

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1660

H.P. 1193

House of Representatives, May 15, 1989

Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PENDLETON of Scarborough.

STATE OF MAINE

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

**An Act to Provide for an Interim Superintendent for the Augusta
Mental Health Institute.**

(EMERGENCY)



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

5 Whereas, a management crisis currently exists at the Augusta
Mental Health Institute; and

7
9 Whereas, the State of Maine is unable at present to find a
suitable person to be appointed as superintendent of the Augusta
Mental Health Institute; and

11
13 Whereas, the crisis at the Augusta Mental Health Institute
requires that a suitably qualified person be appointed
superintendent as expeditiously as possible; and

15
17 Whereas, the laws of Maine currently prohibit the
appointment either of a corporation or a person who is not a
state employee to the position of superintendent of the Augusta
19 Mental Health Institute; and

21 Whereas, a suitable person may be available for appointment
to the position of superintendent of the Augusta Mental Health
23 Institute on a temporary basis provided that such person is not
required to be a state employee; and

25
27 Whereas, the superintendent appointed pursuant to this law
will find it necessary to enter into various contracts for
consultant services and other services related to the care and
29 treatment of patients at the Augusta Mental Health Institute; and

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

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

39 **Sec. 1. Appointment of superintendent.** Notwithstanding any
other provision of law, the Commissioner of Mental Health and
41 Mental Retardation is hereby authorized to enter into contracts
with a person or entity to provide an individual who shall be
43 appointed by the commissioner as superintendent of the Augusta
Mental Health Institute for a period not to exceed 180 days from
45 the date of appointment. The individual so appointed must meet
the requirements of the Maine Revised Statutes, Title 34-B,
47 section 3202, subsection 2, but shall not be a state employee.
The person or entity shall not be liable for any official acts of
49 the individual so appointed; and the personal liability for the
official acts of the individual so appointed, as well as that of
51 the person or entities and employees entering into contract, and
the State of Maine, shall be governed by the applicable

1 provisions of the Maine Tort Claims Act, Title 14, chapter 741,
2 section 8101, as if that individual, person, entities or
3 employees were state employees.

5 **Sec. 2. Access to confidential records.** Notwithstanding any other
6 provision of law, information which is confidential pursuant to
7 the Maine Revised Statutes, Title 34-B, section 1207, may be
8 disclosed to persons or entities contracting with the Department
9 of Mental Health and Mental Retardation during the tenure of the
10 interim superintendent to provide care and treatment to patients
11 or to improve the management and operation of the Augusta Mental
12 Health Institute.

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

17 **FISCAL NOTE**

19 Subsequent to the enactment of this legislation, a contract
20 will be negotiated between the department and the consortium of 5
21 Maine hospitals that have offered to provide interim management
22 services at the Augusta Mental Health Institute. The consortium
23 expects to be reimbursed "at cost" for services provided. It is
24 understood by the parties to the contract that any costs incurred
25 in the first few weeks can be paid from existing resources, and
26 that a funding request for the balance of the contract period
27 will be prepared for consideration within the Part II budget for
28 new and expanded services.

29

31 **STATEMENT OF FACT**

33 The purpose of this bill is set forth in the emergency
34 preamble.

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