

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 928

H.P. 647

House of Representatives, February 22, 2005

**Resolve, To Establish the Commission To Study the Commitment
Process for Persons Adjudged Not Criminally Responsible**

(EMERGENCY)

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BARSTOW of Gorham.
Cosponsored by Senator HOBBS of York and
Representatives: BLANCHARD of Old Town, BLANCHETTE of Bangor, CLOUGH of
Scarborough, CUMMINGS of Portland, CURLEY of Scarborough, PELLETIER-SIMPSON of
Auburn, PERCY of Phippsburg, PINGREE of North Haven.

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

4
6 **Whereas,** the Commission to Study the Commitment Process for
Persons Adjudged Not Criminally Responsible is established; and

8 **Whereas,** the study must be initiated before the 90-day
period expires in order that the study may be completed and a
report submitted in time for submission to the next legislative
session; and

12 **Whereas,** in the judgment of the Legislature, these facts
14 create an emergency within the meaning of the Constitution of
Maine and require the following legislation as immediately
16 necessary for the preservation of the public peace, health and
safety; now, therefore, be it

18 **Sec. 1. Commission established. Resolved:** That the Commission
20 to Study the Commitment Process for Persons Adjudged Not
Criminally Responsible, referred to in this resolve as "the
22 commission," is established; and be it further

24 **Sec. 2. Commission membership. Resolved:** That the commission
consists of the following members:

26 1. Two Senators, appointed by the President of the Senate,
28 one of whom serves on the Joint Standing Committee on Criminal
Justice and Public Safety and one of whom serves on the Joint
30 Standing Committee on Health and Human Services;

32 2. Two members of the House of Representatives, appointed
by the Speaker of the House, one of whom serves on the Joint
34 Standing Committee on Criminal Justice and Public Safety and one
of whom serves on the Joint Standing Committee on Health and
36 Human Services;

38 3. The Commissioner of Health and Human Services, or the
commissioner's designee;

40 4. The Attorney General, or the Attorney General's designee;

42 5. The Commissioner of Public Safety, or the commissioner's
44 designee;

46 6. The Commissioner of Corrections, or the commissioner's
designee; and

48 7. One member representing the public interest, appointed
50 by the Governor; and be it further

2 **Sec. 3. Chairs. Resolved:** That the first-named Senate member
is the Senate chair of the commission and the first-named House
4 of Representatives member is the House chair of the commission;
and be it further

6 **Sec. 4. Appointments; convening of commission. Resolved:** That
all appointments must be made no later than 30 days following the
8 effective date of this resolve. The appointing authorities shall
notify the Executive Director of the Legislative Council once all
10 appointments have been completed. Within 15 days after
appointment of all members, the chairs shall call and convene the
12 first meeting of the commission; and be it further

14 **Sec. 5. Duties. Resolved:** That the commission shall review the
judicial and commitment process for persons who are adjudged not
16 criminally responsible by reason of insanity or mental disease or
defect. Specifically, the commission shall consider:

18 1. The typical length of time of institutional inpatient
20 residency for a person who is adjudged not criminally responsible
for the act of murder or manslaughter;

22 2. The relationship between the Department of Health and
24 Human Services and the Judicial Department concerning the custody
of persons adjudged not criminally responsible for the act of
26 murder or manslaughter; and

28 3. The adequacy of current psychiatric examination
requirements for the release or discharge of patients adjudged
30 not criminally responsible for the act of murder or manslaughter;
and be it further

32 **Sec. 6. Staff assistance. Resolved:** That, upon approval of the
34 Legislative Council, the Office of Policy and Legal Analysis
shall provide necessary staffing services to the commission; and
36 be it further

38 **Sec. 7. Compensation. Resolved:** That the legislative members
of the commission are entitled to receive the legislative per
40 diem, as defined in the Maine Revised Statutes, Title 3, section
2, and reimbursement for travel and other necessary expenses
42 related to their attendance at authorized meetings of the
commission. Public members not otherwise compensated by their
44 employers or other entities that they represent are entitled to
receive reimbursement of necessary expenses and, upon a
46 demonstration of financial hardship, a per diem equal to the
legislative per diem for their attendance at authorized meetings
48 of the commission; and be it further

2 **Sec. 8. Report. Resolved:** That, no later than November 2,
2005, the commission shall submit a report that includes its
4 findings and recommendations, including suggested legislation,
for presentation to the Second Regular Session of the 122nd
6 Legislature. The commission is authorized to introduce
legislation related to its report to the Second Regular Session
8 of the 122nd Legislature at the time of submission of its report;
and be it further

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Sec. 9. Extension. Resolved: That, if the commission requires
12 a limited extension of time to complete its study and make its
report, it may apply to the Legislative Council, which may grant
14 an extension; and be it further

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Sec. 10. Commission budget. Resolved: That the chairs of the
commission, with assistance from the commission staff, shall
18 administer the commission's budget. Within 10 days after its
first meeting, the commission shall present a work plan and
20 proposed budget to the Legislative Council for its approval. The
commission may not incur expenses that would result in the
22 commission's exceeding its approved budget. Upon request from
the commission, the Executive Director of the Legislative Council
24 shall promptly provide the commission chairs and staff with a
status report on the commission budget, expenditures incurred and
26 paid and available funds.

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Emergency clause. In view of the emergency cited in the
preamble, this resolve takes effect when approved.

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SUMMARY

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 This resolve creates the Commission to Study the Commitment
Process for Persons Adjudged Not Criminally Responsible.