

| | L.D. 1853 |
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| 2 | (Filing No. H-986) |
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| 6 | STATE OF MAINE |
| 8 | STATE OF MAINE HOUSE OF REPRESENTATIVES 114TH LEGISLATURE |
| 10 | SECOND REGULAR SESSION |
| 12 | COMMITTEE AMENDMENT " \mathcal{H} " to H.P. 1336, L.D. 1853, Bill, "An |
| 14 | Act to Facilitate the Admission and Treatment of Involuntary Patients by Community-based Mental Health Institutions" |
| 16 | Amend the bill by striking everything after the enacting |
| 18 | clause and before the statement of fact and inserting in its place the following: |
| 20 | ' 34-B MRSA §3861, sub-§1, as enacted by PL 1983, c. 459, §7, |
| 22 | is amended to read: |
| 24 | 1. Nonstate mental health institution. The chief administrative officer of a nonstate mental health institution |
| 26 | may receive for observation, diagnosis, care and treatment in the institution any person whose admission is applied for under any |
| 28 | of the procedures in this subchapter. |
| 30 | A. The institution, any person contracting with the institution and any of its employees when admitting, |
| 32 | treating or discharging a patient under the provisions of |
| 34 | <u>sections 3863 and 3864 under a contract with the department</u> are immune from civil liability to the extent provided in |
| 36 | Title 14, sections 8104-B, 8104-C, 8104-D, 8105, 8111 and 8116. For purposes of immunity under this paragraph, the |
| 38 | institution must be treated as if it were a state agency and the employees or agents of the institution must be treated |
| 40 | as if they were state employees. |
| 42 | <u>B. Patients with a diagnosis of mental illness or psychiatric disorder in nonstate mental health institutions</u> |
| 44 | that contract with the department under this subsection are entitled to the same rights and remedies as patients in |
| A 6 | state mental health institutes as conferred by the |
| 46 | <u>constitution, laws, regulations and rules of this State and of the United States.</u> |
| 48 | C Defere contracting with and encoding the edition of |
| 50 | C. Before contracting with and approving the admission of involuntary patients to a nonstate mental health institution, the department shall require the institution to: |
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<u>Comply with all applicable regulations;</u>

- 4 (2) Demonstrate the ability of the institution to comply with judicial decrees as those decrees relate to
 6 services already being provided by the institution; and
- 8 (3) Coordinate and integrate care with other community-based services.
- D.Beginning July 31, 1990, the capital, licensing,12remodeling, training and recruitment costs associated with
the start-up of beds designated for involuntary patients14under this section must be reimbursed, within existing
resources, by the State.

FISCAL NOTE

20 Costs associated with the start-up of beds will be reimbursed by the Department of Mental Health and Mental 22 Retardation to the extent resources are available within its approved budget. The Department of Mental Health and Mental 24 Retardation has indicated it will not contract with any facility that would incur costs beyond those able to be reimbursed within 26 the department's resources. If reimbursement is intended to be made from within the existing resources of the State, it may have 28 a fiscal impact upon other state agencies or departments.'

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STATEMENT OF FACT

This amendment applies specified provisions of the Maine Tort Claims Act to hospitals accepting involuntary commitments of 34 mental patients under a contract with the Department of Mental Health and Mental Retardation. It also provides that hospitals 36 contracting with the department under this provision would be 38 required to guarantee the same rights of patients as are applicable to patients in state mental health institutes. The amendment also requires the State to reimburse institutions 40 accepting involuntary commitments under contract with the department for certain start-up costs. 42

Reported by the Committee on Human Resources Reproduced and distributed under the direction of the Clerk of the House 3/23/90 (Filing No. H-986)

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