

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act Concerning the Examination of Persons in Protective Custody

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

Sec. 1. 34-B MRSA §3862, sub-§1, ¶B, as amended by PL 1999, c. 423, §4, is further amended to read:

B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination as provided in section 3863 or, for a person taken into protective custody who has an advance health care directive authorizing mental health treatment, for examination as provided in Title 18-A, section 5-802, subsection (d) to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective. ~~If the examination occurs in a hospital emergency room, the~~The examination may be performed by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist. ~~If the examination does not occur in a hospital emergency room, the examination may be performed only by a licensed physician or licensed clinical psychologist.~~

SUMMARY

Current law requires that a law enforcement officer who seeks to have a person involuntarily committed to a mental health hospital on an emergency basis must have that person examined by a licensed physician, a licensed clinical psychologist, a physician's assistant, a nurse practitioner or a certified psychiatric clinical nurse specialist for the purpose of determining whether that person poses a likelihood of serious harm. A related section of law says that this examination may be performed only by a licensed physician or a licensed clinical psychologist if the examination is performed outside a hospital emergency room. This bill allows the examination to be performed by any of the health care professionals authorized to conduct such examinations, whether the examination is performed in a hospital emergency room or elsewhere.