

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE  
4

5 Legislative Document

No. 1171  
6

7 S.P. 423

In Senate, March 29, 1985

8 Submitted by the Department of Mental Health and Mental Retardation  
9 pursuant to Joint Rule 24.

Reference to the Committee on Judiciary suggested and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Bustin of Kennebec.

11 Cosponsored by Representative Nelson of Portland, Representative  
Carroll of Gray and Representative Pines of Limestone.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-FIVE  
16

17 AN ACT to Permit Voluntary Hospitalization of  
18 Adults under Guardianship.  
19

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

22 Sec. 1. 34-B MRSA §3831, first ¶, as enacted by  
23 PL 1983, c. 459, §7, is repealed and the following  
24 enacted in its place:

25 A hospital for the mentally ill may admit on an  
26 informal voluntary basis for care and treatment of a  
27 mental illness any person desiring admission or the  
28 adult ward of a legally appointed guardian, subject  
29 to the following conditions.

30 Sec. 2. 34-B MRSA §3831, sub-§5 is enacted to  
31 read:

32 5. Adults under guardianship. An adult ward may  
33 be admitted on an informal voluntary basis only if  
34 his legally appointed guardian consents to the admis-

1 sion and the ward makes no objection to the admis-  
2 sion.

3 STATEMENT OF FACT

4 Recent legal interpretation of the current law  
5 governing voluntary hospitalization has called into  
6 question historical practice at Maine's mental health  
7 institutes. Each institute has a substantial popula-  
8 tion of legally incapacitated adult patients, partic-  
9 ularly aged patients residing in the Program on Aging  
10 at Bangor Mental Health Institute and the Nursing  
11 Home Program at Augusta Mental Health Institute, who,  
12 if they make no objection to their admission, are  
13 treated as voluntary patients. Since the current law  
14 does not specifically address that population but on-  
15 ly mentions persons desiring admission, a strict in-  
16 terpretation would seem to limit voluntary hospital-  
17 ization to competent persons able to assert and exer-  
18 cise a desire for admission.

19 The prospect is that about 200 hundred persons  
20 now considered voluntary patients would have to be  
21 involuntarily committed continuously through the Dis-  
22 trict Court process. That involuntary commitment will  
23 entail no legal nor clinical benefit for this group.  
24 Sufficient protection against inappropriate hospital-  
25 ization exists through the powers and responsibili-  
26 ties of guardians duly appointed under Maine law,  
27 through the authority of hospitals to screen civil  
28 admissions, and through the patient advocacy system  
29 at each state institution. These protections are re-  
30 inforced in section 2 of the bill which specifies  
31 that all persons who make objection to admission,  
32 even if under guardianship, will have the benefit of  
33 judicial review under the involuntary commitment pro-  
34 cess. The effect of this bill is to permit the vol-  
35 untary hospitalization of nonobjecting adults under  
36 guardianship.

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