

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-ONE

H.P. 590 - L.D. 785

An Act To Change the Standard for Taking a Person into Protective Custody

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

Sec. 1. 34-B MRSA §3862, sub-§1, as amended by PL 2019, c. 411, Pt. C, §5 and affected by Pt. D, §3, is further amended to read:

1. Law enforcement officer's power. If a law enforcement officer has probable cause to believe that a person may be mentally ill and that due to that condition the person ~~presents a threat of imminent and substantial physical harm to that person or to other persons~~ poses a likelihood of serious harm as defined in section 3801, subsection 4-A, paragraph A, B or C, or if a law enforcement officer knows that a person has an advance health care directive authorizing mental health treatment and the officer has probable cause to believe that the person lacks capacity, the law enforcement officer:

A. May take the person into protective custody; and

B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination by a medical practitioner as provided in section 3862-A or 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-C, section 5-803, subsection 4 to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective.

When formulating probable cause, the law enforcement officer may rely upon information provided by a 3rd-party informant if the officer confirms that the informant has reason to believe, based upon the informant's recent personal observations of or conversations with a person, that the person may be mentally ill and that due to that condition the person ~~presents a threat of imminent and substantial physical harm to that person or to other persons~~ poses a likelihood of serious harm as defined in section 3801, subsection 4-A, paragraph A, B or C.