

# MAINE STATE LEGISLATURE

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1 (EMERGENCY)  
2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE  
5

6 Legislative Document

No. 90

8 H.P. 69

House of Representatives, January 16, 1985

9 Submitted by the Department of Mental Health and Mental Retardation  
10 pursuant to Joint Rule 24.

11 Reference to the Committee on Human Resources suggested and ordered  
printed.

EDWIN H. PERT, Clerk

Presented by Representative Melendy of Rockland.

12 Cosponsored by Representative Paradis of Augusta, Representative  
Kimball of Buxton and Senator Bustin of Kennebec.

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-FIVE  
17

18 AN ACT Concerning Persons on Partial Release  
19 from a Mental Health Institution.  
20

21 Emergency preamble. Whereas, Acts of the Legis-  
22 lature do not become effective until 90 days after  
23 adjournment unless enacted as emergencies; and

24 Whereas, failure to comply with the conditions of  
25 release ordered by the court may increase the risk of  
26 danger of injury to the person or others due to men-  
27 tal disease or defect; and

28 Whereas, current law does not provide for emer-  
29 gency return of persons acquitted by reason of insan-  
30 ity who are released by the court, or set forth stan-  
31 dards to be used by the court in ordering  
32 rehospitization; and

33 Whereas, in the judgment of the Legislature,  
34 these facts create an emergency within the meaning of  
35 the Constitution of Maine and require the following

1 legislation as immediately necessary for the preser-  
2 vation of the public peace, health and safety; now,  
3 therefore,

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

6 Sec. 1. 15 MRSA §104-A, 4th ¶, as enacted by PL  
7 1979, c. 663, §86, is amended to read:

8 Any person released under subsection 1, paragraph  
9 A, who fails to comply with the conditions of release  
10 ordered by the court or whose rehospitalization, due  
11 to the likelihood that he will cause injury to him-  
12 self or others due to mental disease or mental de-  
13 fect, is considered necessary, upon the verified pe-  
14 tition of any interested person, may be brought be-  
15 fore any Justice of the Superior Court upon his or-  
16 der. In each case, hearing shall be held for the pur-  
17 pose of reviewing the mental condition of the person  
18 and the order for release. The court may order the  
19 person detained for observation and treatment, if ap-  
20 propriate, at the hospital from which he was released  
21 pending the hearing, which detention shall not exceed  
22 14 days. The psychiatrist responsible for the obser-  
23 vation and treatment, if any, shall report to the  
24 court prior to the hearing as to the mental condition  
25 of the person, indicating specifically whether the  
26 person can remain in the community without likeli-  
27 hood that he will cause injury to himself or others  
28 due to mental disease or mental defect. The court  
29 shall receive the testimony of a psychiatrist who ob-  
30 served or treated the person during the period of de-  
31 tention and any other relevant testimony. Following  
32 hearing, the court may reissue, modify or rescind the  
33 previous order of release. Any person released under  
34 subsection 1, paragraph A may be admitted to a hospi-  
35 tal under any provisions of Title 34, chapter 191  
36 while the order for release is in effect.

37 Sec. 2. 15 MRSA §104-B, as amended by PL 1981,  
38 c. 493, §2, is further amended to read:

39 §104-B. Failure of patient to return

If any patient committed to the Department of Mental Health and Mental Retardation for care and treatment under section 103 or 105 fails to return to the hospital institution from a community visit release or modified release treatment authorized under section 104 when requested to do so, by the superintendent or his designee of the institution in which he was placed, or fails to comply with the conditions of a release or modified release treatment program authorized under section 104-A, law enforcement personnel of the State or of any of its subdivisions may, upon request of the superintendent or his designee, assist in the return of the patient to the mental ~~hospital~~ institution.

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

## STATEMENT OF FACT

Currently, persons found not guilty by reason of mental disease or defect may be released from a mental health institute subject to certain conditions. Current statute requires the use of civil commitment procedures in an emergency in order to return such individuals to the institution, and does not set forth the conditions for return or the standards to be used by the court in determining whether to order detention once a verified petition has been filed. Section 1 eliminates the use of civil commitment procedures in these cases because these individuals are already in the custody of the commissioner for treatment. Section 2 of the bill provides for an emergency return to the institution from which the person was released, the conditions for such return and makes the treatment of such persons released from a mental health institute consistent with that of persons who have been granted modified release treatment from a mental health institute.

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