

# MAINE STATE LEGISLATURE

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# SEVENTY-SECOND LEGISLATURE

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HOUSE.

No. 478

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## STATE OF MAINE.

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IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND FIVE.

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AN ACT in relation to insane persons in the State prison and  
in the county jails, and additional to chapter 138 of the Revised  
Statutes.

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*Be it enacted by the Senate and House of Representatives in  
Legislature assembled, as follows:*

Section 1. Section 5 of chapter 138 of the Revised Statutes relating to insane convicts is hereby repealed.

Sect. 2. The governor shall appoint in each county in the State a competent physician, who shall be a resident of the county, to act as an examiner of insane convicts in the county jail of the county. When a convict in the State prison or the county jail becomes insane or a convict whose sentence has expired is there detained, and in the opinion of the warden of the State prison or keeper of the jail is insane, the warden shall forthwith notify the prison physician and the jailer shall forthwith notify such examiner in the county of

10 the fact, and the prison physician or such examiner shall  
11 forthwith investigate the case and make a personal examina-  
12 tion of the convict or party so detained; and if such physi-  
13 cian finds such convict or person detained to be insane he  
14 shall forthwith certify such fact in writing to the warden  
15 of the State prison or keeper of such jail. Said warden  
16 shall apply in writing to the judge of the municipal court  
17 for the city of Rockland in the county of Knox, and such  
18 keeper shall apply to the judge of the municipal court in the  
19 place where such jail is located, if any; otherwise to the  
20 judge of the nearest municipal court in the county, and if  
21 no municipal court in such county to any judge of the  
22 supreme judicial court, stating the facts connected therewith,  
23 and praying that the condition of such convict or person  
24 detained as aforesaid may be inquired into and such decree  
25 made as to his commitment or detention as justice may  
26 require.

Sect. 3. Such judge shall thereupon appoint a time and  
2 place for a hearing by him of the allegations of such appli-  
3 cation, and shall cause to be given in hand to the person so  
4 alleged to be insane at least twenty-four hours prior to the  
5 time of said hearing a true copy of said application, together  
6 with a notice of the time and place of said hearing, and that  
7 he has a right and will be given an opportunity then and  
8 there to be heard in the matter, and shall call before him all  
9 testimony necessary for a full understanding of the case, and  
10 shall personally examine and interview such person whether  
11 he shall or shall not appear at such hearing and shall require  
12 and receive evidence of at least two reputable physicians not  
13 in the employ of the State prison or either of the said jails,  
14 all such evidence to be given under oath before such judge  
15 with the certificate signed by such physicians and filed with  
16 the papers in the case, that in their opinion such person is  
17 or is not insane. Such evidence and certificate to be based

18 upon due inquiry and personal examination of the person  
19 to whom insanity is imputed.

At said hearing the judge shall appoint a guardian ad litem  
21 for the person so alleged to be insane, and may in his dis-  
22 cretion appoint counsel for such person. The compensation  
23 of such guardian and counsel shall be fixed by the judge and  
24 included in the expense of the proceedings to be paid by the  
25 State or county, if upon the foregoing proceedings such  
26 judge shall determine that such convict or person detained  
27 as aforesaid is insane and that his comfort and safety or  
28 that of others interested will thereby be promoted; he shall  
29 in case of such convict or person so detained in the State  
30 prison commit him to the insane department of the said  
31 prison, and in the case of a convict or person so detained in  
32 either of the county jails he shall commit him to one of the  
33 insane hospitals, with certificate stating the fact of his insan-  
34 ity and directing that he shall be received and detained  
35 accordingly until he is restored or discharged by law. The  
36 certificate of said judge shall state the town in which the  
37 prisoner or person detained so committed resided at the time  
38 of his original commitment to prison or jail. A certified  
39 copy of the certificate signed by the prison physician shall  
40 accompany said order of commitment made hereunder, and  
41 said judge shall keep a record of his doings and furnish a  
42 copy to any interested person requiring and paying for it.

Sect. 4. The certificate of such judge stating the town in  
2 which the prisoner or person detained resided, when such  
3 prisoner or person is in either of the insane hospitals, is suffi-  
4 cient evidence in the first instance to charge such town for  
5 the expenses of his support in such hospital, if he shall be  
6 there detained after sentence on which he was originally  
7 committed would have expired, but when his friends or  
8 others file a bond with the treasurer of the hospital in which  
9 he is confined such town shall not be liable for his support,

10 unless new action is had by reason of the inability of the  
11 patient or his friends longer to support him, and such action  
12 may be had in the manner provided by statute for recommit-  
13 ment of patients to the insane hospitals.

Any town thus made chargeable in the first instance and  
15 paying for the support of such insane person may recover  
16 the amount paid from the insane, if able, or other persons  
17 legally liable for his support or from the town where his legal  
18 settlement is, but if he has no legal settlement in the State  
19 such expense shall be refunded by the State and the gov-  
20 ernor and council shall audit all such claims and draw their  
21 warrant on the treasurer therefor. Such person shall not  
22 suffer the disabilities of pauperism or be deemed a pauper  
23 by reason of such support, but the time during which such  
24 person is so supported shall not be included in the period  
25 of residence necessary to change his settlement.

Sect. 5. If a person so committed as insane is restored or  
2 discharged from such commitment before the expiration of  
3 the term of the sentence on which he was originally com-  
4 mitted, he shall be returned to the prison or jail in which he  
5 was serving his original sentence, and shall be there detained  
6 until the time when his original sentence would have expired.

Sect. 6. The fee of each physician for such examination  
2 and certificate and testifying before said judge shall be five  
3 dollars (\$5.00). All the fees, costs and expenses incident  
4 to any such hearing shall be taxed by the judge, and any case  
5 relating to the State prison, audited and allowed by the gov-  
6 ernor and council, and any cases arising in either of the  
7 county jails by the county commissioners for such county,  
8 who shall include therein a reasonable compensation for such  
9 judge, which fees and costs shall be paid by the State and  
10 county respectively.

Sect. 7. The superintendent of the insane hospital at  
2 Augusta shall visit the insane department of the State prison

3 not less than once in each month to advise with the prison  
4 physician and warden as to the proper care, treatment and  
5 disposition of the convicts in said department, and whenever  
6 in the judgment of said superintendent and prison physician  
7 and warden any person committed to the insane department  
8 of the State prison as hereinbefore provided can be better  
9 treated at either of the insane hospitals, they shall recom-  
10 mend the transfer of such person to either of said hospitals  
11 and report their conclusion to the governor and council, and  
12 thereupon the governor and council may order such transfer.

Sect. 8. Any inmates of county jails and persons under  
2 indictment becoming insane before final conviction may be  
3 committed to either insane hospital by any judge of the  
4 supreme judicial court, or judge of the superior court in the  
5 county where such person is to be tried, or the case is pend-  
6 ing for observation, under such limitations as such judge  
7 may direct.

Sect. 9. Section 6 of chapter 138 of the Revised Statutes  
2 is hereby amended so as to read as follows:

'Sect. 6. Insane persons transferred from the insane  
4 department of the State prison to either of the insane hos-  
5 pitals, upon satisfactory proof that such detention in such  
6 hospital will have a deleterious influence on the other  
7 patients, may be returned by the order of the governor and  
8 council setting forth the circumstances under which they have  
9 been detained in said hospital to the insane department of  
10 the State prison, to be there detained until discharged as  
11 hereinbefore provided for.'

Sect. 10. A friend of any person adjudged insane and  
2 committed to the insane department of the State prison under  
3 the foregoing proceedings, thinking such person is unreason-  
4 ably detained, may apply in writing to any justice of the  
5 supreme judicial court, who shall inquire into the case and  
6 summon before him such witnesses as in his judgment may

7 be necessary and upon such application vacate such commit-  
8 ment, and if the original sentence has expired discharge such  
9 person. He shall tax legal costs and shall decide whether  
10 they shall be borne by the petitioner or by the State. If such  
11 application is unsuccessful, it shall not be made again until  
12 the expiration of one year.

Sect. 11. The judge of the municipal court of the city of  
2 Rockland is hereby authorized for the purposes provided in  
3 this act, if he shall see fit, to hold his court in the town of  
4 Thomaston in the county of Knox, and the judge of any  
5 municipal court to which application is made by any jailer,  
6 and which court is located in a town other than that in which  
7 the jail is situated, may hold his court for the purposes  
8 herein provided in the town where such jail is located.





STATE OF MAINE.

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HOUSE OF REPRESENTATIVES,  
Augusta, March 9, 1905.

Reported by Mr. POWERS from Committee on Judiciary and ordered  
printed under joint rules.

E. M. THOMPSON, *Clerk.*