

MAINE STATE LEGISLATURE

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STATE OF MAINE
SENATE
103rd LEGISLATURE

COMMITTEE AMENDMENT "A" to S. P. 361, L. D. 965, Bill, "An Act Relating to Competence to Stand Trial and Release of Persons Found Not Guilty by Reason of Mental Disease or Defect."

Amend said Bill in section 1 by striking out in the 10th line (8th line in L. D. 965) the striken out words "~~provided-that-the respondent-does-not-object,~~" and inserting in place thereof the words and punctuation 'provided that the respondent does not object,'

Further amend said Bill in section 1 by striking out in the next to last line before subsection 1 of "Sec. 101." (Same in L. D. 965) the underlined punctuation and words ", or any justice thereof in vacation," and by striking out in the 4th line from the end of subsection 1 (3rd and 4th lines in L. D. 965) the underlined punctuation and words ", or any justice thereof in vacation,"

Further amend said Bill in section 1 by striking out all of subsection 2 and the following paragraph of "§101." and inserting in place thereof the following:

'2. Bail. Except in the case of a defendant who is charged with the commission of an offense, the only punishment for which is life imprisonment, order the defendant's release on bail, with or without the further order that the defendant undergo observation at a state mental hospital or mental health clinic of the Department of Mental Health and Corrections, or by arrangement with a private

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(Filing No. S-217)

psychiatrist, and treatment when it is deemed appropriate by the head of the hospital or clinic or by the private psychiatrist.

When such outpatient observation and treatment is ordered, the head of the hospital or clinic or the psychiatrist shall, within the time specified by the court, forward a report to the court, containing the opinion of the head of the hospital or clinic or of the psychiatrist, relative to the defendant's competence to stand trial and his reasons therefor. If it is made to appear by the report of the head of the hospital or clinic or of the psychiatrist that the defendant is competent to stand trial, the court shall forthwith set a date for, and shall hold, a hearing on the question of the defendant's competence to stand trial and shall receive all relevant testimony bearing on the question. If it is made to appear to the court by the report of the head of the hospital or clinic or of the psychiatrist, that the defendant is not competent to stand trial, the court may order continued outpatient observation and treatment for a definite or indefinite period of time, or may commit the defendant to the custody of the Commissioner of Mental Health and Corrections, as provided in this section.

The defendant may, not less than 60 days following release on bail or commitment, petition the court having jurisdiction of the case for a rehearing to determine his competence to stand trial. Upon receipt of the petition, the court shall set a date for, and shall hold, a hearing on the question of the defendant's competence

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(Filing No. S-217)

to stand trial and shall receive all relevant testimony bearing on the question.'

Further amend said Bill in section 2 by striking out the last 3 sentences of the first paragraph of that part designated "§104." and inserting in place thereof the following: 'The commissioner shall forthwith file such report with the court in the county in which the person is hospitalized. The court shall review the report and if it is made to appear by the report that any such person may be ready for release, the court shall set a date for, and hold a hearing on the question of such person's readiness for release, and shall receive the testimony of at least one psychiatrist who has observed or treated such person and any other relevant testimony. If, after hearing, the court finds that such person may be released without danger to the public within the foreseeable future, due to mental disease or, if committed therefor, mental defect, the court shall order the unconditional release of such person or in the court's discretion release, subject to conditions deemed appropriate and necessary, which may include outpatient treatment to continue until it is made to appear to the court that such treatment is no longer necessary, to be then terminated by the court's order, and supervision for one year by the State Probation and Parole Board, which supervision upon review by the court at the end of one year may be extended for one year.'

Further amend said Bill in section 2 by striking out in the 4th line of the 2nd paragraph of that part designated "§104."

(OVER) *(Filing No. S-217)*

(3rd line in L. D. 965) the underlined punctuation and words ", or any justice thereof in vacation," and by striking out all of the 4th paragraph and inserting in place thereof the following:

'Notice of any hearing under this section shall be given to the county attorney or Attorney General at least 14 days before the hearing date.' and by striking out in the 3rd and 4th lines of the next to last paragraph (3rd line in L.D. 965) the underlined words and punctuation "or justice thereof in vacation,'

Further amend said Bill by inserting before the emergency clause the following:

'Sec. 3. R. S., T. 15, §105, additional. Title 15 of the Revised Statutes is amended by adding a new section 105, to read as follows:

§105. Authority to receive persons for observation committed by the United States District Court

The Commissioner of Mental Health and Corrections may, in cases deemed appropriate by him, upon request of the Judge of the United States District Court for the District of Maine, authorize the superintendent of the Augusta State Hospital, Bangor State Hospital or Pineland Hospital and Training Center, whichever institution is suited to the particular case, to receive for observation persons committed by the Judge of the United States District Court for the District of Maine under Title 18, U.S.C., §4244; provided that in each case a court-ordered preliminary examination shall have indicated the apparent need for further observation.

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(Filing No. S-217)

In each case of admission for observation under this section, the Commissioner of Mental Health and Corrections is authorized to contract with the proper authorities of the United States for the support of the person so admitted, during the period of observation.'

Reported by the Committee on JUDICIARY.

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(Filing No. S-217)

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