

	CORRECTED COPY 3/13/86
1	(New Draft of S.P. 760, L.D. 1924)
2 3	(New Title) SECOND REGULAR SESSION
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5 6	ONE HUNDRED AND TWELFTH LEGISLATURE
7 8	Legislative Document No. 2178
9	S.P. 864 In Senate, March 13, 1986
10 11	Reported by Majority Report from the Committee on Judiciary and printed under Joint Rule 2. Original bill presented by President Pray of Penobscot. Cosponsored by Senator Bustin of Kennebec, Senator Carpenter of Aroostook and Representative Diamond of Bangor.
12	JOY J. O'BRIEN, Secretary of the Senate
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14 15	STATE OF MAINE
16 17 18	IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-SIX
19 20 21 22	AN ACT to Extend the Judicial Certification Procedures to Institutions Housing Mentally Retarded Persons.
23 24	Be it enacted by the People of the State of Maine as follows:
25	34-B MRSA §3872 is enacted to read:
26	§3872. Treatment of dually diagnosed persons
27 28 29 30 31 32 33 34 35	In the case of a patient who has been admitted to a state mental health institute on a voluntary or in- voluntary basis and who has also been diagnosed as mentally retarded, the chief administrative officer of the state mental health institute shall, after the patient has been a resident for a period of no more than 6 months, determine whether the patient is capa- ble of giving informed consent to continued hospital- ization.

1 If at that time the chief administrative officer 2 of the state mental health institute determines that 3 the patient is not capable of giving informed consent 4 to continued hospitalization, the patient may be ad-5 mitted for extended care and treatment only after ju-6 dicial certification pursuant to the procedures con-7 tained in section 5475.

8 For the purpose of this section the state mental
9 health institutes shall be considered facilities un 10 der section 5461, subsection 5.

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## STATEMENT OF FACT

12 There are approximately 40 to 50 persons residing 13 at any one time in either the Augusta Mental Health 14 Institute or the Bangor Mental Health Institute who are dually diagnosed as both mentally ill and mental-15 ly retarded. At present, mentally retarded persons 16 17 residing at Pineland Hospital receive the protections 18 of a judicial certification procedure designed to guarantee the patient's ability to be placed in the least restrictive environment necessary. This new 19 20 21 draft provides for dually diagnosed persons the same 22 independent judicial review of the placement that ex-23 ists for mentally retarded people at Pineland Hospi-24 tal.

25 This new draft also eliminates the possibility 26 a person who is admitted to one of the mental that 27 health institutions will have to undergo 2 separate 28 determinations that he should be admitted because of 29 mental retardation and mental illness. After a peri-30 od of 6 months, there must be a judicial determina-31 tion under the mental retardation procedures that the 32 person should continue hospitalization.

As is required by current law for Pineland patients, if it is determined that the sole reason for placement of the person at the mental health institute is the lack of availability of less restrictive alternatives, every 6 months the Department of Mental Health and Mental Retardation will be required to ex plain to the court what steps the department has
taken to secure alternative placement.

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