

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1786

7 S.P. 701

In Senate, January 9, 1986

8 Approved for introduction by a majority of the Legislative Council
9 pursuant to Joint Rule 26.

Reference to the Committee on Judiciary suggested and ordered printed.

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

Presented by Senator Trafton of Androscoggin.

11 Cosponsored by Representative Warren of Scarborough.

12 STATE OF MAINE
13

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

17 AN ACT Concerning Mental Examination of
18 Incarcerated Persons Accused of Crime.
19

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

22 Sec. 1. 15 MRSA §101, first ¶, as amended by PL
23 1983, c. 580, §2, is further amended to read;

24 The District Court or the Superior Court having
25 jurisdiction in any criminal case for cause shown may
26 order the defendant examined to determine his mental
27 condition with reference to the issues of criminal
28 responsibility and competence to stand trial. The
29 examination may be conducted at the Augusta Mental
30 Health Institute, Bangor Mental Health Institute,
31 Pineland Center or at a mental health clinic of, or
32 recommended by, the Department of Mental Health and
33 Mental Retardation, and when conducted at any such
34 facility shall be the responsibility of a psychia-
35 trist or of a licensed clinical psychologist, who may
36 join with him in such examination other psychiatrists

1 or licensed clinical psychologists, as in his opinion
2 are required. The examination may be conducted by a
3 psychiatrist or licensed clinical psychologist inde-
4 pendent from any such facility, employed for such
5 purpose by the court. The court in selecting the ex-
6 amination site shall consider proximity to the court,
7 availability of an examiner or examiners, and the ne-
8 cessity for security precautions. No person may be
9 presented for examination under this paragraph with-
10 out arrangements therefor with the head of the insti-
11 tution or clinic or with the individual examiner be-
12 ing first made by the court, clerk of courts or sher-
13 iff. If the defendant is incarcerated, the examina-
14 tion is to be completed within 21 days. The opinion
15 of the examiner or examiners relative to the mental
16 condition of the respondent shall be reported forth-
17 with to the court following examination.

18 Sec. 2. 15 MRSA §101, 2nd ¶, as amended by PL
19 1983, c. 580, §3, is further amended to read:

20 If it is made to appear to the court by the re-
21 port of any such examiner that the defendant suffers
22 or suffered from a mental disease or mental defect
23 affecting his criminal responsibility or his compe-
24 tence to stand trial or that further observation is
25 indicated, the court shall order the defendant to be
26 further examined by a psychiatrist and a licensed
27 clinical psychologist designated by the Commissioner
28 of Mental Health and Mental Retardation with such as-
29 sistance as the designated examiners may deem neces-
30 sary who shall determine the mental condition of the
31 defendant. The court may order that observations, in-
32 terviews and investigative reports regarding the be-
33 havior of the defendant made by law enforcement offi-
34 cials be made available to the designated psychia-
35 trist and licensed clinical psychologist for the lim-
36 ited purpose of this examination. If the defendant
37 is incarcerated, an initial examination to determine
38 whether commitment to the custody of the Commissioner
39 of Mental Health and Mental Retardation is necessary
40 shall be made within 21 days. If the defendant is
41 incarcerated and it is determined that no long-term
42 observation for the purpose of diagnosis is needed,
43 his examinations shall be completed within 30 days.
44 If the examination by such designees can be completed
45 without admission, a report of the results of such

1 completed examination shall be forwarded to the court
2 forthwith. If the designated examiners of the Commis-
3 sioner of Mental Health and Mental Retardation deter-
4 mine that admission to an appropriate institution for
5 the mentally ill or mentally retarded is necessary
6 for complete examination, the examiners shall so no-
7 tify the court which may order the defendant commit-
8 ted to the custody of the Commissioner of Mental
9 Health and Mental Retardation to be placed in an ap-
10 propriate institution for the mentally ill or the
11 mentally retarded, to be there detained and observed
12 by the superintendent, or his delegate, and profes-
13 sional staff for a period of time not to exceed 60
14 days, for the purpose of ascertaining the mental con-
15 dition of the defendant. When further detention for
16 observation is deemed no longer necessary, the com-
17 missioner shall report such fact to the court. The
18 court shall then order the person returned to the ap-
19 propriate court for disposition; if the court order-
20 ing commitment for observation has provided for re-
21 mand to the county jail following completion of the
22 observation in the commitment order, the sheriff or
23 any one or more of his deputies shall execute the re-
24 mand order upon advice from the commissioner of com-
25 pletion of the observation. A report of the results
26 of the observation shall be forwarded promptly to the
27 court by the commissioner.

28 STATEMENT OF FACT

29 This bill provides that, if a defendant is incar-
30 cerated, examination to determine criminal responsi-
31 bility and competence or initial examination to de-
32 termine whether commitment to the custody of the Com-
33 missioner of Mental Health and Mental Retardation is
34 necessary, shall be made within 21 days. If no long-
35 term observation for diagnosis is needed, examination
36 must be made within 30 days.

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