

MAINE STATE LEGISLATURE

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R. & S.

L.D. 1784

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
116TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1322, L.D. 1784, Bill, "An Act to Amend the Laws Regarding Protective Custody"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 34-B MRSA §3862, sub-§1, as enacted by PL 1983, c. 459, §7, is amended to read:

1. Law enforcement officer's power. If a law enforcement officer has reasonable grounds to believe, based upon his ~~personal--observation~~ probable cause, that a person may be mentally ill and that due to his that condition he the person presents a threat of imminent and substantial physical harm to himself that person or to other persons, he the law enforcement officer:

A. May take the person into protective custody; and

B. If the officer does take the person into protective custody, shall deliver the person ~~forthwith~~ immediately for examination by an available licensed physician or licensed clinical psychologist, as provided in section 3863.

This subsection is repealed October 1, 1995.

Sec. 2. 34-B MRSA §3862, sub-§1-A is enacted to read:

1-A. Law enforcement officer's power. If a law enforcement officer has reasonable grounds to believe, based upon personal

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2 observation, that a person may be mentally ill and that due to
4 that condition the person presents a threat of imminent and
6 substantial physical harm to that person or to other persons, the
8 law enforcement officer:

6 A. May take the person into protective custody; and

8 B. If the officer does take the person into protective
10 custody, shall deliver the person immediately for
12 examination by an available licensed physician or licensed
14 clinical psychologist, as provided in section 3863.

12 **Sec. 3. 34-B MRSA §3863, sub-§3, as amended by PL 1987, c.**
14 **736, §53, is further amended to read:**

16 **3. Judicial review.** The application and accompanying
18 certificate shall must be reviewed by a Justice of the Superior
20 Court, Judge of the District Court, Judge of Probate or a justice
22 of the peace.

20 **A.** If the judge or justice finds the application and
22 accompanying certificate to be regular and in accordance
24 with the law, he the judge or justice shall endorse them.

24 **B.** ~~No~~ A person may not be held against his the person's
26 will in the hospital under this section, whether informally
28 admitted under section 3831 or sought to be involuntarily
30 admitted under this section, unless the application and
32 certificate have been endorsed by a judge or justice, except
34 that a person for whom an examiner has executed the
36 certificate under subsection 2 may be detained in a hospital
38 for a reasonable period of time, not to exceed 18 hours,
40 pending endorsement by a judge or justice, if:

34 (1) For a person informally admitted under section
36 3831, the chief administrative officer of the hospital
38 undertakes to secure the endorsement ~~forthwith~~
40 immediately upon execution of the certificate by the
42 examiner; and

42 (2) For a person sought to be involuntarily admitted
44 under this section, the person or persons transporting
46 ~~him~~ the person sought to be involuntarily admitted to
the hospital undertake to secure the endorsement
~~forthwith~~ immediately upon execution of the certificate
by the examiner.

48 **C.** Notwithstanding paragraph B, subparagraphs (1) and (2),
50 a person sought to be admitted informally under section 3831
52 or involuntarily under this section may be held for
evaluation and treatment at a hospital pending judicial
endorsement of the application and certificate if the
endorsement is obtained between the soonest available hours

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of 7:00 a.m. and 11:00 p.m. This paragraph is repealed
October 1, 1995.

Sec. 4. Effective date. Section 2 of this Act takes effect
October 1, 1995.'

STATEMENT OF FACT

This amendment provides that a person may be held for
evaluation and treatment at a hospital if the endorsement of a
judge or justice is sought between the next soonest hours of 7:00
a.m. and 11:00 p.m.

This amendment also provides that the change made in the
bill is repealed October 1, 1995. This amendment also conforms
existing law to current drafting standards.