

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 225

H. P. 170

House of Representatives, January 16, 1975

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

EDWIN H. PERT, Clerk

Presented by Mr. Goodwin of South Berwick.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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**AN ACT to Clarify the Laws Relating to Superior Court Commitment of  
Mentally Disordered Persons.**

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

Sec. 1. 15 MRSA, § 101, next to last sentence of the 2nd ¶ is amended to read:

Said justice shall then order the person returned to the appropriate court for disposition; however, if the justice ordering commitment for observation has provided for remand to the county jail following completion of the observation in the commitment order, the sheriff or any one or more of his deputies shall execute the remand order upon advice from the commissioner of completion of the observation.

Sec. 2. 15 MRSA, § 101, sub-§ 1, 6th sentence, as last repealed and replaced by PL 1973, c. 547, § 2, is amended to read:

If the court determines that the defendant is not competent to stand trial but there does exist a substantial probability that the defendant will be competent to stand trial in the foreseeable future, it shall recommit the defendant to the custody of the Commissioner of Mental Health and Corrections to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment.

Sec. 3. 15 MRSA, § 104, the first and 5th sentences, as repealed and replaced by PL 1973, c. 243, are amended to read:

The head of the institution in which a person is placed under section 103 shall, annually, forward to the Commissioner of Mental Health and Correc-

tions a report containing the opinion of a staff psychiatrist or clinical psychologist as to the mental condition of such person, stating specifically whether he may be released or discharged without likelihood that he will cause injury to himself or to others due to mental disease or mental defect. At the hearing, the court shall receive the testimony of at least one psychiatrist or clinical psychologist who has observed or treated such person and any other relevant testimony.

**Sec. 4.** 15 MRSA, § 104, last sentence of 2nd ¶, as last repealed and replaced by PL 1973, c. 243, is amended to read:

The nature and scope of the treatment program of persons hospitalized under section 103 preceding release, ~~including the grant of trial visits not exceeding 14 days at any one time~~ which shall be subject in each case to biweekly on-site hospital staff review, shall be determined by the professional hospital staff designated for such purpose by the superintendent.

**Sec. 5.** 15 MRSA, § 104, 3rd ¶, as last repealed and replaced by PL 1973, c. 243, is amended to read:

A report shall be forwarded and filed and hearings shall be held in accordance with the first paragraph of this section without unnecessary delay when, at any time, it is the opinion of a staff psychiatrist or clinical psychologist that a patient hospitalized under section 103 may be released or discharged without likelihood that he will cause injury to himself or to others due to mental disease or mental defect.

**Sec. 6.** 15 MRSA, § 104, 4th and 5th sentences of the 5th ¶, as last repealed and replaced by PL 1973, c. 243, are amended to read:

The psychiatrist or clinical psychologist responsible for such observation and treatment, if any, shall report to the court prior to such hearing as to the mental condition of such person, indicating specifically whether such person can remain in the community without likelihood that he will cause injury to himself or others due to mental disease or mental defect. The court shall receive the testimony of a psychiatrist or clinical psychologist who observed or treated such person during the period of detention and any other relevant testimony.

#### STATEMENT OF FACT

This bill clarifies Title 15, section 101 to refer specifically to built-in remand orders and orders of commitment for observation, thus specifically recognizing the same and enabling a conservation of judicial and administrative time.

Title 15, section 101 is also amended to correct an omission relating to the authority to provide care and treatment following a commitment after hearing on the question of incompetence to stand trial.

Title 15, section 104 is amended in several places to permit reporting by and testimony of clinical psychologists in connection with release and discharge hearings. This change makes section 104 consistent with section 101 of Title 15 wherein the expertise of clinical psychologists is already recognized for the purposes of pretrial examination and observation.