

MAINE STATE LEGISLATURE

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1 §39-A. Guilty but suffering from mental disease or
2 defect

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

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

13 A. Is guilty of an offense;

14 B. Suffered from mental disease or defect at the
15 time of the offense; and

16 C. Was not legally insane as defined in section
17 39, subsection 1, at the time of the offense.

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

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

30 Sec. 3. 17-A MRSA §40, sub-§4, as amended by PL
31 1985, c. 796, §6, is further amended to read:

32 4. If the jury in the first phase returns a
33 guilty verdict, the trial shall proceed to the 2nd
34 phase. The defendant and the State may rely upon evi-
35 dence admitted during the first phase or they may re-
36 call witnesses. Any evidence relevant to insanity is
37 admissible. The order of proof shall reflect that the
38 defendant has the burden of establishing his lack of

1 criminal responsibility. The jury shall return a ver-
2 dict that the defendant is criminally responsible,
3 guilty but suffering from mental disease or defect or
4 not criminally responsible by reason of mental dis-
5 ease or defect. If the defendant is found criminally
6 responsible or guilty but suffering from mental dis-
7 ease or defect, the court shall sentence him accord-
8 ing to law.

9 Sec. 4. 34-A MRSA c. 3, sub-c. I, art. II-A, is
10 enacted to read:

11 ARTICLE II-A

12 OFFENDERS FOUND GUILTY BUT SUFFERING FROM
13 MENTAL DISEASE OR DEFECT

14 §3051. Evaluation of imprisoned offenders

15 The commissioner shall cause the mental condition
16 of an offender found guilty but suffering from mental
17 disease or defect, sentenced to a term of imprison-
18 ment and committed under Title 17-A, section 39-A,
19 subsection 3, to be evaluated upon the offender's
20 commitment to the department. The department shall
21 provide the treatment to the offender psychiatrically
22 indicated for his mental disease or defect. This
23 treatment may be provided by hospitalization when the
24 requirements of section 3069 and Title 34-B, section
25 3863 are met.

26 When admission to a mental hospital of an offend-
27 er found guilty but suffering from mental disease or
28 defect is sought, the commissioner shall have sole
29 responsibility for applying for hospitalization.
30 When the chief administrative officer of a correc-
31 tional facility or sheriff in charge of a county jail
32 believes admission to a mental hospital should be
33 sought for an offender found guilty, but suffering
34 from mental disease or defect who is in the officer's
35 or sheriff's custody, the officer or sheriff shall
36 ask the commissioner to apply for hospitalization.

37 §3052. Monitoring of offender on probation

38 When an offender found guilty but suffering from
39 mental disease or defect is sentenced to a term of

1 probation conditioned on the receipt of psychiatric
2 treatment and committed under Title 17-A, section
3 39-A, subsection 3, the commissioner shall cause the
4 offender to be monitored upon his commitment to the
5 department to assure that he receives the required
6 treatment.

7 STATEMENT OF FACT

8 This bill results from a minority report con-
9 tained in the final report of the Insanity Defense
10 and Related Statutes and Procedures Study Subcommit-
11 tee of the Joint Standing Committee on Judiciary.

12 The purpose of this bill is to permit criminal
13 defendants who raise an insanity defense to be found
14 guilty, guilty but suffering from mental disease or
15 not criminally responsible by reason of insanity. An
16 offender found guilty but suffering from mental dis-
17 ease or defect is sentenced as any criminal defendant
18 found simply guilty. If the sentence includes proba-
19 tion with a condition of receipt of psychiatric
20 treatment, the Department of Corrections must monitor
21 the offender to assure that treatment is received.
22 The offender who is guilty but suffering from mental
23 disease or defect and is sentenced to a term of im-
24 prisonment, upon commitment to the Department of Cor-
25 rections, is evaluated to determine his need for
26 treatment. The department is to provide the treat-
27 ment psychiatrically indicated for the offender. Un-
28 der the proper circumstances, this treatment may be
29 provided by hospitalization of the offender. Hospi-
30 talization of the offender would occur under existing
31 law which permits transfer of prisoners from state
32 correctional facilities and county jails to mental
33 institutions. Upon completion of hospitalization,
34 the offender would return to a correctional facility
35 to complete any remaining portion of his term of im-
36 prisonment.

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