

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 284

H.P. 208

House of Representatives, January 22, 2019

An Act To Improve Care Provided to Forensic Patients

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative GATTINE of Westbrook.
Cosponsored by Senator BREEN of Cumberland and
Representatives: DOORE of Augusta, HUBBELL of Bar Harbor, HYMANSON of York,
MADIGAN of Waterville, PERRY of Calais, Senator: SANBORN, L. of Cumberland.

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

2 **Sec. 1. 22 MRSA §1813-A** is enacted to read:

3 **§1813-A. License for forensic step-down facility**

4 The state-operated residential forensic step-down facility established in Title 22-A,
5 section 208-A is subject to licensure by the department under this chapter. The
6 department shall adopt rules that apply specifically to the licensure of a residential
7 forensic step-down facility. The rules must include, at a minimum, admission and
8 discharge standards of the facility; the staffing model for the facility, with specific
9 descriptions of staffing levels, roles and responsibilities; facility security; availability of
10 and patients' access to treatment; and patient rights protections. Rules adopted pursuant
11 to this section are major substantive rules as defined in Title 5, chapter 375, subchapter
12 2-A.

13 Transfer of a forensic patient into the forensic step-down facility established in Title
14 22-A, section 208-A must be approved by a court of appropriate jurisdiction.

15 By January 1, 2021 and on or before January 1st of each year thereafter, the
16 department shall submit to the joint standing committee of the Legislature having
17 jurisdiction over health and human services matters a detailed report about the forensic
18 step-down facility established in Title 22-A, section 208-A that includes information
19 about construction of the facility, capacity of the facility and staffing levels of the facility.

20 **Sec. 2. 22-A MRSA §208-A** is enacted to read:

21 **§208-A. Forensic step-down facility**

22 The commissioner shall operate and maintain a 21-bed residential forensic step-down
23 facility in Augusta in the Capitol Area called the Riverview Forensic Treatment and
24 Rehabilitation Center to provide treatment and rehabilitation that continues the treatment
25 of patients from a state mental health institute who no longer require hospital-level
26 service as provided under Title 34-B, chapter 3, subchapter 4, but who are unable to be
27 safely treated and cared for in a community setting under Title 34-B, chapter 3,
28 subchapter 3. For purposes of this section, "Capitol Area" has the same meaning as in
29 Title 1, section 814, subsection 2. As used in this section and Title 22, "forensic
30 step-down facility" means the Riverview Forensic Treatment and Rehabilitation Center.

31 **Sec. 3. 34-B MRSA §1001, sub-§8, ¶A-1** is enacted to read:

32 A-1. The Riverview Forensic Treatment and Rehabilitation Center;

33 **Sec. 4. 34-B MRSA §1207, sub-§1, ¶H,** as amended by PL 2015, c. 189, §1, is
34 further amended to read:

35 H. The names and dates of death of individuals who died while patients at the
36 Augusta Mental Health Institute, the Bangor Mental Health Institute, the Dorothea
37 Dix Psychiatric Center, the Riverview Psychiatric Center, the Riverview Forensic
38 Treatment and Rehabilitation Center or the Pineland Hospital and Training Center

1 may be made available to the public in accordance with rules adopted by the
2 department. The rules must require the department to notify the public regarding the
3 release of the information and to maintain the confidentiality of information
4 concerning any deceased individual whose surviving relatives notify the department
5 that they object to public disclosure. Rules adopted pursuant to this paragraph are
6 routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and

7 **Sec. 5. Rulemaking.** The Department of Health and Human Services shall
8 provisionally adopt rules to implement the Maine Revised Statutes, Title 22, section
9 1813-A no later than January 11, 2020.

10 **Sec. 6. Report.** The Department of Health and Human Services shall report in
11 writing to the Joint Standing Committee on Health and Human Services by October 15,
12 2019, December 15, 2019 and March 1, 2020 on the progress of the department in
13 developing rules and creating the forensic step-down facility as required by the Maine
14 Revised Statutes, Title 22, section 1813-A.

15 **Sec. 7. Advisory committee.** The Commissioner of Health and Human Services
16 shall convene an advisory committee on the forensic step-down facility established in the
17 Maine Revised Statutes, Title 22-A, section 208-A. The advisory committee shall meet
18 as necessary to guide the design of the forensic step-down facility and the implementation
19 of the rules related to the facility; educate and inform the planning process to create a
20 facility that best supports the treatment and safety needs of the patients and staff of the
21 facility; make recommendations to the department; and report to the Joint Standing
22 Committee on Health and Human Services any recommended legislation relating to the
23 facility no later than January 15, 2020. The joint standing committee may report out a
24 bill to the Second Regular Session of the 129th Legislature based on the report. The
25 advisory committee consists of the Commissioner of Health and Human Services, or the
26 commissioner's designee, and 9 other members as follows:

27 1. Two patients of a state mental health institute as defined in Title 34-B, section
28 3801, subsection 9, appointed by the commissioner;

29 2. A representative from the Consumer Council System of Maine under Title 34-B,
30 section 3611, appointed by the commissioner;

31 3. Two staff members of a state mental health institute as defined in Title 34-B,
32 section 3801, subsection 9, appointed by the commissioner;

33 4. The Court Master appointed in Bates v. Commissioner, Department of Health and
34 Human Services, Kennebec County Superior Court, Civil Action Docket No. CV 89-088;

35 5. Class counsel appointed in Bates v. Commissioner, Department of Health and
36 Human Services, Kennebec County Superior Court, Civil Action Docket No. CV 89-088;
37 and

38 6. Two representatives from separate community behavioral health organizations in
39 the State, appointed by the commissioner.

1

SUMMARY

2 This bill establishes a residential forensic step-down facility, which provides
3 treatment of forensic patients who no longer require hospital level care but cannot be
4 safely treated in a community setting, in Augusta in the Capitol Area. It authorizes the
5 Commissioner of Health and Human Services to maintain and operate the 21-bed forensic
6 step-down facility. It provides that the facility must be licensed and that the Department
7 of Health and Human Services must adopt rules that apply specifically to the licensure of
8 a forensic step-down facility and that include the admission and discharge standards of
9 the facility, the staffing model, security, patients' access to treatment and patient rights
10 protections. It requires that the department provisionally adopt rules to implement the
11 licensure of the forensic step-down facility no later than January 11, 2020. It creates an
12 advisory committee to participate in and guide the planning process for the facility and to
13 report to the Joint Standing Committee on Health and Human Services. It authorizes the
14 committee to report out a bill based on the advisory committee's report. It requires the
15 department to report to the committee on the progress of creating the facility and
16 developing rules. It provides that the transfer of a forensic patient into the forensic
17 step-down facility must be approved by a court of appropriate jurisdiction. It includes the
18 forensic step-down facility in the Maine Revised Statutes, Title 34-B, chapter 1 as a "state
19 institution."