



128th MAINE LEGISLATURE

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Legislative Document

No. 1223

S.P. 414

In Senate, March 30, 2017

**An Act To Facilitate the Continued Operation of the Department of
Corrections Intensive Mental Health Unit**

(EMERGENCY)

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered
printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator ROSEN of Hancock.
Cosponsored by Representative LONGSTAFF of Waterville and
Representative: GERRISH of Lebanon.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation continues in effect certain laws relating to the Department
4 of Corrections that, if repealed before the expiration of the 90-day period as provided in
5 current law, would create significant difficulties in the administration of the Department
6 of Corrections; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

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

12 **Sec. 1. 34-A MRSA §1001, sub-§11-B,** as enacted by PL 2013, c. 434, §2, is
13 amended to read:

14 **11-B. Likelihood of serious harm.** "Likelihood of serious harm" means a:

15 A. Substantial risk of physical harm to a person, as manifested by that person's recent
16 threats of, or attempts at, suicide or serious self-inflicted harm;

17 B. Substantial risk of physical harm to other persons, as manifested by a person's
18 recent homicidal or other violent behavior or recent conduct placing others in
19 reasonable fear of serious physical harm; or

20 C. Reasonable certainty that a person will suffer severe physical or mental harm as
21 manifested by that person's recent behavior demonstrating an inability to avoid risk or
22 to protect the person's self adequately from impairment or injury.

23 ~~This subsection is repealed August 1, 2017.~~

24 **Sec. 2. 34-A MRSA §1001, sub-§12-A,** as enacted by PL 2013, c. 434, §3, is
25 amended to read:

26 **12-A. Person with mental illness.** "Person with mental illness" means a person who
27 has attained 18 years of age and has been diagnosed as having a psychiatric or other
28 illness that substantially impairs that person's mental health. An intellectual disability as
29 defined in Title 34-B, section 5001, subsection 3 or a personality disorder is not a
30 psychiatric or other illness for purposes of this subsection. ~~This subsection is repealed~~
31 ~~August 1, 2017.~~

32 **Sec. 3. 34-A MRSA §3049, sub-§8,** as enacted by PL 2013, c. 434, §4, is
33 repealed.

34 **Sec. 4. 34-A MRSA §3069-A, sub-§6,** as enacted by PL 2013, c. 434, §5, is
35 repealed.

36 **Sec. 5. 34-A MRSA §3069-B, sub-§6,** as enacted by PL 2013, c. 434, §6, is
37 repealed.

1 **Sec. 6. 34-B MRSA §1207, sub-§1, ¶B**, as repealed and replaced by PL 2015, c.
2 329, Pt. A, §21, is amended to read:

3 B. Information may be disclosed if necessary to carry out the statutory functions of
4 the department; the hospitalization provisions of chapter 3, subchapter 4; the
5 provisions of section 1931; the purposes of section 3608; the purposes of Title 5,
6 section 19506; the purposes of United States Public Law 99-319, dealing with the
7 investigatory function of the independent agency designated with advocacy and
8 investigatory functions under United States Public Law 88-164, Title I, Part C or
9 United States Public Law 99-319; the investigation and hearing pursuant to Title 15,
10 section 393, subsection 4-A; or the provision of mental health services by the
11 Department of Corrections pursuant to Title 34-A, section 3031, 3069-A or 3069-B.
12 ~~This paragraph is repealed August 1, 2017;~~

13 **Sec. 7. 34-B MRSA §1207, sub-§1, ¶B-3**, as amended by PL 2015, c. 329, Pt.
14 A, §22, is repealed.

15 **Emergency clause.** In view of the emergency cited in the preamble, this
16 legislation takes effect when approved.

17 **SUMMARY**

18 This bill removes the provisions of law that on August 1, 2017 repeal provisions
19 enacted in Public Law 2013, chapter 434 that enable the Department of Corrections to
20 establish an intensive mental health unit, which provides services to the department's
21 prisoners and to prisoners of jails, and that enable the department to obtain court orders
22 for the involuntary medication of prisoners with mental illness.