

MAINE STATE LEGISLATURE

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R. O. S.

Date: 4-6-10

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STATE OF MAINE
SENATE
124TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to S.P. 495, L.D. 1360, Bill, "An Act To Allow Law Enforcement and Family Members To Petition the District Court To Initiate Assisted Outpatient Treatment"

Amend the amendment by striking out all of section 11 (page 4, lines 16 to 41 in amendment) and inserting the following:

'Sec. 11. 34-B MRSA §3862, sub-§1, as amended by PL 2007, c. 178, §1, is further amended to read:

1. Law enforcement officer's power. If a law enforcement officer has reasonable grounds probable cause to believe, based upon probable cause, that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons, or if a law enforcement officer knows that a person has an advance health care directive authorizing mental health treatment and the officer has reasonable grounds probable cause to believe, based upon probable cause, that the person lacks capacity, the law enforcement officer:

A. May take the person into protective custody; and

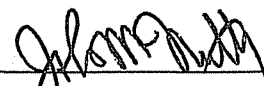
B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination by a medical practitioner as provided in section 3863 or, for a person taken into protective custody who has an advance health care directive authorizing mental health treatment, for examination as provided in Title 18-A, section 5-802, subsection (d) to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective. The examination may be performed by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist.

When, in formulating probable cause, the law enforcement officer relies may rely upon information provided by a 3rd-party informant, if the officer shall confirm confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons.'

SUMMARY

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This amendment restores the requirement in the mental health protective custody laws under the Maine Revised Statutes, Title 34-B, section 3862 that a law enforcement officer confirm that an informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that a person may be mentally ill and that due to that condition the person presents a threat of imminent and substantial physical harm to that person or to other persons.

SPONSORED BY: 

(Senator NUTTING, J.)

COUNTY: Androscoggin