

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 315

S. P. 144

In Senate, January 21, 1981

Submitted by the Department of Mental Health and Corrections pursuant to Joint Rule 24.

Referred to the Committee on Judiciary. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Violette of Aroostook.

Cosponsor: Senator Shute of Waldo.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Amend and Clarify the Procedure to File and Appeal Claims by Patients, Inmates or Prisoners.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, there are currently a relatively large number of inmate claims being filed and considered under 2 statutory procedures, including claims against the State by inmates for loss or damages, caused by other inmates; and

Whereas, current Superior Court interpretation of the Maine Revised Statutes, Title 5, section 1510-A, subsection 4, prohibits appeals of State Claims Board decisions by the Department of Mental Health and Corrections; and

Whereas in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA § 1510-A, sub-§ 1, first sentence, as enacted by PL 1977, c. 624, § 2, is amended to read:

A state agency may hear and decide any claim of \$2,000 or less against it, or any of its agents, except a claim that may be submitted under the Maine Tort Claims Act, Title 14, chapter 741, **under Title 34, section 1-A, subsection 1** or under another specific statutory provision.

Sec. 2. 5 MRSA § 1510-A, sub-§ 4, as enacted by PL 1977, c. 624, § 2, is amended to read:

4. Appeal from State Claims Board decision. An appeal ~~from the disapproval or partial disapproval~~ of a claim decided by the State Claims Board under subsection 2 or 3 shall be ~~by introduction of a bill into the Legislature~~ **pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.**

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

STATEMENT OF FACT

As reflected in the emergency preamble, the purpose of this bill is to resolve 2 statutory conditions of significant consequence.

First, there are currently 2 potential procedures for patients, inmates or residents of institutions administered by the Department of Mental Health and Corrections to file claims against the State. One procedure is established by the Maine Revised Statutes, Title 34, section 1-A, another procedure has been use of the provisions of the Maine Revised Statutes, Title 5, section 1510-A, subsection 1. The intent of section 1 of this proposed legislation is not to limit or restrict the filing of claims by persons who are caused a loss or damage by patients, inmates or residents as provided for in the Maine Revised Statutes, Title 5, section 1510-A, subsection 1, but only to clarify that patients, inmates or residents must use provisions of the Maine Revised Statutes, Title 34, section 1-A in filing claims themselves.

Secondly, the Superior Court has ruled that the current statutory language of the Maine Revised Statutes, Title 5, section 1510-A, subsection 4, does not permit an appeal by state government agencies who have been unable to present what are considered to be substantive arguments in appeal of decisions that resulted in economic loss to the State. The proposed amendment establishes consistent appeal mechanisms for approval, disapproval or partial disapproval of claim decisions by individuals or state agencies.