

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. 370

7
8 S.P. 130

In Senate, February 1, 1985

9 Reference to the Committee on Judiciary suggested and ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

11 Presented by Senator Tuttle of York.

Cosponsored by Representative Carrier of Westbrook, Senator Webster of Franklin and Representative Paradis of Old Town.

12
13 STATE OF MAINE
14

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

18 AN ACT to Establish a Commission to Study the
19 Defense of Insanity and Treatment of
20 Persons Adjudged not Guilty by Reason
21 of Insanity.
22

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

26 Whereas, the defense of insanity in criminal
27 cases and the treatment of persons found not guilty
28 by reason of insanity are issues of fundamental im-
29 portance to the people of the State; and

30 Whereas, the defense of insanity has been or is
31 being reexamined by a large number of states; and

32 Whereas, certain states have abolished the ver-
33 dict of not guilty by reason of insanity, limited its
34 application or enacted in its place a verdict of
35 "guilty but insane;" and

1 Whereas, the release of persons found not guilty
2 by reason of insanity is predicated by statute on the
3 likelihood of future dangerousness while the American
4 Psychiatric Association has formally and expressly
5 disavowed any expertise on the part of psychiatry in
6 predicting future dangerousness; and

7 Whereas, the testimony of the mental health pro-
8 fessional at both criminal trials and release hear-
9 ings has in some cases gone beyond the scope allowed
10 by the Maine Rules of Evidence; and

11 Whereas, in the judgment of the Legislature,
12 these facts create an emergency within the meaning of
13 the Constitution of Maine and require the following
14 legislation as immediately necessary for the preser-
15 vation of the public peace, health and safety; now,
16 therefore,

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

19 **Sec. 1. Study commission created.** There is estab-
20 lished the Commission to Study the Defense of Insani-
21 ty and the Treatment of Persons adjudged not Guilty
22 by Reason of Insanity.

23 **Sec. 2. Appointment.** The commission shall consist
24 of 11 members, as follows: Two Senators appointed by
25 the President of the Senate; 2 Representatives ap-
26 pointed by the Speaker of the House of Representa-
27 tives; and 4 attorneys, 2 with substantial
28 prosecutorial experience and 2 with substantial crim-
29 inal defense experience, appointed by the Attorney
30 General; one psychiatrist and one psychologist, both
31 with substantial experience in evaluating persons as-
32serting the defense of insanity and in treating per-
33 sons adjudged not guilty by reason of insanity, ap-
34 pointed by the Commissioner of Mental Health and Men-
35 tal Retardation; and the Commissioner of Mental
36 Health and Mental Retardation or his designee. The
37 commission shall choose a chairman from among its
38 members.

39 **Sec. 3. Duties.** The commission shall undertake a
40 complete study of the defense of insanity and the

1 treatment of persons adjudged not guilty by reason of
2 insanity with particular attention to:

3 1. Whether the current statutes governing the in-
4 sanity defense adequately protect society from dan-
5 gerous persons;

6 2. Whether the current statutes governing the in-
7 sanity defense adequately protect the constitutional
8 rights of criminal defendants;

9 3. Whether the Revised Statutes, Title 17-A, sec-
10 tion 40, should be amended to abolish or change the
11 2-stage trial procedure for the jury's consideration
12 of guilt and insanity;

13 4. Whether the statutes and decisions of the Law
14 Court governing the commitment, treatment and release
15 of persons adjudged not guilty by reason of insanity:

16 A. Adequately protect society from dangerous per-
17 sons; and

18 B. Adequately protect the constitutional rights
19 of those adjudged not guilty by reason of insani-
20 ty;

21 5. Whether the procedures for committing, treat-
22 ing and releasing persons adjudged not guilty by rea-
23 son of insanity should be amended; and

24 6. The extent to which the testimony of competent
25 psychiatrists and psychologists should be allowed in
26 criminal proceedings.

27 **Sec. 4. Reports.** The commission shall present its
28 findings, together with any recommended legislation,
29 to the Second Regular Session of the 112th Legisla-
30 ture.

31 **Sec. 5. Assistance.** The Office of Legislative As-
32 sistants shall provide assistance to the commission
33 in carrying out its duties.

34 **Sec. 6. Appropriation.** The following funds are
35 appropriated from the General Fund to carry out the
36 purposes of this Act.

1
2 COMMISSION TO STUDY THE DEFENSE OF
3 INSANITY AND THE TREATMENT OF PERSONS

4 All Other \$2,500

5 **Emergency clause.** In view of the emergency cited
6 in the preamble, this Act shall take effect when ap-
7 proved.

8 STATEMENT OF FACT

9 This bill establishes the Commission to Study the
10 Defense of Insanity and the Treatment of Persons ad-
11 judged not Guilty by Reason of Insanity.

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