

MAINE STATE LEGISLATURE

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ONE HUNDRED AND FOURTH LEGISLATURE

Legislative Document

No. 782

H. P. 601

House of Representatives, February 12, 1969

Referred to Committee on Judiciary. Sent up for concurrence and 1,000 ordered printed.

BERTHA W. JOHNSON, Clerk

Presented by Mr. Heselton of Gardiner.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-NINE

AN ACT Relating to Release of Persons Found Not Guilty of Crime by Reason of Mental Disease or Mental Defect.

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

R. S., T. 15, § 104, repealed and replaced. Section 104 of Title 15 of the Revised Statutes, as repealed and replaced by section 2 of chapter 402 of the public laws of 1967, is repealed and the following enacted in place thereof:

§ 104. Conditional or unconditional release

The superintendent of the hospital in which a person is hospitalized under section 103, shall, annually, forward to the Commissioner of Mental Health and Corrections a report containing the opinion of the superintendent or hospital staff psychiatrist, as to the condition of any such person and his readiness for release, which opinion in the case of a person found not guilty of crime by reason of mental disease shall indicate whether such person is, or is not, restored sufficiently to permit release without danger to the public within the foreseeable future, due to mental disease, and in the case of a person found not guilty of crime by reason of mental defect shall indicate whether such person is, or is not, adjusted, socially and otherwise, so as to permit release without danger to the public within the foreseeable future, due to mental defect. The commissioner shall forthwith file such report with the court in which the person was tried. 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 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 may include 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.

Whenever, in the opinion of the superintendent or staff psychiatrist of the hospital in which a person is hospitalized under section 103, such person may be released without danger to the public within the foreseeable future due to mental disease or mental defect, the superintendent shall report such opinion and the reasons therefor, to the Commissioner of Mental Health and Corrections. The commissioner shall forthwith forward the report to the court in which the person was tried and the court shall hold a hearing and dispose of the matter as provided in the first paragraph of this section.

A person committed under section 103, or his spouse or any next of kin, may petition the court in which he was tried for a hearing under this section. Upon receiving such petition the court shall request and receive a report from the Commissioner of Mental Health and Corrections containing the opinion of the superintendent or staff psychiatrist of the hospital in which such person is hospitalized, relative to the readiness of such person for release and whether his release would be dangerous to the public within the foreseeable future, due to mental disease or mental defect. The hearing and release, if ordered, shall be as provided in the first paragraph of this section. If release is not ordered, a petition shall not again be filed for the release of such person for one year.

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.

When, upon hearing, a person who has been conditionally released is found to be suffering from a mental disease or mental defect, so as to endanger the public, the court in which he was tried, may by order, stating the fact of such mental disease or mental defect, recommit him to the custody of the Commissioner of Mental Health and Corrections for placement as provided in section 103.