

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)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

(EMERGENCY)

FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 1704

H.P. 1286

House of Representatives , May 26, 1983

Reference to the Committee on Judiciary is suggested. Ordered printed and sent up for concurrence.

Submitted by the Department of Educational and Cultural Services pursuant to Joint Rule 24.

EDWIN H. PERT, Clerk

Presented by Representative Thompson of So. Portland.

Cosponsor: Senator Clark of Cumberland.

STATE OF MAINE

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

**AN ACT to Require Dismissal of State
Employees Responsible for Abuse or Neglect
of Patients, Clients or Students.**

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

Whereas, the Legislature recognizes the need to deal with instances of "abuse and neglect" resulting in harm to persons entrusted to the care of the State by requiring the dismissal of the responsible individuals from state service including any instances which may occur following the enactment of this legislation; 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 preser-

1 vation of the public peace, health and safety; now,
2 therefore,

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

5 5 MRSA §678, as amended by PL 1981, c. 493, §2,
6 is repealed and the following enacted in its place:

7 §678. Dismissal and disciplinary action

8 1. Dismissal for cause. An appointing authority
9 may dismiss, suspend or otherwise discipline an
10 employee for cause. This right is subject to the
11 right of appeal and arbitration of grievances set
12 forth in chapter 63, or by personnel rule; and chap-
13 ter 63 shall apply to any employee who has satisfac-
14 torily completed an initial probationary period.
15 This subsection shall not apply to an employee
16 appointed to a major policy-influencing position
17 listed in section 711, subsection 2.

18 2. Dismissal for abuse or neglect of persons in
19 state-run facilities. An appointing authority shall
20 dismiss any employee who has abused or neglected any
21 person entrusted to the care of any public agency,
22 institution, school or facility. For the purposes of
23 this section, "abuse and neglect " means a threat to
24 a person's health or welfare by physical or mental
25 injury or impairment, sexual abuse or exploitation,
26 deprivation of essential needs or lack of protection
27 from these, by an employee of any public agency,
28 institution, school or facility responsible for the
29 care of the person. This right is subject to the
30 right of appeal and arbitration of grievances in
31 chapter 63 and Title 26, section 979-K, or by per-
32 sonnel rule, except that:

33 A. An arbitrator appointed pursuant to the Uni-
34 form Arbitration Act, Title 14, chapter 706, to
35 hear a grievance of a state employee shall have
36 no authority to reinstate any employee dismissed
37 in accordance with this subsection where there is
38 a finding of fact by the arbitrator that the
39 employee was responsible for the abuse or neglect
40 of any person entrusted to the care of any public
41 agency, institution, school or facility; and

1 neglect in state-run facilities. While the arbitra-
2 tor, under any applicable collective bargaining
3 agreement, and the board, for other state employees
4 entitled to a grievance procedure, could hear griev-
5 ances on such dismissals, they could not reinstate
6 any employee to state employment, if they find that
7 the employee was responsible for the abuse or neglect
8 of any person entrusted to the care of a
9 state-operated facility. The arbitrator and the
10 board act as finders of fact and reinstate an
11 employee where they find the evidence did not support
12 the allegations of abuse or neglect.

13

3684050983