

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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Legislative Document

No. 561

H. P. 456

House of Representatives, February 17, 1977

Referred to Committee on Health and Institutional Services. Sent up for concurrence and 2,000 ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Goodwin of South Berwick.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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**AN ACT to Amend the Admission Procedures to Hospitals for the  
Mentally Ill.**

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

**Sec. 1.** 34 MRSA § 2251, sub-§ 7, ¶ C, as last amended by PL 1973, c. 716, § 4, is further amended to read:

**C.** A reasonable certainty that severe impairment or injury will result to the person alleged to be mentally ill as manifested by **evidence of his actions or behavior which demonstrates** his inability to avoid or protect himself from such impairment or injury and **a determination after exploration and exhaustion of less restrictive treatment centers and modalities that other** suitable community resources for his care are unavailable.

**Sec. 2.** 34 MRSA § 2333, sub-§ 1, ¶ B, as last amended by PL 1975, c. 559, § 7, is further amended to read:

**B. Certificate.** A dated certificate by a licensed physician, or a licensed psychologist who practices clinical psychology, that he has examined the person on the date of the certificate and is of the opinion that the person is a mentally ill individual and, because of his illness, poses a likelihood of serious harm within the definition as contained in section 2251, subsection 7, paragraphs A, B or C; provided ~~however~~ that the date of such examination shall not be more than 3 days prior to the date of admission to the hospital. Such application and certificate, upon endorsement for such purpose by ~~a judge of probate~~ a District Court Judge, or a Superior Court Justice, ~~or a Complaint Justice~~ shall authorize any health or police officer to take the person whose admission is applied for into custody and transport him to a

hospital as designated in the application; **provided that prior to endorsing the application that District Court Judge or Superior Court Justice shall be satisfied that sufficient evidence has been presented to him so that he is convinced there is probable cause to believe that the individual poses a likelihood of serious harm within the definition as contained in section 2251, subsection 7, paragraphs A, B or C, and that there is reason to believe that the individual must be kept in custody pending a full hearing pursuant to section 2334.** The county in which such person is found shall be responsible for any expenses of transportation pursuant to this section, including return if admission is declined.

**Sec. 3. 34 MRSA § 2333, sub-§ 2, ¶ B,** as last amended by PL 1975, c. 559, § 8, is further amended to read:

**B.** If the head of the hospital determines that admission of the patient as an informally admitted patient is not suitable, or if the patient declines admission as an informally admitted patient, the head of the hospital may apply to the District Court having territorial jurisdiction where the hospital is located for the issuance of an order for hospitalization under section 2334 within ~~5~~ **2** days from admission of the patient under this section, excluding in the computation of such time the date of admission and any Saturday, Sunday or legal holiday.

**Sec. 4. 34 MRSA § 2334, 3rd ¶, first sentence,** as last repealed and replaced by PL 1973, c. 716, § 8, is amended to read:

The District Court shall hold a hearing on the application not later than ~~20~~ **7** days from receipt of said application. ~~the~~ **The** hearing may be continued ~~for cause on a motion by the patient~~ for a period not to exceed 10 additional days.

**Sec. 5. 34 MRSA § 2334, 6th ¶,** as last amended by PL 1975, c. 559, § 13, is further amended to read:

The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect on the mental health of the patient. The court shall receive all relevant and material evidence which may be offered in accordance with accepted rules of evidence and accepted judicial dispositions. The patient, the applicant, **the person signing the original application pursuant to section 2333, subsection 1, paragraph A,** and all other persons to whom notice is required to be sent shall ~~be afforded an opportunity to~~ appear at the hearing, to testify and to present and to cross-examine witnesses, and the court may in its discretion receive the testimony of any other person. In addition to proving that the patient is a mentally ill individual, ~~and the applicant shall show by evidence of the individual's actions and behavior that the individual~~ poses a likelihood of serious harm as defined in section 2251, subsection 7, paragraphs A, B or C, ~~and the applicant is required to show that, after a full exploration and exhaustion of less restrictive treatment centers and modalities, inpatient hospitalization is the best available 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. The hearing shall be confidential and no report of the proceedings shall be released to the public or press, except by permission of the patient or his counsel and with approval of the presiding District Court Judge. The court may order a public hearing on the request of the patient or his counsel.

**Sec. 6. 34 MRSA § 2334, 10th ¶,** as last amended by PL 1975, c. 559, § 14, is further amended to read:

The court may order commitment to a mental hospital for a period ~~of~~ not to exceed 4 months in the first instance, and not to exceed one year after the first and all subsequent rehearings, which order may issue immediately or the court may take the matter under advisement and issue the order within ~~a business days of the court~~ **24 hours** from the completion of the hearing; otherwise, it shall dismiss the application and the patient shall be ordered discharged forthwith.

#### STATEMENT OF FACT

It is the intent of this bill to protect the rights of those citizens for whom involuntary admission to a hospital for the mentally ill is sought.