

# MAINE STATE LEGISLATURE

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

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

**R. S., T. 15, repealed and replaced.** Section 104 of Title 15 of the Revised Statutes, as amended by chapter 376 and section 24-E of chapter 504, both of the public laws of 1969, is repealed and the following enacted in place thereof :

**§ 104. Release and discharge**

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 or discharge, 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 or discharge without likelihood of his causing injury to himself or others, 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 or discharge without likelihood of his causing injury to himself or others, due to mental defect. 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 or discharge, the court shall set a date for, and hold a hearing on the question of such person's readiness for release or discharge, 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 or discharged without likelihood of his causing injury to himself or others, due to mental disease or mental defect, the court shall order :

**1. Release.**

**A.** Continuing residency at the institution in which hospitalized and participation off the grounds thereof in any therapeutic program considered appropriate by the institution. Discontinuance or modification of any such program shall be subject to the discretion of the institution head, or

**B.** Separation from the institution subject to conditions deemed appropriate by the court, not limited to, but which may include, outpatient treatment to continue until terminated by the court, subject to annual review by the court, and which may include supervision for one year by the State Probation and Parole Division, which supervision, upon review by the court at the end of the year may be extended for one year.

**2. Discharge.** Discharged from the custody of the Commissioner of Mental Health and Corrections.

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 or discharged without likelihood of his causing injury to himself or others, 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 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 the county in which the person is hospitalized 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 or discharge, and whether if released or discharged, the patient would be likely to cause injury to himself or others, due to mental disease or mental defect. The hearing and release or discharge, if ordered, shall be as provided in the first paragraph of this section. If release or discharge is not ordered, a petition shall not again be filed for the release or discharge of such person for one year.

Notice of any hearing under this section shall be given to the county attorney and Attorney General at least 14 days before the hearing date.

When, upon hearing, a person who has been released under subsection 1, paragraph B, is found to be suffering from a mental disease or mental defect, and due thereto, is likely to cause injury to himself or others, 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.

Any person released under this section, or his spouse or next of kin, may, at any time after one year, petition the court for his discharge under this section. The court after hearing may make any disposition provided for in this section. Following such hearing a petition shall not again be brought for one year.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.