

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 23

S.P. 25

In Senate, January 9, 1997

**An Act to Amend the Laws Governing Admission to Mental Health  
Institutions.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by President LAWRENCE of York. (BY REQUEST).

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

Sec. 1. 34-B MRSA §1432, sub-§3 is enacted to read:

3. Restriction on medication. During the first 72 hours after a person's admission to a state mental health institute or nonstate mental health institution under section 3831 or 3863, administration of medication to the person requires:

A. The consent of the person or the person's duly appointed guardian; or

B. An order of a licensed physician entered at the time of or after admission specifying that the medication is required because there is a likelihood of serious harm to the person or others.

Sec. 2. 34-B MRSA §3863, sub-§5, ¶B, as amended by PL 1995, c. 496, §2, is further amended to read:

B. If the chief administrative officer of the hospital determines that admission of the person as an informally admitted patient is not suitable, or if the person declines admission as an informally admitted patient, the chief administrative officer of the hospital may seek involuntary commitment of the patient by filing an application for the issuance of an order for hospitalization under section 3864, except that if the hospital is a designated nonstate mental health institution and if the patient was admitted under the contract between the hospital and the department for receipt by the hospital of involuntary patients, then the chief administrative officer may seek involuntary commitment only by requesting the commissioner to file an application for the issuance of an order for hospitalization under section 3864.

(1) The application must be made to the District Court having territorial jurisdiction over the hospital to which the person was admitted on an emergency basis.

(2) The application must be filed within 5 3 days from the admission of the patient under this section, excluding the day of admission and any Saturday, Sunday or legal holiday.

Sec. 3. 34-B MRSA §3864, sub-§4, ¶A, as enacted by PL 1983, c. 459, §7, is amended to read:

A. Upon receipt by the District Court of the application and the accompanying documents specified in subsection 1,

2 the court shall forthwith cause the person to be examined by  
2 examiners.

4 (1) Each examiner must be either a licensed physician  
or a licensed clinical psychologist.

6 (2) One of the examiners ~~shall~~ must be a physician or  
8 psychologist chosen by the person or by ~~his~~ the  
10 person's counsel, if the chosen physician or  
12 psychologist is reasonably available. Written notice  
must be provided to the person and the person's counsel  
of the right to choose the examiner.

14 (3) Neither examiner appointed by the court may be the  
16 certifying examiner under section 3863, subsection 2 or  
7.

18 **SUMMARY**

20 This bill allows medication of a patient in a state mental  
22 health institute or nonstate mental health institution during the  
first 72 hours after voluntary or emergency involuntary admission  
24 only if the patient or the patient's guardian consents or a  
licensed physician orders the medication and states that it is  
26 required because there is a likelihood of serious harm to the  
patient or others. The bill shortens the time period for filing  
28 emergency commitment papers from 5 business days to 3 business  
days. It requires that the person undergoing commitment or the  
30 person's counsel be provided with written notice of the right to  
choose a physician or psychologist for an examination.