LAW WITHOUT GOVERNOR'S SIGNATURE

CHAPTER 377 PUBLIC LAW

JUNE 29, 2021

### **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  $\underline{C}$ , 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.

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.