

# MAINE STATE LEGISLATURE

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## N I N E T Y - F I F T H      L E G I S L A T U R E

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**Legislative Document**

**No. 1056**

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H. P. 1423

House of Representatives, March 1, 1951.

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Mr. Totman of Bangor.

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### STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-ONE

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#### **AN ACT Relating to the Commitment to Mental Hospitals.**

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

**Sec. 1. R. S., c. 23, § 95, amended.** Section 95 of chapter 23 of the revised statutes is hereby amended to read as follows:

**‘Hospitals for the Mentally Ill**

**‘Sec. 95. Hospitals for mental patients to be maintained.** The state shall maintain 2 hospitals for the ~~insane~~ **mentally ill**, one at Bangor called the Bangor state hospital and the other at Augusta, called the Augusta state hospital.’

**Sec. 2. R. S., c. 23, § 97, amended.** Section 97 of chapter 23 of the revised statutes is hereby amended to read as follows:

**‘Sec. 97. Rules and regulations to be kept posted.** The superintendent of each hospital shall keep posted, in conspicuous places about the hospital under his charge, printed cards containing the rules and regulations prescribed for the government of employees **or shall furnish employees with printed rules and regulations.**’

**Sec. 3. R. S., c. 23, § 98, amended.** Section 98 of chapter 23 of the revised statutes is hereby amended to read as follows:

**'Sec. 98. Abuse of patients by employees; penalty.** ~~When it appears that any employee treats a patient with injustice or inhumanity, he shall immediately be discharged.~~ When the superintendent is satisfied that any employee **criminally** abuses ~~or ill treats an inmate~~ a patient of the hospital, he shall discharge him at once, and make complaint of such abuse or ~~ill treatment~~ before the proper court; and such employee, on conviction, shall be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not more than 90 days. In a trial of any officer or employee for wilfully inflicting an injury upon the person of any patient, the statement of any patient, cognizant thereof, shall be taken and considered for what it is worth; and no one connected with the hospital shall sit upon the jury trying the case.'

**Sec. 4. R. S., c. 23, § 100, repealed and replaced.** Section 100 of chapter 23 of the revised statutes is hereby repealed and the following enacted in place thereof:

**'Sec. 100. Patients may write to commissioner. All mail addressed by patients to the commissioner shall be forwarded forthwith unopened.'**

**Sec. 5. R. S., c. 23, § 102, amended.** Section 102 of chapter 23 of the revised statutes is hereby amended to read as follows:

**'Sec. 102. Transfer of patients; cost, how paid.** The department may transfer any patient from one hospital for the ~~insane~~ **mentally ill** to the other, or from one building for the criminal insane to any other building used for the care of the ~~insane~~ **mentally ill**, whenever in its judgment the welfare of the patients or of either institution will be promoted thereby. The expense attending such transfer shall be paid out of the funds of the hospital making the transfer and shall be a charge on the person liable for the board of such patient.'

**Sec. 6. R. S., c. 23, §§§ 104-143, repealed and replaced.** Sections 104 to 143, inclusive, of chapter 23 of the revised statutes, as amended, are hereby repealed and the following enacted in place thereof:

### **'Commitment of the Mentally Ill**

**Sec. 104. Commitment to mental institutions; petition to superintendent of hospital.** Any person within the state who becomes or is alleged to be mentally ill may be admitted to mental institutions for the mentally ill as hereinafter provided.

When any blood relative, husband or wife, or any municipal police officer, or any state police officer, or any high sheriff, or any justice of the

peace, alleges that a person is mentally ill he shall immediately sign a petition addressed to the superintendent of the Augusta state hospital, or to the superintendent of the Bangor state hospital or to the manager of Veteran's Administration or other agency of the United States government, requesting immediate admission and acceptance of said alleged mentally ill person into his institution for the purpose of observation and treatment.

Said petition shall be immediately presented to the city or town clerk, or to a member of the city council, or to a member of the board of selectmen, where the mentally ill person resides or is found, and upon receipt of said petition said municipal officer shall promptly and without delay inquire into the facts set forth in said petition and if said municipal officer is satisfied that the person alleged to be mentally ill requires confinement and treatment in a state or federal hospital he shall so state on said petition and join therein by affixing his signature. The petition shall be accompanied by a certificate made out by a physician qualified to practice medicine or osteopathy in the state of Maine, stating under oath that he has examined the person alleged to be mentally ill and he shall state therein his reason for his opinion that the person is mentally ill and requires confinement and treatment in a hospital maintained for the mentally ill. The physician making such certificate shall have examined the alleged mentally ill person within 5 days of his signing and making oath to the certificate.

Following the signing of the petition the municipal officer shall forthwith order the alleged mentally ill person to be taken to such state or federal hospital as he may properly designate, and at the expense of the town or city. Said alleged mentally ill person shall be accompanied by a true copy of the petition and the physician's certificate together with a statement of facts satisfactory to the department in regard to the financial ability of such patient, or any of his relatives legally liable to pay for his support. Any petition or physician's certificate bearing a date more than 10 days prior to the date of arrival of the alleged mentally ill person to the hospital for admission shall be void and no physician's certificate shall be valid or accepted if signed by a physician if he is employed by the institution for the mentally ill to which such person is committed. No feeble minded person shall be accepted by any hospital for the mentally ill.

Sec. 105. Admission of patients; preliminary observation. The superintendent or head of the hospital to which the mentally ill person is sent, or his duly appointed substitute, shall receive and detain such person for observation and treatment for a period of not more than 35 days. Provided that such person is accompanied by the petition and physician's certificate duly executed as referred to in section 108. Prior to the expiration of 25

days of the observation period the superintendent or head of the hospital, or any justice of the peace or any notary public may certify, in a petition addressed to the probate court situated in the county where the hospital is located, that the alleged mentally ill person requires further care and treatment for an indefinite period.

Sec. 106. Jurisdiction of probate courts; examination and commitment. Upon petition filed by the superintendent or head of the mental hospital, or his duly appointed substitute, or a justice of the peace or notary public to the judge of the probate court situated in the county wherein said hospital is located, alleging that the mentally ill person has been detained in a mental hospital for observation as heretofore provided and that further care and treatment of said person are required for an indefinite period, the judge of the probate court may immediately appoint a time for hearing, and shall cause to be given in hand to the person so alleged to be mentally ill, at least 48 hours prior to the time appointed for said hearing, a copy of said petition attested by the register of said probate court, together with a notice of the time and place of said hearing, and that he has a right and will be given opportunity then and there to be heard in the matter, and a like copy of said petition and notice shall be sent by registered mail to both the municipal officer and the person signing the petition requesting the initial admission to the hospital and to any blood relative designated by the alleged mentally ill person; provided, however, that if the judge of probate is satisfied that the condition of the patient is such that personal notice of said petition, and his appearance at said hearing would be detrimental to his mental health, he may waive such notice and appearance.

Sec. 107. Proceedings at hearing. The judge of probate before whom the hearing is held shall have authority to summon such witnesses as shall be necessary for the full understanding of the case; and if he shall decide that such person is mentally ill, and that his comfort and safety or that of others interested will be thereby promoted, he shall forthwith commit him indefinitely to the state hospital within his county, or to Veteran's Administration or other agency of the United States government with a certificate stating the fact of his mental illness and the town in which he resided or was found at the time of the original examination, and directing the superintendent to receive and detain him until he has no longer need for treatment or discharged by law or by the superintendent. The register shall keep a record of the doings in each case and furnish a copy to any interested person requesting and paying for it. All expense of notices, witnesses and officers fees shall be paid by the mentally ill person or his relatives or by the town sending him to the mental hospital for observation.

Sec. 108. Penalty for false testimony. Any person who shall wilfully cause or attempt to cause, or who shall conspire with any other person to cause any person who is not mentally ill to be committed to any institution for the mentally ill, and any person who shall knowingly certify falsely to the mental illness of any person in any certificate, or testify falsely at any hearing to inquire into the condition of a person alleged to be mentally ill, and any person who shall knowingly report falsely to any court or to any person or persons charged with authority to inquire into the condition of the person alleged to be mentally ill, shall be punished by a fine of not less than \$100, nor more than \$1,000, or shall be punished by imprisonment in the state prison for not less than 1 year, nor more than 5 years, or shall be punished by both such fine and imprisonment.

Sec. 109. Voluntary patients may be received at state hospitals for the mentally ill; release on request. The superintendent in charge of either of the state hospitals to which a mentally ill person may be committed, may receive and detain therein, as a boarder and patient, any person who is desirous of submitting himself to treatment and who makes written application therefor, and whose mental condition in the opinion of the superintendent or physician in charge is such as to render him competent to make the application. Such superintendent shall give immediate notice of the reception of such voluntary patient to the department. Such patient shall not be detained for more than 10 days after having given notice in writing of his intention or desire of leaving the institution, provided, that if his condition is deemed by the superintendent to be such that further hospital care is necessary and that he is no longer mentally competent to be detained therein as a voluntary patient, or that he could not be discharged from such institution with safety to himself and to others, said superintendent shall forthwith cause a petition for the commitment of the said voluntary patient to a mental institution as provided in section 106 and during the pendency of such commitment proceedings, may detain him at the hospital. The charges for support of such a voluntary patient shall be governed by the laws or rules applicable to the support of a mentally ill person in such institution.

Sec. 110. Transfer of mentally ill persons from out of state institutions. The commissioner of institutional service may, upon request of a competent authority of a state other than Maine, or of the District of Columbia, grant authorization for the transfer of a mentally ill patient directly to a Maine state hospital, provided: that the commissioner of institutional service, after an investigation of the facts connected with each case, deems it equitable and just that such person is a legal resident of and

belongs to this state; that said patient is currently confined in a recognized state institution for the care of the mentally ill as the result of proceedings considered legal by that state; that a duly certified copy of the original commitment proceedings and a copy of the patient's case history is supplied; that all expenses incident to such transfer be borne by the agency requesting same. When the commissioner has authorized such a transfer, the superintendent of the state hospital designated by him shall receive the patient as having been regularly committed to said hospital under the laws of this state.

Sec. 111. Proceedings when a person, committed to jail on a criminal charge, pleads insanity. When a person is indicted for an offense, or is committed to jail on a charge thereof by a trial justice, or judge of a municipal court, any justice of the court before which he is to be tried, if a plea of insanity is made in court, or he is notified that it will be made, may, in vacation or term time, order such person into the care of the superintendent of either state hospital, to be detained and observed by him, that the truth or falsity of the plea may be ascertained. Such detention and observation shall be for a period of 30 days or longer if the superintendent requires it. On notification of the superintendent of the said hospital to the committing court that such person so detained is found to be not insane, it shall be the duty of said court to order his removal forthwith from the said hospital to the custody of the court or jail. If such person is found to be insane, he shall be detained until the term of court next after such commitment and the superintendent shall report to the judge of the court before which such person is to be tried, whether his longer detention is required for purposes of observation.

Sec. 112. Commitment of inmates of town, city or county jails. The provisions of sections 104 to 107, shall apply to any person who is lawfully confined in any town or city or county jail pending hearing on any offense with which he may be charged or committed thereto in execution of any sentence imposed by any court of law within the state.

Sec. 113. Proceedings when grand jury omit to indict, or traverse jury acquit on account of the insanity of the accused; transfer from one hospital to the other. When the grand jury omit to find an indictment against any person arrested to answer for an offense, by reason of his insanity, they shall certify that fact to the court; and when a traverse jury, for the same reason, acquit any person indicted, they shall state that fact to the court when they return their verdict; and the court, by a precept stating the fact of insanity, may commit him to the Augusta state hospital. The court, or any justice thereof in vacation, upon application may for cause shown,

whenever it appears that the peace and safety of the community will be promoted, order any person who is now or may hereafter be committed as provided in this section removed and transferred from one state hospital to the other, and enforce such order by appropriate precept. The expense of such transfer shall be paid as provided in section 102. Any person so committed shall be discharged by the court having jurisdiction of the case only on satisfactory proof that his discharge will not endanger the peace and safety of the community; and when such person so discharged is on satisfactory proof again found insane and dangerous, any justice of the superior court may, by a precept stating the fact of his insanity, recommit him to the Augusta state hospital.

Sec. 114. Discharge of person so committed to the hospital; recommitment. Any person so committed to a state hospital may be discharged by any justice of the superior court, in term time or vacation, on satisfactory proof that his discharge will not endanger the peace and safety of the community; or such justice may, on application, commit him to the custody of any friend who will give bond to the judge of probate for the county of Kennebec, if such commitment was to the Augusta state hospital, or to the judge of probate for the county of Penobscot, if such commitment was to the Bangor state hospital, with sufficient sureties, approved by said judge of probate, conditioned for the safe-keeping of such insane person, and the payment of all damages which any person may sustain by his acts. When, on satisfactory proof, he is again found insane and dangerous, any justice of the superior court may, by a precept stating the fact of his insanity, recommit him to the state hospital from which he was discharged.

Sec. 115. Governor to appoint an examiner of insane convicts, in each county; proceedings when a prisoner becomes insane. 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 the fact, and the prison physician or such examiner shall forthwith investigate the case and make a personal examination of the convict or party so detained; and if such physician finds such convict or person detained to be insane he shall forthwith certify such fact in writing to the warden of the state prison or keeper of such jail. Said warden shall apply in writing to the judge of the municipal court for the city of Rockland in the county of Knox, and



such keeper shall apply to the judge of the municipal court in the place where such jail is located, if any; otherwise to the judge of the nearest municipal court in the county, and if there is no municipal court in such county, to any justice of the superior court, stating the facts connected therewith, and praying that the condition of such convict or person detained as aforesaid may be inquired into and such decree made as to his commitment or detention as justice may require.

Sec. 116. Hearing to be appointed by judge; proceedings thereat; appointment of guardian ad litem and counsel. Such judge or justice mentioned in the preceding section shall thereupon appoint a time and place for a hearing by him of the allegations of such application, and shall cause a true copy of said application to be given in hand to the person so alleged to be insane at least 24 hours prior to the time of said hearing, together with a notice of the time and place of said hearing, and that he has a right and will be given an opportunity then and there to be heard in the matter; he shall call before him all testimony necessary for a full understanding of the case, and shall personally examine and interview such person, whether he shall or shall not appear at such hearing, and shall require and receive evidence of at least 2 reputable physicians not in the employ of the state prison or either of the said jails, all such evidence being given under oath before such judge, with the certificate signed by such physicians and filed with the papers in the case, that in their opinion such person is or is not insane. Such evidence and certificate shall be based upon due inquiry and personal examination of the person to whom insanity is imputed. At said hearing the judge shall appoint a guardian ad litem for the person so alleged to be insane and may in his discretion appoint counsel for such person. The compensation of such guardian and counsel shall be fixed by the judge and included in the expense of the proceedings to be paid by the state or county.

Sec. 117. Commitment, if person is adjudged insane. If upon the foregoing proceedings such judge shall determine that such convict or person detained as aforesaid is insane and that his comfort and safety or that of others interested will thereby be promoted, he shall, in case of such convict or person so detained in the state prison, commit him to the Augusta state hospital and in the case of a convict or person so detained in either of the county jails he shall commit him to one of the state hospitals, with a certificate stating the fact of his insanity and directing that he shall be received and detained accordingly until he is restored or discharged by law. The certificate of said judge shall state the town in which the prisoner, or person detained, so committed resided at the time of his original commitment to

prison or jail. A certified copy of the certificate signed by the prison physician shall accompany said order of commitment made hereunder, and said judge shall keep a record of his doings and furnish a copy to any interested person requiring and paying for it.

Sec. 118. Persons recovering before expiration of sentence. If a person so committed as insane is restored or discharged from such commitment before the expiration of the term of the sentence on which he was originally committed, he shall be returned to the prison or jail in which he was serving his original sentence, and shall be there detained until the time when his original sentence would have expired.

Sec. 119. Fees for examination and certificate. The fee of each physician for such examination and certificate and testimony shall be \$10. All the fees, costs, and expenses incident to any such hearing shall be taxed by the judge, and in any case relating to the state prison, audited and allowed by the state, and in any cases arising in either of the county jails, by the county commissioners for such county, who shall include therein a reasonable compensation for such judge, and said fees and costs shall be paid by the state and county, respectively.

Sec. 120. Commitment of persons insane when motion for sentence is made; proceedings if insane at expiration of term of commitment; support. If a person convicted of any crime, in the superior court, is found by the judge of such court to be insane when motion for sentence is made, the court may cause such person to be committed to the Augusta state hospital under such limitations as the court may direct; provided that the crime of which such person is convicted is punishable by imprisonment in the state prison; otherwise such commitment shall be to one of the state hospitals; if at the expiration of the period of commitment to the Augusta state hospital such person has not become of sound mind in the opinion of the superintendent of the Augusta state hospital, he shall be removed to one of the state hospitals. Persons committed by a justice of the superior court before final conviction, or after conviction and before sentence whether originally committed or subsequently removed thereto, and insane convicts after the expiration of their sentences, shall be supported while in the state hospital in the manner provided by law and the provisions of sections 104 to 123 shall apply to such cases.

Sec. 121. Commitment of women regulated. When a woman is sent to either of the state hospitals, the officers sending her shall, unless she is to be accompanied by a father, husband, brother or son, designate a woman to be an attendant or one of the attendants to accompany her thereto.

Sec. 122. Inquiry into cases of alleged unreasonable detention. A friend of any person adjudged mentally ill and committed to either state hospital, thinking such person is unreasonably detained, may apply in writing to any justice of the superior court, who shall inquire into the case and summon before him such witnesses as in his judgment may be necessary and upon such application vacate such commitment, and if such person was committed under a sentence following conviction for crime, and the sentence has not expired, remand him to the proper custody, and if the original sentence has expired, discharge such person. He shall tax legal costs and shall decide whether they shall be borne by the petitioner or by the state. If such application is unsuccessful, it shall not be renewed until the expiration of 1 year.

Sec. 123. Expenses of support. All patients in either state hospital, or relatives liable by law for their support, shall pay to the state for support the amount determined by the department; provided that the department may, after proper investigation of the financial circumstances of the patient, or relatives liable by law for his or her support, if it finds that such patient or relatives are unable to pay the amount determined as above, in whole or in part, waive such payment or so much thereof as the circumstances appear to warrant.

The state may recover from the mentally ill if able, or from persons legally liable for his support, the reasonable expenses of his support in either state hospital.

Sec. 124. Department may recover money improperly paid by state for support of the mentally ill. If on investigation by the department it is disclosed that any person was, or may be, lawfully liable for the support of the mentally ill person the department shall collect, by action in the name of the state, if necessary, all sums which have been paid by the state to the hospital for board of such mentally ill person from the person lawfully liable as aforesaid to pay for the support of such mentally ill person, and thereafter the state shall not be required to pay to said hospital the sum mentioned in said section so long as the liability of any person to support such mentally ill person may lawfully exist. All moneys collected under the provisions of this section shall be forthwith turned over to the treasurer of state, who shall receipt for the same; and the expenses of the collection of said moneys shall be charged against and paid out of any sums so collected and turned over.

Sec. 125. Remedy of towns; bills chargeable to the state to be filed with department of finance. Any town made chargeable for the expenses

of examination and commitment in the first instance, and paying for the examination of the mentally ill and his commitment to a hospital, may recover the amount paid, from the ~~insane~~ mentally ill, if able, or from persons legally liable for his support, or from the town where he has a legal settlement, as if incurred for the expense of a pauper, but if he has no legal settlement in the state, such expenses shall be refunded by the state.

All bills for expenses so incurred and chargeable to the state shall be filed with the department of finance within 3 months after the same are contracted, and no such bills shall be allowed, unless they are filed with the said department within 60 days after the 31st day of December of the year in which they are incurred. No mentally ill person shall suffer any of the disabilities of pauperism nor be deemed a pauper, by reason of such support; but the time during which the mentally ill person is so supported shall not be included in the period of residence necessary to change his settlement.

Sec. 126. Discharge of patients from the state hospitals; remedies for reimbursements. Whenever in the judgment of the superintendent of either of the state hospitals any person, other than a person committed thereto as criminally insane, committed to and confined therein, requires only infirmary care, he shall certify that fact to the municipal officers of the city or town from which such person was committed; and said municipal officers shall forthwith remove such person or cause such person to be removed from said hospital and taken to said city or town. If said municipal officers to whom such certification is made as aforesaid fail to remove such person from said hospital within 1 week after receipt of such certification, the city or town from which such person was committed shall be liable to the state of Maine for the entire cost of maintaining such person in said hospital, at a rate determined by the commissioner of institutional service, from the date of the certification as aforesaid until finally removed therefrom, the same to be recovered in an action on the case. This section shall not apply to towns having less than 200 inhabitants. Towns of settlement incurring expense under the provisions of this section shall have the same rights to, and remedies for, reimbursement as those provided under the provisions of chapter 82.

Sec. 127. Superintendent may permit patient to temporarily leave institution. The superintendent of either hospital may permit any inmate, other than a person committed under the criminal sections, to leave such institution, temporarily, in charge of his guardian, relatives, friends, or by himself for a period not exceeding 6 months, and may receive him when returned by any such guardian, relatives, friends, or upon his own applica-

tion within such period, without further order of commitment, and the liability of the state, or of any person by bond given for the care, support, and treatment of such mentally ill person as originally committed, shall remain in full force and unimpaired upon the return of such person as if he had remained continuously in such hospital. The superintendent of either hospital with the approval of the department may on receipt of formal application in writing before the date of expiration of such leave of absence grant an extension of time for another 6 months.

In the event that any such inmate should fail to return to the institution at the time required by the superintendent, full power to retake and return such inmate is expressly conferred upon the superintendent, whose written order shall be a sufficient warrant authorizing any officer named therein to return such inmate to the institution.

Sec. 128. Discharge of patients. The superintendent may discharge anyone so far restored that his comfort and safety, and that of the public, no longer require his confinement; except in such cases where the patient has been transferred to said hospital from some penal or correctional institution, and the original sentence under which he or she was committed to such institution has not expired; in which cases the patient shall be returned to that institution to serve the remainder of the sentence according to the provisions of the law; and the superintendent may transfer to the care and custody of relatives or friends of the patient applying therefor, on conditions to be fixed by the superintendent any such patient not held under sentence whom it is satisfied will be properly cared for by the person making such application.

Any patient deemed by the superintendent not suitable for care in a mental hospital shall, upon the request of the superintendent, be removed forthwith from either state hospital by the person requesting his reception, and, if he is not so removed, such person shall be liable to the state for all reasonable expenses incurred on account of the patient.'