

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.

Filed by Mr. Talbot of Portland.

Reproduced and distributed under the direction of the Clerk of the House.
6/4/75

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