

MAINE STATE LEGISLATURE

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D. OF R.

1

L.D. 1361

2

(Filing No. S-239)

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STATE OF MAINE

4

SENATE

5

112TH LEGISLATURE

6

FIRST REGULAR SESSION

7

COMMITTEE AMENDMENT " A " to S.P. 500, L.D.
1361, Bill, "AN ACT to Amend Judicial Certification
9 Procedures."

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Amend the bill by striking out everything after
11 the enacting clause and inserting in its place the
12 following:

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'Sec. 1. 34-B MRSA §5475, sub-§4, ¶C, as enacted
by PL 1983, c. 459, §7, is repealed and the following
enacted in its place:

16

C. Either:

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(1) There is no less restrictive alterna-
tive to the care provided by the facility,
consistent with the best interest of the
client; or

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(2) There is not currently available a less
restrictive alternative to the care provided
by the facility, consistent with the best
interest of the client.

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Sec. 2. 34-B MRSA §5475, sub§6, as enacted by PL
1983, c. 459, §7, is repealed and the following en-
acted in its place:

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6. Period of certification. If the court finds
that the petitioner has proved eligibility in accord-
ance with subsection 4, paragraph C, subparagraph
(1), the court shall order the certification to re-
main in effect for a period of not more than 2 years
from the day the certification order was issued.

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If the court finds that the petitioner has proved el-
igibility in accordance with subsection 4, paragraph

COMMITTEE AMENDMENT "A " to S.P. 500, L.D. 1361

1 C, subparagraph (2), the court shall order the certi-
2 fication to remain in effect only until an opening
3 exists in a facility providing a less restrictive al-
4 ternative, consistent with the best interest of the
5 client, at which time the client shall be placed in
6 that alternative setting or for not more than 6
7 months from the day the certification order was is-
8 sued, whichever first occurs. If the client is not
9 placed in such an alternative setting by the time
10 this certification expires, no subsequent petition
11 may be filed unless it contains a written report of
12 the Commissioner of Mental Health and Mental Retarda-
13 tion detailing the actions taken by the department to
14 find or develop an alternative setting for that cli-
15 ent.'

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STATEMENT OF FACT

17 This amendment rewrites sections 1 and 2 of the
18 bill simply to make it clear that only the findings
19 regarding less restrictive alternatives are to be
20 considered in the alternative by the court while the
21 court must continue to make the other findings cur-
22 rently required by the Maine Revised Statutes, Title
23 34-B, section 5475, subsection 4.

24 The amendment also provides that, when a court
25 has certified a person for admission to Pineland Cen-
26 ter or another similar institution because no opening
27 in a less restrictive residence appropriate for the
28 person currently exists, the petition to recertify
29 the person's admission must contain a report detail-
30 ing the efforts of the Department of Mental Health
31 and Mental Retardation to develop or, as added by
32 this amendment, find an opening.

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Reported by Senator Chalmers for the Committee on Judiciary.

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