

MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 2069

7 H.P. 1467

House of Representatives, February 25, 1986

8 Reported by Representative Paradis from the Committee on Judiciary.
9 Sent up for concurrence and ordered printed. Approved by the Legislative
Council on June 18, 1985.

10 EDWIN H. PERT, Clerk

Reported from the Joint Standing Committee on Judiciary under Joint Rule
19.

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12 STATE OF MAINE
13

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

17 AN ACT to Permit a Guilty but Mentally Ill
18 Verdict in a Criminal Case.
19

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

22 Sec. 1. 17-A MRSA §39, sub-§2, as enacted by PL
23 1981, c. 324, §14, is amended to read:

24 2. As used in this section and sections 39-A and
25 40, "mental disease or defect" means any abnormal
26 condition of the mind which substantially affects
27 mental or emotional processes and substantially im-
28 pairs the processes and capacity of a person to con-
29 trol his actions. An abnormality manifested only by
30 repeated criminal conduct or excessive use of alco-
31 hol, drugs or similar substances, in and of itself,
32 does not constitute a mental disease or defect.

33 Sec. 2. 17-A MRSA §39-A is enacted to read:

34 §39-A. Guilty but suffering from mental disease or
35 defect

1 1. When the defendant enters a plea of not
2 guilty, the jury may return a verdict of not guilty
3 or guilty. When the defendant enters a plea of not
4 criminally responsible by reason of insanity, the ju-
5 ry may return a verdict of guilty, guilty but suffer-
6 ing from mental disease or defect or not criminally
7 responsible by reason of insanity.

8 The jury may return a verdict of guilty but suffering
9 from mental disease or defect if the jury finds be-
10 yond a reasonable doubt that the defendant:

11 A. Is guilty of an offense;

12 B. Suffered from mental disease or defect at the
13 time of the offense; and

14 C. Was not legally insane as defined in section
15 39, subsection 1, at the time of the offense.

16 2. The court may not at any time accept a plea
17 of guilty but suffering from mental disease or de-
18 fect.

19 3. If the defendant is found guilty but suffer-
20 ing from mental disease or defect, the court shall
21 sentence him according to law. If the sentence in-
22 cludes a term of imprisonment in a county jail or
23 through commitment to the Department of Corrections
24 or probation conditioned on psychiatric treatment,
25 the court shall commit him to the Department of Cor-
26 rections for provision of the services required under
27 Title 34-A, sections 3051 and 3052.

28 Sec. 3. 17-A MRSA §40, sub-§§1 and 4, as enacted
29 by PL 1981, c. 324, §14, are amended to read:

30 1. When the defendant enters a plea of not
31 guilty together with a plea of not ~~guilty~~ criminally
32 responsible by reason of insanity, he shall also
33 elect whether the trial shall be in 2 stages as pro-
34 vided for in this section, or a unitary trial in
35 which both the issues of guilt and of insanity are
36 submitted simultaneously to the jury. At the defend-
37 ant's election, the jury shall be informed that the 2
38 pleas have been made and that the trial will be in 2
39 stages.

1 from mental disease or defect who is in the officer's
2 or sheriff's custody, the officer or sheriff shall
3 ask the commissioner to apply for hospitalization.

4 §3052. Monitoring of offender on probation

5 When an offender found guilty but suffering from
6 mental disease or defect is sentenced to a term of
7 probation conditioned on the receipt of psychiatric
8 treatment and committed under Title 17-A, section
9 39-A, subsection 3, the commissioner shall cause the
10 offender to be monitored upon his commitment to the
11 department to assure that he receives the required
12 treatment.

13 STATEMENT OF FACT

14 This bill results from a minority report con-
15 tained in the final report of the Insanity Defense
16 and Related Statutes and Procedures Study Subcommit-
17 tee of the Joint Standing Committee on Judiciary.

18 The purpose of this bill is to permit criminal
19 defendants who raise an insanity defense to be found
20 guilty, guilty but suffering from mental disease or
21 defect or not criminally responsible by reason of in-
22 sanity. An offender found guilty but suffering from
23 mental disease or defect is sentenced as any criminal
24 defendant found simply guilty. If the sentence in-
25 cludes probation with a condition of receipt of psy-
26 chiatric treatment, the Department of Corrections
27 must monitor the offender to assure that treatment is
28 received. The offender who is guilty but suffering
29 from mental disease or defect and is sentenced to a
30 term of imprisonment, upon commitment to the Depart-
31 ment of Corrections, is evaluated to determine his
32 need for treatment. The department is to provide the
33 treatment psychiatrically indicated for the offender.
34 Under the proper circumstances, this treatment may be
35 provided by hospitalization of the offender. Hospi-
36 talization of the offender would occur under existing
37 law which permits transfer of prisoners from state
38 correctional facilities and county jails to mental
39 institutions. Upon completion of hospitalization,

1 the offender would return to a correctional facility
2 to complete any remaining portion of his term of im-
3 prisonment.

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