

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

Legislative Document

No. 581

H.P. 484 House of Representatives, February 7, 1983

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

EDWIN H. PERT, Clerk

Presented by Representative Nelson of Portland.

STATE OF MAINE

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

AN ACT Concerning the Plea of Innocent
by Reason of Insanity.

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

Sec. 1. 15 MRSA §103, as amended by PL 1981, c. 493, is repealed.

Sec. 2. 15 MRSA §104-A, as enacted by PL 1979, c. 663, §86, is repealed.

Sec. 3. 17-A MRSA §§39 and 40, as enacted by PL 1981, c. 324, §14, are repealed.

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

CHAPTER 48

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;

