

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 822, L.D. 1150, Bill, "An Act to Strengthen the State Forensic Service"

Amend the bill in section 1 by striking out all of subsection 1 and inserting in its place the following:

'1. **Court order; permissive.** The District Court or the Superior Court having jurisdiction in any criminal case for cause shown may order the defendant examined to determine his the defendant's mental condition with reference to the issues of competency, criminal responsibility and--competence--to--stand-trial, abnormal condition of mind and any other issue involving the mental or emotional condition of the defendant. The examination may be conducted ~~at--the--Augusta--Mental--Health--Institute,--Bangor--Mental--Health--Institute,--Pineland--Center--or--at--a--mental--health--clinic--of,--or--recommended--by,--the--Commissioner--of--Mental--Health--and--Mental--Retardation--and,--when--conducted--at--any--such--facility,--shall--be--the--responsibility--of~~ by the State Forensic Service or by a psychiatrist or licensed clinical psychologist independent of the State Forensic Service. The examination ~~may--be--conducted--by--a--psychiatrist--or--licensed--clinical--psychologist--independent--from--any--such--facility,--employed--for--that--purpose--by--the--court,~~ If additional examinations are ordered, the court shall ensure that at least one examination is conducted by the State Forensic Service. The court in selecting ~~the--examination--site~~ an independent practitioner and the site of any examination shall consider proximity to the court, availability of an examiner or examiners and the necessity for security precautions. No person may be presented for examination under this subsection without arrangements therefor for that examination with the head ~~of the institution--or--clinic--or--with--the--individual--examiner~~ State Forensic Service or the independent practitioner being first made by the court, clerk of courts or sheriff. If the defendant is incarcerated, the examination is to be completed within 90 days. The opinion of the examiner or examiners relative to the competence, criminal responsibility, abnormal condition of mind or any other mental or emotional condition of the respondent shall must be reported ~~forthwith~~ without delay to the court

2 following examination, together with copies to counsel for the
respondent and counsel for the State.'

4 Further amend the bill in section 1 in subsection 3 in the
12th line from the end (page 2, line 20 in L.D.) by inserting
6 after the word "necessary" the following: 'by the State Forensic
Service'

8
10 Further amend the bill in section 2 in paragraph A in the
5th line from the end (page 3, line 10 in L.D.) by striking out
12 the following: "he the defendant will" and inserting in its
place the following: 'he will the defendant can'

14 Further amend the bill in section 3 in paragraph B in the
6th line (page 3, line 24 in L.D.) by inserting after the word
16 "psychiatrist" the following: 'or licensed clinical psychologist'

18 Further amend the bill in section 8 in paragraph B by
striking out all of the following: "~~a physician or psychologist
20 and refer the juvenile to a suitable facility or program for the
purpose of examination, the costs of such examination to be paid
22 by the court~~ the State Forensic Service" and inserting in its
24 place the following: 'a physician or psychologist and refer the
juvenile to a suitable facility or program for the purpose of
26 examination, the costs of such examination to be paid by the
court'

28 Further amend the bill in section 9 by adding at the end the
following:

30
32 '3. Professional education program. The State Forensic
Service may establish and maintain a professional education
program designed to assist licensed psychologists and
34 psychiatrists in developing expertise in the forensic aspects of
each profession, with emphasis on the assessment of competency,
36 criminal responsibility and abnormal condition of mind under the
laws of the State.'

38
40 **STATEMENT OF FACT**

42 This amendment amends the original bill to retain the
current provisions of law that allow courts to order stage one
44 mental examinations of defendants to be conducted by outside
evaluators in addition to the State Forensic Service. The
46 Legislature recognizes that the normal procedure is to use the
services of state agencies that are established to provide those
48 services, except when special circumstances exist. The current
language, retained by this amendment, ensures that courts have
50 the flexibility they need to order examinations by the State
Forensic Service or practitioners independent of the State
52 Forensic Service.

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2 This amendment also provides that if more than one stage one
4 examination is ordered by the court, the court shall ensure that
6 the State Forensic Service conducts at least one of the
8 examinations.

10 This amendment also clarifies that it is the State Forensic
12 Service that determines when detention for observation is no
14 longer necessary.

16 This amendment amends section 2 of the bill concerning the
18 possibility that a defendant can be competent to stand trial in
20 the foreseeable future. Current law provides that the court must
22 release a defendant and dismiss charges after a year if there
24 does not exist a substantial probability that the defendant will
be competent in the foreseeable future. This amendment
recognizes that most states of incompetency are transitory and
treatable, often with medication. The language of the bill is
changed to allow the evaluator to explain to the court that there
is a substantial probability that the defendant "can be
competent" through the use of medical treatment. The question
about whether the defendant can be ordered to take whatever
action necessary to become competent is not addressed in this
amendment and is not removed from the court's discretion.

26 Section 8 of the bill is amended to retain current law
28 regarding examination of juveniles.

30 The amendment adds a new subsection under the description of
32 the State Forensic Service in the Maine Revised Statutes, Title
34-B, section 1212, giving the State Forensic Service explicit
authority to establish a professional education program for
psychologists and psychiatrists.

Reported by the Committee on Judiciary
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