

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 681

S.P. 218

February 9, 2007

An Act Concerning the Examination of Persons in Protective Custody

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 Senator NUTTING of Androscoggin.
Cosponsored by Representative PERRY of Calais and
Senators: MARRACHÉ of Kennebec, RAYE of Washington, Representative: TIBBETTS of
Columbia.

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

2 **Sec. 1. 34-B MRSA §3862, sub-§1, ¶B**, as amended by PL 1999, c. 423, §4, is
3 further amended to read:

4 B. If the law enforcement officer does take the person into protective custody, shall
5 deliver the person immediately for examination as provided in section 3863 or, for a
6 person taken into protective custody who has an advance health care directive
7 authorizing mental health treatment, for examination as provided in Title 18-A,
8 section 5-802, subsection (d) to determine the individual's capacity and the existence
9 of conditions specified in the advance health care directive for the directive to be
10 effective. ~~If the examination occurs in a hospital emergency room, the~~ The
11 examination may be performed by a licensed physician, a licensed clinical
12 psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric
13 clinical nurse specialist. ~~If the examination does not occur in a hospital emergency~~
14 ~~room, the examination may be performed only by a licensed physician or licensed~~
15 ~~clinical psychologist.~~

16 **SUMMARY**

17 Current law requires that a law enforcement officer who seeks to have a person
18 involuntarily committed to a mental health hospital on an emergency basis must have that
19 person examined by a licensed physician, a licensed clinical psychologist, a physician's
20 assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist for the
21 purpose of determining whether that person poses a likelihood of serious harm. A related
22 section of law says that this examination may be performed only by a licensed physician
23 or a licensed clinical psychologist if the examination is performed outside a hospital
24 emergency room. This bill allows the examination to be performed by any of the health
25 care professionals authorized to conduct such examinations, whether the examination is
26 performed in a hospital emergency room or elsewhere.