

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 409

H.P. 305

House of Representatives, February 6, 1995

**An Act to Continue Requiring Probable Cause before the Exercise of
Protective Custody.**

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative FITZPATRICK of Durham.
Cosponsored by Representatives: CHIZMAR of Lisbon, DORE of Auburn, JOHNSON of
South Portland, MORRISON of Bangor, Senator: FAIRCLOTH of Penobscot.

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

4 **Sec. 1. 34-B MRSA §3862, sub-§1,** as amended by PL 1993, c.
5 596, §1, is further amended to read:

6 **1. Law enforcement officer's power.** If a law enforcement
7 officer has reasonable grounds to believe, based upon probable
8 cause, that a person may be mentally ill and that due to that
9 condition the person presents a threat of imminent and
10 substantial physical harm to that person or to other persons, the
11 law enforcement officer:

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

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

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19 ~~This subsection is repealed October 1, 1995.~~

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21 **Sec. 2. 34-B MRSA §3862, sub-§1-A,** as enacted by PL 1993, c.
22 596, §2 and affected by §4, is repealed.

23
24 **Sec. 3. 34-B MRSA §3863, sub-§3, ¶C,** as enacted by PL 1993, c.
25 596, §3, is amended to read:

26 C. Notwithstanding paragraph B, subparagraphs (1) and (2),
27 a person sought to be admitted informally under section 3831
28 or involuntarily under this section may be held for
29 evaluation and treatment at a hospital pending judicial
30 endorsement of the application and certificate if the
31 endorsement is obtained between the soonest available hours
32 of 7:00 a.m. and 11:00 p.m. ~~--This paragraph is repealed~~
33 ~~October 1, 1995.~~

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39 **STATEMENT OF FACT**

40 This bill repeals current language in order to continue
41 requiring a law enforcement officer to have probable cause to
42 take a person into protective custody. Under current law, this
43 provision would be repealed October 1, 1995 and replaced by
44 language allowing protective custody based upon the officer's
45 personal observation. This bill also continues to require that
46 judicial review of admission to a hospital for protective custody
47 be obtained as soon as possible, between 7:00 a.m. and 11:00 p.m.