

MAINE STATE LEGISLATURE

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REPORT "A"

L.D. 341

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HEALTH AND HUMAN SERVICES

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STATE OF MAINE

SENATE

124TH LEGISLATURE

FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 105, L.D. 341, Bill, "An Act To Amend the Department of Health and Human Services' Progressive Treatment Program"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 34-B MRSA §3873, sub-§2, ¶B, as enacted by PL 2005, c. 519, Pt. BBBB, §14 and affected by §20, is amended to read:

B. The person must:

- (1) Be 24 18 years of age or older;
(2) Have been clinically determined to be suffering from a severe and persistent mental illness;
(3) Have been under an order of involuntary commitment to a state mental health institute at the time of filing of the application for progressive treatment; and
(4) Have been clinically determined to be in need of the progressive treatment program in order to prevent interruptions in treatment, relapse and deterioration of mental health and to enable the person to survive safely in a community setting in the reasonably foreseeable future without posing a likelihood of serious harm as defined in section 3801, subsection 4, paragraph D. A determination under this subparagraph must be based on current behavior, treatment history, documented history of positive responses to treatment while hospitalized, relapse and deterioration of mental health after discharge and inability to make informed decisions regarding treatment.

Sec. 2. 34-B MRSA §3873, sub-§3, as enacted by PL 2005, c. 519, Pt. BBBB, §14 and affected by §20, is amended to read:

3. Duration of participation. Except as provided in subsections 4 and 5, participation in the progressive treatment program must be for a term an initial period of 6 months or an extension of participation of 6 months. The District Court may not order

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1 participation in the progressive treatment program for longer than 12 months
2 consecutively. Participation ends if a person successfully completes the program in
3 accordance with subsection 4 or is hospitalized pursuant to a court order entered under
4 subsection 5. Participation in the program is temporarily suspended if the person is
5 voluntarily rehospitalized and recommences upon discharge from the hospital.

6 **Sec. 3. 34-B MRSA §3873, sub-§3-A** is enacted to read:

7 **3-A. Extension of participation.** Prior to the end of the initial period of
8 participation under subsection 3, the District Court may order an extension of
9 participation for 6 months for a person who is eligible under this subsection.

10 A. A person is eligible for an extension of participation if the person is a participant
11 in the progressive treatment program and meets the requirements of subsection 2,
12 paragraph B, subparagraphs (1), (2) and (4).

13 B. The assertive community treatment team providing treatment and care for the
14 person shall determine whether the person is eligible for an extension of participation
15 and whether an extension of participation is in the best interest of the person and shall
16 complete a certificate stating those conclusions if they are in the affirmative and the
17 basis for the conclusions.

18 C. A physician, psychologist, certified psychiatric nurse specialist or nurse
19 practitioner who is a member of the assertive community treatment team shall file
20 with the District Court:

- 21 (1) The certificate completed under paragraph B;
- 22 (2) An application for an extension of participation; and
- 23 (3) A written statement certifying that a copy of the application and certificate
24 under paragraph B have been given personally to the person and that the person
25 has been notified of the right to retain an attorney or to have an attorney
26 appointed.

27 D. The following procedures apply when an application for an extension of
28 participation has been filed under paragraph C:

- 29 (1) The assertive community treatment team shall give notice personally to the
30 person, including a copy of the certificate completed under paragraph B; and
- 31 (2) The person must be afforded an opportunity to be represented by counsel,
32 and if neither the person nor others provide counsel, the court shall appoint
33 counsel for the person.

34 E. The District Court shall:

- 35 (1) Provide notice in accordance with section 3864, subsection 3;
- 36 (2) Provide notice to the person of the right to counsel, including the right to
37 court-appointed counsel, and if neither the person nor others have provided
38 counsel, the court shall appoint counsel for the person;

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1 (3) Provide notice to the person of the right to select an examiner for the mental
2 health examination under subparagraph (4);

3 (4) Provide a mental health examination by 2 examiners, each of whom must be
4 a licensed physician or a licensed clinical psychologist, in accordance with
5 section 3864, subsection 4, paragraph A, subparagraph 2-A;

6 (5) Hold a hearing in accordance with section 3864, subsection 5, paragraphs A,
7 C, G and H;

8 (6) Make a determination of whether the person is eligible for an extension of
9 participation and whether an extension of participation is in the best interest of
10 the person, based on findings stated in the record; and

11 (7) If the District Court finds that the person is eligible for an extension of
12 participation and that an extension of participation is in the best interest of the
13 person, the District Court shall enter an order extending participation for 6
14 months. If the District Court finds that the person is not eligible for an extension
15 of participation or that an extension of participation is not in the best interest of
16 the person, the District Court shall dismiss the application.

17 F. The provisions of section 3864, subsections 10 and 11 apply to expenses and the
18 right of appeal.

19 **Sec. 4. 34-B MRSA §3873, sub-§4**, as enacted by PL 2005, c. 519, Pt. BBBB,
20 §14 and affected by §20, is amended to read:

21 **4. Successful completion.** A person who fully participates in the program and who
22 follows the individualized treatment plan successfully completes the program upon
23 expiration of 6 months or the 6-month period of extension ordered by the court under
24 subsection 3-A or upon certification by the assertive community treatment team physician
25 or psychologist that the person is no longer in need of the services of the program.

26 **Sec. 5. Report.** By January 1, 2010 the Department of Health and Human Services
27 shall provide a report to the joint standing committee of the Legislature having
28 jurisdiction over health and human services matters regarding the following:

29 1. The needs of persons who are eligible to participate in the progressive treatment
30 program under the Maine Revised Statutes, Title 34-B, section 3873, the needs of persons
31 who are participating in the progressive treatment program and the resources available to
32 meet those needs;

33 2. The costs of community-based care and hospitalization in community hospitals
34 and state mental health institutes for persons who would be eligible to participate in the
35 progressive treatment program; and

36 3. An analysis of implementation of the progressive treatment program for persons
37 who were hospitalized at the state mental health institutes, including measurable
38 outcomes.'

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SUMMARY

This amendment lowers the minimum age for participation in the progressive treatment program to 18 years of age. The amendment provides the process by which the assertive community treatment team for a person in the progressive treatment program may apply to the District Court for one extension of participation for up to 6 months and the process by which the court makes a determination of whether to order an extension of participation.