



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1434

H.P. 978

House of Representatives, May 27, 2015

**An Act To Amend the Laws Governing Law Enforcement's Access
to, and Access to Information about, Certain Persons in Hospitals
and Mental Health Facilities**

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

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

ROBERT B. HUNT
Clerk

Presented by Representative STETKIS of Canaan. (GOVERNOR'S BILL)

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

2 **Sec. 1. 19-A MRSA §4006, sub-§6**, as amended by PL 2009, c. 555, §§4 and 5,
3 is further amended to read:

4 **6. Service of order.** If the court issues a temporary order or orders emergency or
5 interim relief, the court shall order an appropriate law enforcement agency or, if the
6 defendant is present in the courthouse, a court security officer qualified pursuant to Title
7 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of
8 Corrections, the Department of Corrections to serve the defendant personally with the
9 order, the complaint and the summons. If the defendant is receiving treatment in a
10 hospital or in a mental health facility, the appropriate law enforcement agency seeking to
11 serve the defendant with the order may not be denied entry into the facility where the
12 defendant is receiving treatment. The court shall cause the order to be delivered to the
13 law enforcement agency, the court security officer or the correctional facility in which the
14 defendant is incarcerated as soon as practicable following the issuance of the order and
15 the law enforcement agency, court security officer or chief administrative officer of a
16 correctional facility or the chief administrative officer's designee shall make a good faith
17 effort to serve process expeditiously.

18 A. Notwithstanding any other provision of law, service of an order may be made
19 pursuant to this section through the use of electronically transmitted printed copies of
20 orders that have been transmitted directly from the court to the law enforcement
21 agency or correctional facility making service. Return of proof of service may be
22 made by electronic transmission of the proof of service directly to the court from the
23 law enforcement officer making service or the chief administrative officer, or the
24 chief administrative officer's designee, of the correctional facility making service.

25 B. In any subsequent criminal prosecution for violation of this section when the
26 service of an order was made through the use of an electronically transmitted printed
27 copy of the order, with 10 days' advance written notice to the prosecution, the
28 defendant may request that the prosecution call as a witness the law enforcement
29 officer who served the order or the chief administrative officer, or the chief
30 administrative officer's designee, of the correctional facility that served the order.

31 **Sec. 2. 22 MRSA §1711-C, sub-§6, ¶E-2** is enacted to read:

32 E-2. To federal, state or local governmental entities if the health care practitioner or
33 facility that is providing diagnosis, treatment or care to an individual has determined
34 in the exercise of sound professional judgment that the disclosure is mandated by
35 Title 34-B, section 1207, subsection 10;

36 **Sec. 3. 34-B MRSA §1207, sub-§10** is enacted to read:

37 **10. Duty to disclose release of person to law enforcement.** If a law enforcement
38 officer transports or causes to be transported to a hospital or mental health facility a
39 person who is in the custody of that law enforcement officer:

40 A. The hospital or mental health facility may not discharge that person from care
41 unless the person leaves in the custody of a licensed law enforcement officer; and

1 B. The hospital or mental health facility shall provide to that law enforcement officer
2 or the relevant law enforcement agency a report that includes, if known:

3 (1) The name, residence, sex and age of the person; and

4 (2) The date and time at which the person is scheduled to be discharged.

5 Hospitals and mental health facilities shall establish written policies to identify the
6 person or persons responsible for making the reports to law enforcement required
7 pursuant to this paragraph.

8 A hospital, mental health facility or other person who in good faith and without gross
9 negligence or willful or wanton misconduct makes a report required by this subsection,
10 effectuates the mandates of this subsection or cooperates in an investigation or a criminal
11 or judicial proceeding related to such mandates is immune from civil or criminal liability
12 or professional licensure action arising out of or related to the report and its contents or
13 the absence of information in the report or cooperation in an investigation or a criminal or
14 judicial proceeding.

15 SUMMARY

16 This bill provides:

17 1. That if a law enforcement officer transports or causes to be transported to a
18 hospital or mental health facility a person who is in the custody of that law enforcement
19 officer, the hospital or mental health facility may not discharge that person from care
20 unless the person leaves in the custody of a licensed law enforcement officer and the
21 hospital or mental health facility must provide to that law enforcement officer or the
22 relevant law enforcement agency a report that includes, if known, the name, residence,
23 sex and age of the person and the date and time at which the person is scheduled to be
24 discharged;

25 2. That law enforcement officers be given full access to hospitals and mental health
26 facilities in order to serve defendants with protection from abuse orders; and

27 3. That a hospital, mental health facility or other person who in good faith makes a
28 report, provides information or cooperates in an investigation in accordance with the
29 Maine Revised Statutes, Title 34-B, section 1207, subsection 10 is immune from civil or
30 criminal liability or professional licensure action arising out of that action or actions.