

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals  
(may include minor formatting differences from printed original)



# 126th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2014

---

Legislative Document

No. 1738

H.P. 1244

House of Representatives, January 21, 2014

### An Act To Improve Maine's Involuntary Commitment Processes

---

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Judiciary suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative MALABY of Hancock.

Cosponsored by Representatives: SANDERSON of Chelsea, SIROCKI of Scarborough.

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

2 **Sec. 1. 34-B MRSA §3861, sub-§3**, as amended by PL 2011, c. 657, Pt. DD, §§1  
3 to 4, is further amended to read:

4 **3. Involuntary treatment.** Except for involuntary treatment ordered pursuant to the  
5 provisions of section 3864, subsection 7-A or emergency involuntary treatment  
6 authorized pursuant to subsection 4, involuntary treatment of a patient at a designated  
7 nonstate mental health institution or a state mental health institute who is an involuntarily  
8 committed patient under the provisions of this subchapter may be ordered and  
9 administered only in conformance with the provisions of this subsection. For the  
10 purposes of this subsection, involuntary treatment is limited to medication for the  
11 treatment of mental illness and laboratory testing and medication for the monitoring and  
12 management of side effects.

13 A. If the patient's primary treating physician proposes a treatment that the physician,  
14 in the exercise of professional judgment, believes is in the best interest of the patient  
15 and if the patient lacks clinical capacity to give informed consent to the proposed  
16 treatment and the patient is unwilling or unable to comply with the proposed  
17 treatment, the patient's primary treating physician shall request in writing a clinical  
18 review of the proposed treatment by a clinical review panel. For a patient at a state  
19 mental health institute, the request must be made to the superintendent of the institute  
20 or the designee of the superintendent. For a patient at a designated nonstate mental  
21 health institution, the request must be made to the chief administrative officer or the  
22 designee of the chief administrative officer. The request must include the following  
23 information:

24 (1) The name of the patient, the patient's diagnosis and the unit on which the  
25 patient is hospitalized;

26 (2) The date that the patient was committed to the institution or institute and the  
27 period of the court-ordered commitment;

28 (3) A statement by the primary treating physician that the patient lacks capacity  
29 to give informed consent to the proposed treatment. The statement must include  
30 documentation of a 2nd opinion that the patient lacks that capacity, given by a  
31 professional qualified to issue such an opinion who does not provide direct care  
32 to the patient but who may work for the institute or institution;

33 (4) A description of the proposed course of treatment, including specific  
34 medications, routes of administration and dose ranges, proposed alternative  
35 medications or routes of administration, if any, and the circumstances under  
36 which any proposed alternative would be used;

37 (5) A description of how the proposed treatment will benefit the patient and  
38 ameliorate identified signs and symptoms of the patient's psychiatric illness;

39 (6) A listing of the known or anticipated risks and side effects of the proposed  
40 treatment and how the prescribing physician will monitor, manage and minimize  
41 the risks and side effects;

1 (7) Documentation of consideration of any underlying medical condition of the  
2 patient that contraindicates the proposed treatment; and

3 (8) Documentation of consideration of any advance health-care directive given  
4 in accordance with Title 18-A, section 5-802 and any declaration regarding  
5 medical treatment of psychotic disorders executed in accordance with section  
6 11001.

7 B. The provisions of this paragraph apply to the appointment, duties and procedures  
8 of the clinical review panel under paragraph A.

9 (1) Within one business day of receiving a request under paragraph A, the  
10 superintendent of a state mental health institute or chief administrative officer of  
11 a designated nonstate mental health institution or that person's designee shall  
12 appoint a clinical review panel of 2 or more licensed professional staff who do  
13 not provide direct care to the patient. At least one person must be a professional  
14 licensed to prescribe medication relevant to the patient's care and treatment. At  
15 the time of appointment of the clinical review panel, the superintendent of a state  
16 mental health institute or chief administrative officer of a designated nonstate  
17 mental health institution or that person's designee shall notify the following  
18 persons in writing that the clinical review panel will be convened:

19 (a) The primary treating physician;

20 (b) The commissioner or the commissioner's designee;

21 (c) The patient's designated representative or attorney, if any;

22 (d) The State's designated federal protection and advocacy agency; and

23 (e) The patient. Notice to the patient must inform the patient that the clinical  
24 review panel will be convened and of the right to assistance from a lay  
25 advisor, at no expense to the patient, and the right to obtain an attorney at the  
26 patient's expense. The notice must include contact information for requesting  
27 assistance from a lay advisor, who may be employed by the institute or  
28 institution, and access to a telephone to contact a lay advisor must be  
29 provided to the patient.

30 (2) Within 4 days of receiving a request under paragraph A and no less than 24  
31 hours before the meeting of the clinical review panel, the superintendent of a  
32 state mental health institute or chief administrative officer of a designated  
33 nonstate mental health institution or that person's designee shall provide notice of  
34 the date, time and location of the meeting to the patient's primary treating  
35 physician, the patient and any lay advisor or attorney.

36 (3) The clinical review panel shall hold the meeting and any additional meetings  
37 as necessary, reach a final determination and render a written decision ordering  
38 or denying involuntary treatment.

39 (a) At the meeting, the clinical review panel shall receive information  
40 relevant to the determination of the patient's capacity to give informed  
41 consent to treatment and the need for treatment, review relevant portions of  
42 the patient's medical records, consult with the physician requesting the

- 1 treatment, review with the patient that patient's reasons for refusing  
2 treatment, provide the patient and any lay advisor or attorney an opportunity  
3 to ask questions of anyone presenting information to the clinical review panel  
4 at the meeting and determine whether the requirements for ordering  
5 involuntary treatment have been met.
- 6 (b) All meetings of the clinical review panel must be open to the patient and  
7 any lay advisor or attorney, except that any meetings held for the purposes of  
8 deliberating, making findings and reaching final conclusions are confidential  
9 and not open to the patient and any lay advisor or attorney.
- 10 (c) The clinical review panel shall conduct its review in a manner that is  
11 consistent with the patient's rights.
- 12 (d) Involuntary treatment may not be approved and ordered if the patient  
13 affirmatively demonstrates to the clinical review panel that if that patient  
14 possessed capacity, the patient would have refused the treatment on religious  
15 grounds or on the basis of other previously expressed convictions or beliefs.
- 16 (4) The clinical review panel may approve a request for involuntary treatment  
17 and order the treatment if the clinical review panel finds, at a minimum:
- 18 (a) That the patient lacks the capacity to make an informed decision  
19 regarding treatment;
- 20 (b) That the patient is unable or unwilling to comply with the proposed  
21 treatment;
- 22 (c) That the need for the treatment outweighs the risks and side effects; and  
23 (d) That the proposed treatment is the least intrusive appropriate treatment  
24 option.
- 25 (5) The clinical review panel may make additional findings, including but not  
26 limited to findings that:
- 27 (a) Failure to treat the illness is likely to produce lasting or irreparable harm  
28 to the patient; or
- 29 (b) Without the proposed treatment the patient's illness or involuntary  
30 commitment may be significantly extended without addressing the symptoms  
31 that cause the patient to pose a likelihood of serious harm.
- 32 (6) The clinical review panel shall document its findings and conclusions,  
33 including whether the potential benefits of the proposed treatment outweigh the  
34 potential risks.
- 35 C. The provisions of this paragraph govern the rights of a patient who is the subject  
36 of a clinical review panel under paragraph A.
- 37 (1) The patient is entitled to the assistance of a lay advisor without expense to  
38 the patient. The patient is entitled to representation by an attorney at the patient's  
39 expense.

- 1 (2) The patient may review any records or documents considered by the clinical  
2 review panel.
- 3 (3) The patient may provide information orally and in writing to the clinical  
4 review panel and may present witnesses.
- 5 (4) The patient may ask questions of any person who provides information to the  
6 clinical review panel.
- 7 (5) The patient and any lay advisor or attorney may attend all meetings of the  
8 clinical review panel except for any private meetings authorized under paragraph  
9 B, subparagraph 3, division (b).
- 10 D. If the clinical review panel under paragraph A approves the request for  
11 involuntary treatment, the clinical review panel shall enter an order for the treatment  
12 in the patient's medical records and immediately notify the superintendent of a state  
13 mental health institute or chief administrative officer of a designated nonstate mental  
14 health institution. The order takes effect:
- 15 (1) For a patient at a state mental health institute, one business day from the date  
16 of entry of the order; or
- 17 (2) For a patient at a designated nonstate mental health institution, one business  
18 day from the date of entry of the order, except that if the patient has requested  
19 review of the order by the commissioner under paragraph F, subparagraph (2),  
20 the order takes effect one business day from the day on which the commissioner  
21 or the commissioner's designee issues a written decision.
- 22 E. The order for treatment under this subsection remains in effect for 120 days or  
23 until the end of the period of commitment, whichever is sooner, unless altered by:
- 24 (1) An agreement to a different course of treatment by the primary treating  
25 physician and patient;
- 26 (2) For a patient at a designated nonstate mental health institution, modification  
27 or vacation of the order by the commissioner or the commissioner's designee; or
- 28 (3) An alteration or stay of the order entered by the Superior Court after  
29 reviewing the entry of the order by the clinical review panel on appeal under  
30 paragraph F.
- 31 F. The provisions of this paragraph apply to the review and appeal of an order of the  
32 clinical review panel entered under paragraph B.
- 33 (1) The order of the clinical review panel at a state mental health institute is final  
34 agency action that may be appealed to the Superior Court in accordance with  
35 Rule 80C of the Maine Rules of Civil Procedure.
- 36 (2) The order of the clinical review panel at a designated nonstate mental health  
37 institution may be reviewed by the commissioner or the commissioner's designee  
38 upon receipt of a written request from the patient submitted no later than one day  
39 after the patient receives the order of the clinical review panel. Within 3 business  
40 days of receipt of the request for review, the commissioner or the commissioner's  
41 designee shall review the full clinical review panel record and issue a written

1 decision. The decision of the commissioner or the commissioner's designee may  
2 affirm the order, modify the order or vacate the order. The decision of the  
3 commissioner or the commissioner's designee takes effect one business day after  
4 the commissioner or the commissioner's designee issues a written decision. The  
5 decision of the commissioner or the commissioner's designee is final agency  
6 action that may be appealed to the Superior Court in accordance with Rule 80C  
7 of the Maine Rules of Civil Procedure.

8 **Sec. 2. 34-B MRSA §3861, sub-§4** is enacted to read:

9 **4. Emergency involuntary treatment.** Nothing in this section precludes a health  
10 care practitioner from administering involuntary treatment to a patient who is being held  
11 or detained by a hospital against the patient's will under the provisions of this subchapter  
12 if the following conditions are met:

13 A. An emergency exists relating to the patient's physical or mental health that poses  
14 a serious, imminent risk to the patient's welfare;

15 B. The patient lacks the decisional capacity either to provide informed consent for  
16 treatment or to make an informed refusal of treatment;

17 C. A person legally authorized to provide consent for treatment on behalf of the  
18 patient is not reasonably available under the circumstances;

19 D. The treatment being administered is a recognized form of treatment for the  
20 patient's emergency medical condition;

21 E. The patient's treating health care practitioner reasonably believes that the  
22 treatment being administered will tend to safeguard the physical or mental health of  
23 the patient; and

24 F. A reasonable person concerned for the welfare of the patient would conclude that  
25 the benefits of the treatment outweigh the risks and potential side effects of the  
26 treatment and would consent to the treatment under the circumstances.

27 **Sec. 3. 34-B MRSA §3863, sub-§2-A,** as amended by PL 2007, c. 319, §9, is  
28 further amended to read:

29 **2-A. Custody agreement.** A state, county or municipal law enforcement agency  
30 may meet with representatives of those public and private health practitioners and health  
31 care facilities that are willing and qualified to perform the certifying examination required  
32 by this section in order to attempt to work out a procedure for the custody of the person  
33 who is to be examined while that person is waiting for that examination. Any agreement  
34 must be written and signed by and filed with all participating parties. In the event of  
35 failure to work out an agreement that is satisfactory to all participating parties, the  
36 procedures of section 3862 and this section continue to apply.

37 As part of an agreement the law enforcement officer requesting certification may transfer  
38 protective custody of the person for whom the certification is requested to another law  
39 enforcement officer, a health officer if that officer agrees or the chief administrative  
40 officer of a public or private health practitioner or health facility or the chief  
41 administrative officer's designee. Any arrangement of this sort must be part of the written

1 agreement between the law enforcement agency and the health practitioner or health care  
2 facility. In the event of a transfer, the law enforcement officer seeking the transfer shall  
3 provide the written application required by this section. If the protective custody of the  
4 person is transferred by the law enforcement officer to a hospital, the hospital obtains a  
5 certificate as described in subsection 2 that states that the person meets criteria for  
6 emergency involuntary hospitalization and the hospital is unable to locate an available  
7 inpatient bed at a psychiatric hospital to admit the person, the hospital shall provide the  
8 written application required by this section and may detain the person in accordance with  
9 subsection 3, paragraphs D and E.

10 A person with mental illness may not be detained or confined in any jail or local  
11 correctional or detention facility, whether pursuant to the procedures described in section  
12 3862, pursuant to a custody agreement or under any other circumstances, unless that  
13 person is being lawfully detained in relation to or is serving a sentence for commission of  
14 a crime.

15 **Sec. 4. 34-B MRSA §3863, sub-§3, ¶A**, as amended by PL 2007, c. 319, §9, is  
16 further amended to read:

17 A. If the judge or justice finds the application and accompanying certificate to be  
18 regular and in accordance with the law, the judge or justice shall endorse them and  
19 promptly send them to the admitting psychiatric hospital and to the medical  
20 practitioner who signed the certificate. For purposes of carrying out the provisions of  
21 this section, an endorsement transmitted by facsimile machine has the same legal  
22 effect and validity as the original endorsement signed by the judge or justice.

23 **Sec. 5. 34-B MRSA §3863, sub-§3, ¶¶D and E** are enacted to read:

24 D. Notwithstanding paragraph B, a person may be held against the person's will and  
25 detained in a hospital under this section for a reasonable period of time, not to exceed  
26 4 days, solely on the basis of a written medical certificate signed by a medical  
27 practitioner under subsection 2 if:

28 (1) The hospital, after undertaking reasonably diligent efforts, is unable to locate  
29 an available inpatient bed at a psychiatric hospital during the initial 24-hour  
30 period that the person is held;

31 (2) The hospital documents during each 24-hour period that the person is held  
32 the reasonably diligent efforts the hospital has taken to locate an available  
33 inpatient bed at a psychiatric hospital;

34 (3) The hospital obtains during each 24-hour period that the person is held a  
35 written medical recertification that the person continues to meet the criteria for  
36 emergency involuntary admission under subsection 2 that is signed by:

37 (a) A licensed psychiatrist or certified psychiatric clinical nurse specialist; or

38 (b) A licensed physician, licensed clinical psychologist, registered physician  
39 assistant or certified nurse practitioner, in consultation with a licensed  
40 psychiatrist; and

41 (4) The hospital or person seeking the emergency involuntary admission  
42 undertakes to secure judicial endorsement of the application for emergency

1           involuntary admission immediately upon locating an available inpatient bed at a  
2           psychiatric hospital.

3           E. Notwithstanding paragraph B, if there is no available inpatient bed at a psychiatric  
4           hospital for a person held 4 days under paragraph D, the person may continue to be  
5           held against the person's will and detained in a hospital under this section for an  
6           additional reasonable period of time, not to exceed 3 days, if:

7           (1) The hospital continues to undertake reasonably diligent efforts to locate an  
8           available inpatient bed at a psychiatric hospital during each 24-hour period that  
9           the person continues to be held;

10          (2) The hospital documents during each 24-hour period that the person is held  
11          the reasonably diligent efforts the hospital has taken to locate an available  
12          inpatient bed at a psychiatric hospital;

13          (3) The hospital obtains, within 24 hours prior to the expiration of the 4-day  
14          period set forth in paragraph D, a written medical recertification that the person  
15          continues to meet the criteria for emergency involuntary admission under  
16          subsection 2 that is signed by:

17               (a) A licensed psychiatrist or certified psychiatric clinical nurse specialist; or

18               (b) A licensed physician, licensed clinical psychologist, registered physician  
19               assistant or certified nurse practitioner, in consultation with a licensed  
20               psychiatrist;

21          (4) The hospital documents on the application for emergency involuntary  
22          admission the name of the hospital at which the person is being held and the  
23          location in the hospital where the person is being held;

24          (5) The hospital obtains judicial endorsement of the application prior to the  
25          expiration of the 4-day period set forth in paragraph D;

26          (6) The hospital obtains, within 48 hours of the judicial endorsement, a written  
27          medical recertification that the person continues to meet the criteria for  
28          emergency involuntary admission under subsection 2 that is signed by:

29               (a) A licensed psychiatrist or certified psychiatric clinical nurse specialist; or

30               (b) A licensed physician, licensed clinical psychologist, registered physician  
31               assistant or certified nurse practitioner, in consultation with a licensed  
32               psychiatrist; and

33          (7) The hospital or person seeking the emergency involuntary admission  
34          undertakes to secure judicial endorsement of the application for emergency  
35          involuntary admission immediately upon locating an available inpatient bed at a  
36          psychiatric hospital.

37           **Sec. 6. 34-B MRSA §3863, sub-§5-A, ¶C,** as enacted by PL 2009, c. 651, §16,  
38           is amended to read:

39           C. An application under this subsection must be made to the District Court having  
40           territorial jurisdiction over the psychiatric hospital to which the person is admitted on  
41           an emergency basis and must be filed within 3 5 days from the date of admission of

1 the patient to a psychiatric hospital under this section, except that, if the ~~3rd~~ 5th day  
2 falls on a weekend or holiday, the application must be filed on the next business day  
3 following that weekend or holiday. If no application to the District Court is timely  
4 filed, the person must be promptly discharged.

5 **Sec. 7. 34-B MRSA §3863, sub-§9**, as enacted by PL 2011, c. 541, §2, is  
6 repealed and the following enacted in its place:

7 **9. Limitations.** The following limitations apply to actions taken under this section.

8 A. Admission to a psychiatric hospital on an emergency basis under the provisions of  
9 this section is not commitment to a psychiatric hospital.

10 B. A hospital holding or detaining a person against the person's will under subsection  
11 3, paragraph D or E during the pendency of an available inpatient bed at a psychiatric  
12 hospital may not be held to the licensing standards of a psychiatric hospital by the  
13 Department of Health and Human Services with respect to:

14 (1) The person's involuntary detention; or

15 (2) Any care or treatment provided to the person during the involuntary  
16 detention period.

17 **Sec. 8. 34-B MRSA §3863, sub-§10** is enacted to read:

18 **10. Immunity.** A hospital or medical practitioner is immune from liability for  
19 holding or detaining a person against the person's will beyond the time frames authorized  
20 by subsection 3, paragraphs D and E if:

21 A. The person was medically certified as meeting criteria for involuntary admission  
22 during the period of time the person was held or detained;

23 B. The person was held or detained by the hospital or medical practitioner due to the  
24 unavailability of an inpatient bed at a psychiatric hospital;

25 C. The hospital or medical practitioner undertook and documented reasonably  
26 diligent efforts to locate an available inpatient bed at a psychiatric hospital during the  
27 period of time the person was held or detained; and

28 D. The hospital or medical practitioner otherwise complied with the requirements of  
29 subsection 3, paragraphs D and E for the periods of time the person was authorized to  
30 be held or detained under those paragraphs.

31 **Sec. 9. 34-B MRSA §3864, sub-§1, ¶D**, as amended by PL 2009, c. 651, §20, is  
32 further amended to read:

33 D. A written statement, signed by the chief administrative officer of the psychiatric  
34 hospital, certifying that a copy of the application and the accompanying documents  
35 have been given personally to the patient and that the patient and the patient's  
36 guardian or next of kin, if any, have been notified of:

37 (1) The patient's right to retain an attorney or to have an attorney appointed;

1 (2) The patient's right to select or to have the patient's attorney select an  
2 independent examiner; and

3 (3) How to contact the District Court; ~~and~~

4 **Sec. 10. 34-B MRSA §3864, sub-§1, ¶E**, as enacted by PL 1997, c. 422, §14, is  
5 amended to read:

6 E. A copy of the notice and instructions given to the patient; and

7 **Sec. 11. 34-B MRSA §3864, sub-§1, ¶F** is enacted to read:

8 F. A copy of the recommended treatment plan, if applicable under subsection 7-A.

9 **Sec. 12. 34-B MRSA §3864, sub-§3, ¶A**, as amended by PL 1997, c. 422, §15,  
10 is further amended to read:

11 A. Upon receipt by the District Court of the application and accompanying  
12 documents specified in subsection 1, the court shall cause written notice of the  
13 application and date of hearing and a copy of any applicable recommended treatment  
14 plan:

15 (1) To be mailed within 2 days of filing to the person; and

16 (2) To be mailed to the person's guardian, if known, and to the person's spouse,  
17 parent or one of the person's adult children or, if none of these persons exist or if  
18 none of those persons can be located, to one of the person's next of kin or a  
19 friend, except that if the chief administrative officer has reason to believe that  
20 notice to any of these individuals would pose risk of harm to the person who is  
21 the subject of the application, notice to that individual may not be given.

22 **Sec. 13. 34-B MRSA §3864, sub-§5, ¶A**, as amended by PL 2009, c. 651, §22,  
23 is further amended to read:

24 A. The District Court shall hold a hearing on the application not later than ~~14~~ 10  
25 days from the date of the application. The District Court may separate the hearing on  
26 commitment from the hearing on involuntary treatment.

27 (1) For good cause shown, on a motion by any party or by the court on its own  
28 motion, the hearing on commitment or on involuntary treatment may be  
29 continued for a period not to exceed 21 additional days.

30 (2) If the hearing on commitment is not held within the time specified, or within  
31 the specified continuance period, the court shall dismiss the application and order  
32 the person discharged forthwith.

33 (2-A) If the hearing on involuntary treatment is not held within the time  
34 specified, or within the specified continuance period, the court shall dismiss the  
35 application for involuntary treatment.

36 (3) In computing the time periods set forth in this paragraph, the Maine Rules of  
37 Civil Procedure apply.

38 **Sec. 14. 34-B MRSA §3864, sub-§7-A, ¶A-1** is enacted to read:

1 A-1. During the pendency of the hearing on the application under this section, the  
2 court may grant a psychiatric hospital, on an expedited basis and without a hearing,  
3 the power to implement a recommended treatment plan without a person's consent to  
4 be implemented no sooner than 3 days following the date of the filing of the  
5 application and to remain in effect until the date of the hearing on the application if:

6 (1) The recommended treatment plan is submitted to the court with the  
7 application;

8 (2) The recommended treatment plan includes a certification by the physician  
9 responsible for implementing the plan that:

10 (a) The person lacks the capacity to make an informed decision regarding  
11 treatment;

12 (b) The person is unable or unwilling to comply with the recommended  
13 treatment;

14 (c) The need for the recommended treatment outweighs the potential risks  
15 and side effects; and

16 (d) The recommended treatment is the least intrusive appropriate treatment  
17 option; and

18 (3) A copy of the recommended treatment plan is provided to the person in  
19 accordance with subsection 3.

20 **Sec. 15. 34-B MRSA §3873-A, sub-§5, ¶A,** as enacted by PL 2009, c. 651, §29,  
21 is amended to read:

22 A. The District Court shall hold a hearing on the application or any subsequent  
23 motion not later than 14 10 days from the date when the application or motion is  
24 filed. For good cause shown, on a motion by any party or by the court on its own  
25 motion, the hearing may be continued for a period not to exceed 21 additional days.  
26 If the hearing is not held within the time specified, or within the specified  
27 continuance period, the court shall dismiss the application or motion. In computing  
28 the time periods set forth in this paragraph, the Maine Rules of Civil Procedure apply.

29 **Sec. 16. 34-B MRSA §3874** is enacted to read:

30 **§3874. Medical examinations and consultations conducted via telemedicine or**  
31 **similar technologies**

32 Notwithstanding any other provision of this subchapter, a medical examination or  
33 consultation required or permitted to be conducted under this subchapter may be  
34 conducted using telemedicine as defined in Title 24-A, section 4316, subsection 1 or  
35 similar technologies that enable the medical examination or consultation to be conducted  
36 in accordance with applicable standards of care.

## 37 SUMMARY

38 This bill amends the laws governing involuntary hospitalization by:

1           1. Creating exceptions to the 18-hour protective custody period and 24-hour hospital  
2 emergency hold period to authorize a hospital to involuntarily detain a person meeting  
3 criteria for emergency psychiatric hospitalization for up to 4 days based on a medical  
4 certification obtained during each 24-hour period in circumstances when an inpatient bed  
5 at a psychiatric hospital cannot be located;

6           2. Authorizing a hospital to continue to detain a person meeting criteria for  
7 involuntary hospitalization against the person's will for up to an additional 3 days pending  
8 the availability of an inpatient bed at a psychiatric hospital, as long as the hospital  
9 continues to medically recertify the person's need for involuntary hospitalization during  
10 the additional hold period and obtains judicial endorsement for the continued involuntary  
11 detention of the person at the hospital;

12           3. Extending the period of time that a person may be involuntarily hospitalized on an  
13 emergency basis at a psychiatric hospital from 3 days to 5 days;

14           4. Authorizing a health care practitioner to administer involuntary treatment to a  
15 person being involuntarily held or detained if the person's condition constitutes an  
16 emergency that poses a serious, imminent risk to the person's physical or mental health  
17 and other conditions are met;

18           5. Creating an expedited process for judicial review and approval of a recommended  
19 treatment plan that may be implemented for an involuntarily hospitalized person during  
20 the pendency of the hearing on the application for judicial involuntary commitment;

21           6. Permitting medical examinations and consultations required or permitted under  
22 the laws governing involuntary hospitalization to be conducted using telemedicine or  
23 similar technologies;

24           7. Clarifying that hospitals detaining a person against the person's will while  
25 awaiting the availability of an inpatient bed at a psychiatric hospital may not be held to  
26 the licensing standards of a psychiatric hospital with respect to the detention or any care  
27 and treatment provided to that person during the detention;

28           8. Shortening the period between the filing of an application for judicial involuntary  
29 commitment and the hearing on the application from 14 days to 10 days; and

30           9. Affording immunity from liability to hospitals and medical practitioners that  
31 detain a person against the person's will beyond statutorily permitted time frames if the  
32 detention is due to the unavailability of an inpatient bed at a psychiatric hospital and other  
33 conditions are met.