

# MAINE STATE LEGISLATURE

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LAWS  
OF THE  
STATE OF MAINE  
AS PASSED BY THE  
One Hundred and Sixth Legislature  
1ST SPECIAL SESSION  
JANUARY 2, 1974 TO MARCH 29, 1974  
AND BY THE  
One Hundred and Seventh Legislature  
REGULAR SESSION  
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN  
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,  
SECTION 164, SUBSECTION 6.

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THE KNOWLTON AND MCLEARY COMPANY  
FARMINGTON, MAINE  
1975

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PUBLIC LAWS  
OF THE  
STATE OF MAINE

AS PASSED BY THE  
One Hundred and Seventh Legislature

1975

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penses of custody thereof, shall be deposited in the State Treasury or the treasury of the appropriate political subdivision thereof to be expended as provided by law.

§ 3505. Recovery of property by owner or person entitled to possession; limitation

The owner or other person entitled to possession of such property may claim and recover possession of the property at any time before its sale at public auction, upon providing reasonable and satisfactory proof of ownership or right to possession and reimbursing the law enforcement agency and others authorized for all reasonable expenses for custody thereof.

§ 3506. Damages occasioned by acts or omissions

No person shall be responsible for subsequent damages to another occasioned by an act or omission in compliance with this chapter.

§ 3507. Property returned to finder

Any person may surrender property which he has found to a law enforcement agency. Such person shall be entitled to have such property surrendered to him if the owner thereof or other person entitled to possession thereof has not properly claimed the property within 6 months of its surrender to the law enforcement agency, provided such person who so surrendered the property reimburses the law enforcement agency and others authorized for reasonable expenses incurred in its custody of such property.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 23, 1975

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## CHAPTER 559

### AN ACT Amending Laws Relating to Hospitalization of the Mentally Ill.

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

Sec. 1. 4 MRSA § 157, as last amended by PL 1973, c. 788, § 6, is further amended by inserting after the 2nd sentence the following:

One of the judges at large shall have as his primary responsibility the conduct of proceedings pursuant to Title 34, section 2334.

Sec. 2. 15 MRSA § 2211-A, last sentence of the first ¶, as last amended by PL 1973, c. 716, § 1, is amended to read:

The application and certification shall be in accordance with the requirements of Title 34, section 2333 or 2333-A if applicable.

Sec. 3. 15 MRSA § 2211-A, last sentence of 2nd ¶, as last amended by PL 1973, c. 716, § 1, is further amended to read:

Except as otherwise specifically provided in this section, Title 34, chapter 191, subchapters I and III, except section 2373 shall be applicable to any such person as if the admission of such person were applied for under Title 34, section 2333 ~~or 2333-A if applicable.~~

Sec. 4. 15 MRSA § 2211-A, first sentence of the last ¶, as enacted by PL 1973, c. 716, § 2, is amended to read:

In addition to the authority given by this section to apply for the involuntary admission to a state hospital for the mentally ill of a person confined in the county jail, a person confined in a county jail, when such hospitalization is recommended by a licensed physician or licensed psychologist, shall be allowed to apply for informal admission to a state hospital for the mentally ill under Title 34, section 2290.

Sec. 4-A. 34 MRSA § 136-A, sub-§ 1, first 3 sentences, as last amended by PL 1973, c. 716, § 3, are further amended to read:

When the Warden of the Maine State Prison, Superintendent of the Men's Correctional Center, Women's Correctional Center, Boys Training Center or Stevens School believes that any person\* in any such institution is mentally ill, requiring hospitalization and meeting requirements for admission, he shall make application in accordance with sections 2333 ~~or 2333-A if applicable.~~ Any such person with respect to whom such application and certification are made may be admitted to either state hospital for the mentally ill. Except as otherwise specifically provided in this subsection, chapter 191, subchapters I and III, except section 2373, shall be applicable to any such person as if the admission of such person were applied for under section 2333 ~~or section 2333-A if applicable.~~

Sec. 5. 34 MRSA § 2251, sub-§ 8 is enacted to read:

8. Licensed psychologist. "Licensed psychologist" means an individual licensed under the laws of the State of Maine as a psychologist and who practices clinical psychology.

Sec. 6. 34 MRSA § 2332-A is enacted to read:

§ 2332-A. Emergency restraint and transportation

Any law enforcement officer in the State having reasonable grounds to believe, based upon his personal observation, that any person may be a mentally ill individual and that due thereto he presents a threat of imminent and substantial physical harm to himself or to other persons, may take such person into protective custody and, in any such case, shall deliver such person forthwith for examination by an available licensed physician or licensed psychologist as provided for in section 2333.

In the event that a certificate relating to the person's likelihood of serious harm shall not be executed by the examiner under section 2333, the officer shall release the person from protective custody, and, with the permission of such person, shall return this person forthwith either to his place of residence, if within the territorial jurisdiction of the officer, or to the place where such person was taken into protective custody; provided that, if such person is also then under arrest for a violation of law, he shall be retained in custody until released in accordance with the law. In the event that the examiner

shall execute the certificate provided for under section 2333, the officer having protective custody of the person examined shall have authority to detain him for as long as is necessary to obtain the endorsement by a judicial officer provided for under section 2333; provided that the officer shall undertake to secure such endorsement forthwith upon execution of the certificate by the examiner.

Costs of transportation furnished under this section shall be paid as are costs of transportation provided under section 2333.

Sec. 7. 34 MRSA § 2333, sub-§ 1, as last repealed and replaced by PL 1973, c. 716, § 6, is amended to read:

1. **Admission.** Any person may be admitted to a hospital upon:

**A. Application.** Written application which shall be made subject to the prohibitions and penalties of section 2259 to the hospital by any health officer or police officer or any other person stating his belief that the person is a mentally ill individual and, because of his illness, poses a likelihood of serious harm within the definition as contained in section 2251, subsection 7, paragraphs A ~~and B only~~, B, or C, and the grounds for that belief; and

**B. Certificate.** A dated certificate by a licensed physician or a licensed psychologist who practices clinical psychology that he has examined the person on the date of the certificate and is of the opinion that the person is a mentally ill individual and, because of his illness, poses a likelihood of serious harm within the definition as contained in section 2251, subsection 7, paragraphs A ~~and B only~~, B or C; provided, however, that the date of such ~~certificate examination~~ shall not be more than 3 days prior to the date of the application for admission to which it relates admission to the hospital. Such application and certificate, upon endorsement for such purpose by a judge of probate, a District Court Judge, a Superior Court Justice or a Complaint Justice, shall authorize any health or police officer to take the person whose admission is applied for into custody and transport him to a hospital as designated in the application. The county in which such person is found shall be responsible for any expenses of transportation pursuant to this section, including return if admission is declined.

Sec. 8. 34 MRSA § 2333, sub-§ 2, ¶ B, as last repealed and replaced by PL 1973, c. 716, § 6, is amended to read:

**B.** If the head of the hospital determines that admission of the patient as an informally admitted patient is not suitable, or if the patient declines admission as an informally admitted patient, the head of the hospital may apply to the District Court having territorial jurisdiction where the hospital is located, for the issuance of an order for hospitalization under section 2334 within 5 days from admission of the patient under this section, excluding in the computation of such time the date of admission and any Saturday, Sunday or legal holiday. ~~In the computation of this time, the day of admission shall not be counted and intermediate Saturdays, Sundays and legal holidays shall not be counted. If the 5th day falls on a Saturday, Sunday or legal holiday, the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.~~

Sec. 9. 34 MRSA § 2333-A, as enacted by PL 1973, c. 716, § 7, is repealed.

**Sec. 10.** 34 MRSA § 2334, first ¶, as last repealed and replaced by PL 1973, c. 716, § 8, is amended to read:

An application to the District Court filed pursuant to section 2333 ~~or 2333-A~~ shall be accompanied by a copy of the original emergency application, a copy of the physician's or psychologist's certificate and a statement showing that there is a likelihood of serious harm, as defined in section 2251, subsection 7, paragraph A, ~~or B or C if the patient is hospitalized under section 2333, or section 2251, subsection 7, paragraph C, if the patient is hospitalized under section 2333-A.~~ Each application shall be accompanied by a certificate of a licensed physician or a licensed psychologist who practices clinical psychology, which certificate shall contain a statement by the examiner that he has examined the patient and that it is his opinion that he is a mentally ill individual and, because of his illness, poses a likelihood of serious harm as defined in section 2251, subsection 7, paragraph A, ~~or B or C if the patient is hospitalized under section 2333, or section 2251, subsection 7, paragraph C, if the patient is hospitalized under section 2333-A.~~

**Sec. 11.** 34 MRSA § 2334, 4th ¶, as last repealed and replaced by PL 1973, c. 716, § 8, is amended to read:

Upon receipt of the application, the court shall forthwith cause the patient to be examined by 2 examiners, either of whom shall be either a licensed physician or a licensed psychologist who practices clinical psychology and one of whom, if reasonably available, shall be chosen by the patient or by his counsel; ~~neither examiner appointed by the court shall be the certifying examiner under section 2333 or under section 2372.~~

**Sec. 12.** 34 MRSA § 2334, 2nd sentence of the 5th ¶, as last repealed and replaced by PL 1973, c. 716, § 8, is amended to read:

If the report of the examiners is to the effect that the patient is not mentally ill or does not pose a likelihood of serious harm as defined in section 2251, subsection 7, paragraph A, ~~or B or C if the patient is hospitalized under section 2333 or paragraph C of subsection 7 of section 2251, if the patient is hospitalized under section 2333-A,~~ the application shall be dismissed and the patient shall be ordered discharged forthwith.

**Sec. 13.** 34 MRSA § 2334, 6th ¶, as last repealed and replaced by PL 1973, c. 716, § 8, is amended by inserting after the 3rd sentence the following new sentence:

In addition to proving that the patient is a mentally ill individual and poses a likelihood of serious harm as defined in section 2251, subsection 7, paragraphs A, B or C, the applicant is required to show that inpatient hospitalization is the means most appropriate for the treatment of such person. The applicant in each case shall submit to the court at the time of hearing testimony indicating the individualized treatment plan to be followed by the hospital staff in the event of commitment under this section. Any expense for witnesses for this purpose shall be borne by the applicant.

**Sec. 14.** 34 MRSA § 2334, 9th and 10th ¶¶, as last repealed and replaced by PL 1973, c. 716, § 8, are amended to read:

If, upon completion of the hearing and consideration of the record, the court finds by a preponderance of the evidence that the patient is mentally ill and because of his illness poses a likelihood of serious harm as defined in section 2251,

subsection 7, paragraphs A, B or C, and that inpatient hospitalization is the means most appropriate for treatment of the patient, and further, if the court is satisfied with the individualized treatment plan offered by the hospital, it shall so state in the record and it may order commitment on the basis thereof. ~~If application is made under section 2333, the court may find that the patient poses a likelihood of serious harm under paragraph C of subsection 7 of section 2251 and may order commitment on the basis thereof only if it also finds that at the time of admission to a hospital under section 2333, the patient then posed a likelihood of serious harm as defined in paragraph A or B of said subsection 7~~

~~The court shall consider all alternatives to commitment to a mental hospital, including continued residency in the community and outpatient treatment at a mental health facility.~~ The court may order commitment to a mental hospital for a period of not to exceed 4 months in the first instance, and not to exceed one year after the first and all subsequent rehearings, which order may issue immediately or the court may take the matter under advisement and issue the order within 2 business days of the court from the completion of the hearing; otherwise, it shall dismiss the application and the patient shall be ordered discharged forthwith.

**Sec. 15.** ~~34~~ MRSA § 2372, 2nd ¶, as amended by PL 1973, c. 716, § 9, is further amended to read:

The head of the hospital shall arrange for examination by a staff physician or clinical psychologist of every patient hospitalized pursuant to section 2333 ~~or 2333-A~~. The examiner shall not be the certifying examiner under section 2333 or under section 2334. If such an examination is not held within 24 hours after the time of admission, or if a staff physician or clinical psychologist fails or refuses after such examination to certify that in his opinion the patient is a mentally ill individual and due to his mental illness poses a likelihood of serious harm as defined in section 2251, subsection 7, paragraph A, ~~or B or C~~ ~~if the patient was admitted under section 2333 and under paragraph C~~ ~~if the patient was admitted under section 2333-A~~, the patient shall be immediately discharged.

Effective October 1, 1975

## CHAPTER 560

**AN ACT to Clarify the State Tax Assessor's Authority to Delegate Duties.**

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

**36** MRSA § 52, first sentence is amended to read:

The State Tax Assessor shall have the power to distribute the duties given to him or to the Bureau of Taxation among such persons or divisions in said bureau as he may deem necessary for economy and efficiency in administration and may add to or eliminate the number of such divisions and may employ such deputies, assistants and employees as may be necessary, subject to the Personnel Law.

Effective October 1, 1975