

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 1276, L.D. 1806, Bill, "An Act to Amend Maine's Involuntary Commitment Laws"

2Amend the bill in section 3 in that part designated "§1220." in subsection 2 in the last line (page 2, line 42 in L.D.) by inserting after the following: "inappropriate" the following: 'or unavailable'

Further amend the bill in section 4 in subsection 1-B in the last line (page 3, line 10 in L.D.) by striking out the following: "and" and inserting in its place the following: 'taking into consideration the'

Further amend the bill in section 5 by striking out all of the first 2 lines (page 3, lines 12 and 13 in L.D.) and inserting in the place the following:

'Sec. 5. 34-B MRSA §3861, as amended by PL 1997, c. 154, §1, is further amended to read:'

Further amend the bill in section 5 in that part designated "§3861." in subsection 1 in paragraph B in the 5th line (page 3, line 38 in L.D.) by striking out the following: "state-mental health--institutes hospitals" and inserting in its place the following: 'state mental health institutes'

Further amend the bill in section 5 in that part designated "§3861." by striking out all of subsection 2 and inserting in its place the following:

COMMITTEE AMENDMENT

2 '2. State mental health institute. The chief
administrative officer of a state mental health institute:

4 A. May receive for observation, diagnosis, care and
6 treatment in the hospital any person whose admission is
8 applied for under section 3831 or 3863 if the certifying
examination conducted pursuant to section 3863, subsection 2
was completed no more than 2 days before the date of
admission; and

10 B. May receive for observation, diagnosis, care and
12 treatment in the hospital any person whose admission is
14 applied for under section 3864 or is ordered by a court.

16 Any business entity contracting with the department for
18 psychiatric physician services or any person contracting with a
20 state mental health institute or the department to provide
22 services pertaining to the admission, treatment or discharge of
24 patients under sections 3863 and 3864 within a state institute or
26 any person contracting with a business entity to provide those
services within a state institute is deemed to be a governmental
entity or an employee of a governmental entity for purposes of
civil liability under the Maine Tort Claims Act, Title 14,
chapter 741, with respect to the admission, treatment or
discharge of patients within a state institute under sections
3863 and 3864.'

28 Further amend the bill in section 10 in paragraph A in the
30 2nd line (page 6, line 16 in L.D.) by striking out the
following: "any health officer," and inserting in its place the
32 following: '~~any-health-officer,~~'

34 Further amend the bill in section 14 by striking out all of
paragraph D (page 7, lines 30 to 38 in L.D.) and inserting in its
36 place the following:

38 'D. A written statement, signed by the chief administrative
officer of the hospital, certifying that a copy of the
40 application and the accompanying documents have been given
personally to the patient and that the patient and the
42 patient's guardian or next of kin have been notified of the
patient's right to retain an attorney or to have an attorney
44 appointed, of the patient's right to select or to have the
patient's attorney select an independent examiner and
46 regarding instructions on how to contact the District Court;
and'

48 Further amend the bill by striking out all of section 19.

2 Further amend the bill in section 23 in that part designated
"§3870." in subsection 1 by striking out all of the first
4 paragraph (page 11, lines 17 to 27 in L.D.) and inserting in its
place the following:

6 '1. Authority. The chief administrative officer of a state
8 mental health institute may release an improved patient on
convalescent status when he the chief administrative officer
10 believes that the release is in the best interest of the patient
and that the patient does not pose a likelihood of serious harm.
12 The chief administrative officer of a nonstate mental health
institute may release an improved patient on convalescent status
14 when the chief administrative officer believes that the release
is in the best interest of the patient, the patient does not pose
16 a likelihood of serious harm and, when releasing an involuntarily
committed patient, the chief administrative officer has obtained
18 the approval of the commissioner after submitting a plan for
continued responsibility.'

20 Further amend the bill in section 23 in that part designated
"§3870." in subsection 1 in paragraph D in the 3rd line (page 12,
22 line 13 in L.D.) by inserting after the following: "of the" the
following: 'terms of the patient's convalescent status, the'

24 Further amend the bill in section 23 in subsection 4 in
26 paragraph A in the 3rd line (page 12, line 47 in L.D.) by
inserting after the following: "rehospitalized," the following:
28 'or if an involuntary committed patient on convalescent status
poses a likelihood of serious harm'

30 Further amend the bill in section 23 in subsection 4 in
32 paragraph C in subparagraph (3) in the 2nd line (page 13, line 26
in L.D.) by inserting after the following: "interest" the
34 following: 'or that the patient poses a likelihood of serious
harm'

36 Further amend the bill by relettering or renumbering any
38 nonconsecutive Part letter or section number to read
consecutively.

40 Further amend the bill by inserting at the end before the
42 summary the following:

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46 **'FISCAL NOTE**

48 The Judicial Department and the Department of Corrections
will incur some minor additional costs to implement changes in
the involuntary commitment laws. These costs can be absorbed
50 within the respective departments' existing budgeted resources.

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The Department of Mental Health, Mental Retardation and Substance Abuse Services will incur additional costs to provide liaison services to the courts and to the Department of Corrections. That function will be performed by newly hired Intensive Case Manager positions that were authorized in Public Law 1995, chapter 665. The additional costs associated with transportation expenses and additional assessments can be absorbed by the department utilizing existing budgeted resources.'

SUMMARY

This amendment clarifies that the liaison is required to assess not only whether mental health services are inappropriate, but also whether services are unavailable.

This amendment corrects references to state mental health institutes and nonstate mental health institutes that were erroneously changed in the original bill. In the Maine Revised Statutes, Title 34-B, section 3861, the liability of nonstate mental health institutes is compared to the liability of state mental health institutes. In Title 34-B, section 3870, the process for using convalescent status is slightly different for nonstate mental health institutes and state mental health institutes.

This amendment revises the definition of "least restrictive means of transportation" to include taking into consideration the stigmatizing impact on the individual to be transported. This avoids the situation of requiring an immediate determination about the actual stigmatizing impact that the transportation may have on an individual.

This amendment requires the chief administrative officer of a hospital to certify that the guardian or next of kin of a person subject to involuntary commitment receives notice of the patient's right to an attorney and the right to choose an examiner.

This amendment also adds a fiscal note to the bill.