

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 532

H. P. 429

House of Representatives, February 17, 1977

Referred to Committee on Health and Institutional Services. Sent up for concurrence and 1,800 ordered printed.

EDWIN H. PERT, Clerk

Presented by Ms. Bachrach of Brunswick.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT to Create a Clients' Bill of Rights and Responsibilities.

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

Sec. 1. 34 MRSA c. 2 is enacted to read:

CHAPTER 2

RIGHTS OF RESIDENTS OF PUBLIC INSTITUTIONS

§ 21. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings:

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

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

§ 22. Declaration of purpose and intent

This chapter shall be liberally construed to promote the intent of the Legislature as follows:

1. Rights of ordinary citizen. The central principle underlying all rules, regulations, procedures and practices relating to residents of public institu-

tions 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.

§ 23. Policies, procedures and practices

The department shall promulgate a "Bill of Rights and Responsibilities" for residents of each of the public institutions and facilities under its aegis. The document shall be posted conspicuously in each institution and facility as well as given to each new resident upon admission.

The Bill of Rights and Responsibilities document shall include, but not be limited to, the following rights:

1. Human care and treatment. To the extent that facilities, equipment and personnel are available, medical care and treatment in accordance with the highest standards accepted in medical practice;

2. Mail. To communicate by sealed envelopes with the department, clergy, client's attorney, the court, the Office of Advocacy and to communicate by mail with others in accordance with the policies and regulations of the department and institution where residing;

3. Visitors. To receive visitors in accordance with departmental or institutional policy. However, you may be visited by your attorney, clergyman or advocate at any reasonable time in accordance with section 1-A;

4. Nutritious food, acceptable level of sanitation, etc. To have nutritious food, acceptable level of sanitation, ventilation and light, a reasonable amount of space in any sleeping area and a reasonable opportunity for physical exercise;

5. Right to be free from physical and psychological abuse. The right to be free from physical and psychological abuse being inflicted upon any resident by an employee or employees of the department. Abuse is not to be construed as those situations which limit a person's freedom of movement by confinement in a correctional institution or by seclusion, segregation or restraint as provided for by law and regulation;

6. Right to secure area for the maintenance of permitted personal effects. The right to a reasonably secure area for the maintenance of permitted personal effects;

7. Right to vote. The right to vote unless expressly prohibited by a judicial finding of incompetence in accordance with law;

8. Exercise civil rights. The right to exercise all civil rights, including, but not limited to, civil service status, rights relating to the granting, forfeiture or denial of license, permit, privilege or benefit pursuant to any law and the right to enter into contractual relationships and to manage a person's own property, unless adjudicated incompetent and has not been restored to legal capacity, except where specifically restricted by other statute; and

9. Develop and publish rules and regulations. The department shall develop and publish rules and regulations to insure the rights of individuals are protected. The regulations shall include, but not be limited to, the following:

- A. Disciplinary procedures pursuant to section 531;
- B. Seclusion and restraint procedures;
- C. Procedures to insure opportunity for physical exercise and recreational activities; and
- D. Procedures to insure against mistreatment of residents, physical and psychological abuse.

§ 24. Grievance procedures

The commissioner shall establish a formal grievance procedure to which all residents shall have access. Residents shall also be entitled to report any grievance whether or not it charges a violation of this chapter and to mail such communication to the commissioner who shall refer it to the Office of Advocacy for appropriate action.

§ 25. Violation, denial of rights

Any person found to have violated this chapter shall be subject to disciplinary action in accordance with the personnel rules and regulations. A person is guilty of denial of rights of a resident of a public institution, as defined in this section, if he intentionally and knowingly limits or abridges those rights. Denial of rights is a Class C crime.

Sec. 2. 34 MRSA § 7, as reenacted by PL 1975, c. 770, § 197, is repealed.

Sec. 3. 34 MRSA §§ 2252, 2254 and 2259 are repealed.

STATEMENT OF FACT

The purpose of this bill is to ensure that the rights of citizens who reside in public institutions under the authority of the Department of Mental Health and Corrections are guaranteed. Recognizing that all citizens have rights enumerated in the Constitution of the United States, the Constitution of the State of Maine and the laws of Maine, it is further understood that due to the uniqueness of living in an institutional setting, those clients so situated must have their rights as citizens, except those expressly removed by law, officially recognized and affirmed.