

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

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**Legislative Document**

**No. 1802**

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H. P. 1594

House of Representatives, May 25, 1977

Reported by Mrs. Kany from Committee on Human Resources. Sent up for concurrence and ordered printed under Joint Rules No. 2.

EDWIN H. PERT, Clerk

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

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

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

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, hospital as defined in section 2251, subsection 3, and any facility licensed by the Department of Mental Health and Corrections.

2. Resident. "Resident" means any person other than staff residing in a public institution.

§ 22. Declaration of purpose and intent

This chapter shall be liberally construed to promote the intent of the Legislature that all residents of public institutions retain the rights of ordinary citizens, except those expressly or by necessary implication taken from them by law. The Legislature does recognize that some restrictions may be essential to maintaining the security of each institution.

**§ 23. Regulations**

1. **Bill of Rights promulgated and posted.** The department shall promulgate a "Bill of Rights and Responsibilities" for residents of each of the public institutions. The document shall be posted conspicuously in each institution and facility and shall be given to each new resident upon admission.

2. **Bill of Rights and Responsibilities adopted as regulations; contents.** The "Bill of Rights and Responsibilities" for each institution, which shall be adopted as department regulations, shall establish and describe the rights and responsibilities of residents in the following areas.

A. The regulations shall provide that at a minimum, public institutions shall provide the best available medical care, a humane physical and psychological environment, and shall take steps to prevent suicide and other self-destructive acts or prolonged isolation. The provisions described in section 7, subsection 2, shall also apply to county jails and municipal lock-ups.

B. At a minimum, public institutions shall afford each resident a reasonably secure area for the maintenance of permitted personal effects.

C. At a minimum, residents shall be afforded reasonable access to a telephone and shall have the right to communicate by sealed envelopes with the department, clergy, their attorneys, the court, the Office of Advocacy and to communicate by mail with others in accordance with these regulations. Residents shall be entitled to receive visits from their attorneys, the clergy or a member of the Office of Advocacy at any reasonable time and reasonable opportunities to receive other visitors. This paragraph does not in any way extend the authority or obligations of the Office of Advocacy, as provided in section 1-B, beyond those institutions, facilities or agencies which are administered by the department.

D. A resident shall have the right to vote, unless he is under guardianship for reasons of mental illness as provided in the Constitution, Article II, Section 1.

E. A resident is responsible for obeying the lawful rules and regulations of the department and of the institution in which he resides.

F. The department shall consider such other areas as are necessary to effectively define the rights and responsibilities of residents of public institutions.

3. **Procedures for seclusion, restraint and grievances.** The commissioner shall establish formal procedures for the handling of seclusion and restraint and for receiving grievances regarding deprivation of rights.

Residents shall be entitled to report any grievance whether or not it charges a violation of this chapter and to mail such communication to the commissioner through the Office of Advocacy for appropriate action. The commissioner shall employ all authority otherwise provided by law to him or his department to redress grievances arising out of public institutions not part of the Department of Mental Health and Corrections.

**§ 24. Violation; denial of rights**

In addition to any other remedy provided by law, any person found to have violated regulations pursuant to this chapter shall be subject to personnel disciplinary actions.

**STATEMENT OF FACT**

The purpose of this new draft is to guarantee the rights of persons who reside in public institutions under the authority of the Department of Mental Health and Corrections, in county jails and in municipal lockups. The new draft states that these persons should retain all rights of ordinary citizens, except those expressly or by implication taken from them by law.

The new draft requires that a bill of rights must be conspicuously posted in and handed out to all persons entering an institution, county jail or municipal lockup. The bill of rights must include rights in at least the areas of care and treatment, privacy, communication, visitation and voting. The bill also includes a requirement that the residents of the institution, county jail or municipal lockup must obey rules and regulations adopted by the department and institution.

Finally, the bill requires the department to establish procedures for seclusion, restraint and grievances.