

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
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3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
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5 Legislative Document

No. 579

6  
7 H.P. 482

House of Representatives, February 7, 1983

8 Received by the Clerk of the House on February 7, 1983. Referred to the  
9 Committee on Judiciary and ordered printed pursuant to Joint Rule 14.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Lewis of Auburn.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT Relating to Insanity as a Defense  
18 in Criminal Proceedings.  
19

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

22 Sec. 1. 15 MRSA §103, as amended by PL 1981, c.  
23 493, is repealed.

24 Sec. 2. 15 MRSA §104-A, as enacted by PL 1979,  
25 c. 663, §86, is repealed.

26 Sec. 3. 17-A MRSA §§39 and 40, as enacted by PL  
27 1981, c. 324, §14, are repealed.

28 Sec. 4. 17-A MRSA c. 48 is enacted to read:

29 CHAPTER 48

30 MENTAL DISEASE OR DEFECT

1     §1171. Definitions

2             As used in this chapter, "mental disease or  
3 defect" means any abnormal conditions of the mind  
4 which substantially affect mental or emotional pro-  
5 cesses and substantially impairs the processes and  
6 capacity of a person to control his actions. An ab-  
7 normality manifested only by repeated criminal con-  
8 duct or excessive use of alcohol, drugs or similar  
9 substances, in and of itself, does not constitute a  
10 mental disease or defect.

11     §1172. Mental condition not a defense; treatment  
12             during incarceration; evidence

13             1. Mental disease or defect not a defense.  
14 Mental disease or defect shall not be a defense to  
15 any charge of criminal conduct.

16             2. Treatment during incarceration. If the court  
17 finds that a person convicted of a crime suffers from  
18 mental disease or defect requiring treatment, the  
19 person shall be committed to the Department of Mental  
20 Health and Mental Retardation for placement in an  
21 appropriate facility for treatment, taking into con-  
22 sideration such conditions of security as the case  
23 may require. In the event that a term of imprison-  
24 ment has been imposed, the defendant shall receive  
25 treatment in a facility which provides for incarceration  
26 or less restrictive confinement. If a course  
27 of treatment is concluded prior to the expiration of  
28 the term of imprisonment imposed, the defendant shall  
29 remain liable for the remainder of that term of  
30 imprisonment, but shall receive credit for the time  
31 incarcerated for treatment.

32             3. Evidence. Nothing in this section is  
33 intended to prevent the admission of expert evidence  
34 concerning any state of mind which is an element of a  
35 crime, subject to the Maine Rules of Evidence.

36     §1173. Examination of defendant for evidence of  
37             mental disease or defect

38             If there is reason to believe that the mental  
39 condition of the defendant will be a significant  
40 factor at sentencing and for good cause shown, the

1 court shall order an examination pursuant to Title  
2 15, section 101.

3 §1174. Consideration of mental disease or defect in  
4 sentencing

5 1. Factors to be considered. Evidence of mental  
6 disease or defect shall be received, or offered, at  
7 the time of sentencing of any person convicted of a  
8 crime. In determining the sentence to be imposed in  
9 addition to other criteria provided by law, if the  
10 defendant's mental disease or defect is a significant  
11 factor, the court shall consider such factors as:

12 A. The extent to which the defendant is mentally  
13 ill;

14 B. The degree of mental disease or defect and  
15 level of functional impairment;

16 C. The prognosis for improvement or rehabilita-  
17 tion;

18 D. The availability of treatment and level of  
19 care required;

20 E. Any risk of danger which the defendant may  
21 create for the public, if at large, or the ab-  
22 sence of that risk; and

23 F. The capacity of the defendant to appreciate  
24 the wrongfulness of his conduct and to conform  
25 his conduct to the requirements of law at the  
26 time of the crime charged.

27 2. Authorization of treatment. The court shall  
28 authorize treatment during the period of confinement  
29 or probation specified in the sentence if, after the  
30 sentencing hearing, it concludes by clear and con-  
31 vincing evidence that:

32 A. The defendant suffers from a severe and  
33 reliably diagnosable mental disease or defect  
34 resulting in his inability to appreciate the  
35 wrongfulness of his conduct or to conform his  
36 conduct to the requirements of law;

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B. Without treatment, the immediate prognosis is for major distress resulting in serious mental or physical deterioration of the defendant;

C. Treatment is available for that illness or defect; and

D. The relative risks and benefits of treatment or nontreatment are such that a reasonable person would consent to treatment.

3. Sentence. In addition to the authorization of treatment, the court shall pronounce sentence as provided by law.

STATEMENT OF FACT

The purpose of this bill is to revise the insanity defense to eliminate the plea of "not guilty by reason of mental disease or defect."

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