

Following along on the line by line comments submitted on the prior amendment, this is how the current amendment compares:

34-B MRSA §3862(1)(B) Fixed this language which was a technical problem regarding examinations when a person has an advance directive.

34-B MRSA §3862(1)(B) Retained the changes in the first amendment regarding what a police officer can rely upon in formulating probable cause.

34-B MRSA §3863(1) Appears to have fixed the language about where the application is submitted.

34-B MRSA §3863(2) Retained the language in the first amendment that the blue paper certifying examiner's belief that someone has a mental illness and poses a likelihood of serious harm may be based upon personal observation OR upon history and information from other sources.

34-B MRSA §3863(7) Retained the language of the first amendment that removes from the requirement that the 24 hour certifying examiner be someone other than the examiner who signed the blue paper.

34-B MRSA §3864(4)(A) A new provision in this amendment is that it reduces the number of court appointed examiners from 2 to 1.

Retained the language of the first amendment that removes from the requirement that the independent examiner cannot be the same person who did the 24 hour examination or who signed the blue paper.

Retained the language in the first amendment that the blue paper examiner's belief that someone has a mental illness and poses a likelihood of serious harm may be based upon personal observation OR upon history and information from other sources.

34-B MRSA §3864(5)(A) A new provision is that it allows the court to continue the hearing up to 21 days upon a motion of any party or the court. Current law limits the continuance to 10 days on the commitment piece and only upon motion of a party. This would extend the time that a patient could be in a hospital without a judicial hearing from 27 to 29 days to 38 to 40.

34-B MRSA §3864(6)(C) Retains provision that a person can be simultaneously or alternatively committed to PTP.

34-B MRSA §3864(7) Removes the provision that would have allowed an ACT team to seek involuntary medication order.

34-B MRSA §3873-A(1) Still has no age requirement for admission to a PTP. This could affect children's ACT teams or limit a person between the ages of 18-21 to exercise their rights under Medicaid law to elect children's services.

Retains the provision that proposes changing current PTP law that requires that the court find that the person needs the treatment to one that would require the court simply to find it would help or make the person more safe

Removes the provision that would permit the application to include a request for involuntary medication.

34-B MRSA §3873-A(3) Notice of the hearing date is still a problem. It is done by mail by the court within 2 days of the filing of the application. The person may be living in the community and the address provided by the ACT team.

34-B MRSA §3873-A(4) New to this amendment, is that the court need only appoint one examiner instead of two.

34-B MRSA §3873-A(5) Changes the continuance period from 10 days to 21. If the person is in the community, this may not be a problem and would allow the individual more time to prepare for hearing.

34-B MRSA §3873-A(5)(c) Still retains the provision that would allow family members notified of the proceedings to present and cross examine witnesses.

34-B MRSA §3873-A(5)(F) Retained the provision that says the court is not bound by the terms of an advance directive.

34-B MRSA §3873-A(6) Changes the time for a commitment to 12 months from 6.

34-B MRSA §3873-A(6) Retained the very broad language that would permit the court to commit the person to any "outpatient facility" (not just ACT teams). Also says "with such restrictions and conditions as may be reasonable and necessary" to ensure compliance and this is unclear whether this is what the court finds reasonable and necessary and states those conditions or what the ACT team or facility finds reasonable and necessary.

It does include a reporting requirement that the department analyze data considering PTP participant in periods prior to, during and after the program. The report is due 1/1/12. There is no sunset provision. The problem could be that the department will not necessarily know when a person is committed. If a hospital or ACT team petitions and requests commitment to services other than an ACT team and then bills under services that are not reviewed by the ASO (such as outpatient services), the department may not know that the person was committed. Even if the person is committed to an ACT team, I do not know that the ASO is collecting information regarding legal status.