

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1416

S.P. 562

In Senate, April 1, 2025

**An Act to Require the Department of Health and Human Services to  
Immediately Take Custody of Persons Sentenced to Mental Health  
Facilities That May Not Include County or Regional Jails**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read "D M Grant".

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator TALBOT ROSS of Cumberland.  
Cosponsored by Representative PERKINS of Dover-Foxcroft and  
Senators: BEEBE-CENTER of Knox, CYRWAY of Kennebec, HARRINGTON of York,  
MOORE of Washington, Representatives: ABDI of Lewiston, DAIGLE of Fort Kent,  
DEBRITO of Waterville, JAVNER of Chester.

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

2       **Sec. 1. 15 MRSA §101-D, sub-§4, ¶B**, as amended by PL 2023, c. 38, §1, is further  
3 amended to read:

4       B. Upon a determination by the State Forensic Service under paragraph A, a court  
5 having jurisdiction in a criminal case may commit the defendant to the custody of the  
6 Commissioner of Health and Human Services for immediate placement in an  
7 appropriate institution for the care and treatment of people with mental illness or in an  
8 appropriate residential program that provides care and treatment for persons who have  
9 intellectual disabilities or autism for observation for a period not to exceed 60 days. If  
10 the State Forensic Service requires additional time for observation, it shall  
11 communicate its request and the reasons for that request to the court and to counsel for  
12 the parties. The court shall accommodate a party's request to be heard on the issue of  
13 whether an extension should be granted and may extend the commitment for up to an  
14 additional 90 days. Unless the defendant objects, an order under this paragraph must  
15 authorize the institution or residential program where the defendant is placed by the  
16 Commissioner of Health and Human Services to provide treatment to the defendant.  
17 When further observation of the defendant is determined no longer necessary by the  
18 State Forensic Service, the Commissioner of Health and Human Services shall report  
19 that determination to the court and the court shall terminate the commitment. If the  
20 defendant is committed by the court to the custody of the Commissioner of Health and  
21 Human Services for observation under this paragraph, the State Forensic Service may  
22 release prior court-ordered evaluation reports pertaining to the pending charges, unless  
23 otherwise impounded, to each institution or residential program into which the  
24 Commissioner of Health and Human Services is considering placing the defendant and,  
25 following placement, to the institution or residential program into which the defendant  
26 is placed. If the defendant had been incarcerated prior to the commitment for  
27 observation and if, during the period of observation, the defendant presents a  
28 substantial risk of causing bodily injury to staff or others that cannot be managed in an  
29 appropriate institution for the care and treatment of people with mental illness or in an  
30 appropriate residential program that provides care and treatment for persons who have  
31 intellectual disabilities or autism, the Commissioner of Health and Human Services  
32 may return the defendant to ~~the~~ a state correctional facility but not to a county or  
33 regional jail. The Commissioner of Health and Human Services shall report the risk  
34 management issues to the court. Upon receiving the report, the court shall review the  
35 report and may enter any order authorized by this section, including termination of the  
36 commitment. For the purposes of this paragraph, "institution" and "residential  
37 program" do not include a county or regional jail.

38       **Sec. 2. 15 MRSA §101-D, sub-§5, ¶A**, as amended by PL 2021, c. 306, §1, is  
39 further amended to read:

40       A. Commit the defendant to the custody of the Commissioner of Health and Human  
41 Services for immediate placement in an appropriate program for observation, care and  
42 treatment of people with mental illness or persons with intellectual disabilities or  
43 autism. An appropriate program ~~may~~ must be in an institution for the care and  
44 treatment of people with mental illness, an intermediate care facility for persons who  
45 have intellectual disabilities or autism, a crisis stabilization unit, a nursing home, a

1 residential care facility, an assisted living facility, a hospice, a hospital, an intensive  
2 outpatient treatment program or any program specifically approved by the court, which  
3 may not include a county or regional jail. At the end of 30 days or sooner, and again  
4 in the event of recommitment, at the end of 60 days and 180 days, the State Forensic  
5 Service or other appropriate office of the Department of Health and Human Services  
6 shall forward a report to the Commissioner of Health and Human Services relative to  
7 the defendant's competence to stand trial and its reasons. The Commissioner of Health  
8 and Human Services shall without delay file the report with the court having  
9 jurisdiction of the case. The court shall hold a hearing on the question of the  
10 defendant's competence to stand trial and receive all relevant testimony bearing on the  
11 question. If the State Forensic Service's report or the report of another appropriate  
12 office of the Department of Health and Human Services to the court states that the  
13 defendant is either now competent or not restorable, the court shall within 30 days hold  
14 a hearing. If the court determines that the defendant is not competent to stand trial, but  
15 there does exist a substantial probability that the defendant will be competent to stand  
16 trial in the foreseeable future, the court shall recommit the defendant to the custody of  
17 the Commissioner of Health and Human Services for immediate placement in an  
18 appropriate program for observation, care and treatment of people with mental illness  
19 or persons with intellectual disabilities or autism. An appropriate program ~~may~~ must  
20 be in an institution for the care and treatment of people with mental illness, an  
21 intermediate care facility for persons who have intellectual disabilities or autism, a  
22 crisis stabilization unit, a nursing home, a residential care facility, an assisted living  
23 facility, a hospice, a hospital, an intensive outpatient treatment program or any program  
24 specifically approved by the court, which may not include a county or regional jail.  
25 When a person who has been evaluated on behalf of the court by the State Forensic  
26 Service or other appropriate office of the Department of Health and Human Services is  
27 committed into the custody of the Commissioner of Health and Human Services under  
28 this paragraph, the court shall order that the State Forensic Service or other appropriate  
29 office of the Department of Health and Human Services share any information that it  
30 has collected or generated with respect to the person with the institution or residential  
31 program in which the person is placed; or

32 **Sec. 3. 15 MRSA §101-D, sub-§10**, as enacted by PL 2021, c. 757, §1, is amended  
33 to read:

34 **10. Appropriate placement.** When a court commits the defendant to the custody of  
35 the Commissioner of Health and Human Services for placement in an appropriate  
36 institution for the care and treatment of persons with mental illness or in an appropriate  
37 residential program that provides care and treatment for persons who have intellectual  
38 disabilities or autism as set forth in subsection 4 or 5, the transfer of the defendant must  
39 take place within 30 days from the time the order is transmitted to the State Forensic  
40 Service, unless an extraordinary circumstance causes a necessary delay. The Commissioner  
41 of Health and Human Services shall notify the court of the extraordinary circumstance  
42 causing a delay.

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## **SUMMARY**

This bill requires that when a court commits a defendant to the Commissioner of Health and Human Services for placement in an appropriate mental health institution, that placement must be immediate and may not be in a county or regional jail.