

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1344

H.P. 955

House of Representatives, April 18, 1995

An Act to Make Certain Changes to Postconviction Review.

Submitted by the Department of the Attorney General pursuant to Joint Rule 24.
Received by the Clerk of the House on April 13, 1995. Referred to the Committee on
Criminal Justice and ordered printed pursuant to Joint Rule 14.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative THOMPSON of Naples.
Cosponsored by Representative: WHEELER of Bridgewater.

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

2
3 **Sec. 1. 15 MRSA §103**, as amended by PL 1981, c. 493, §2, is
4 further amended to read:

6 **§103. Commitment of persons acquitted on basis of mental
7 disease or defect**

8
9 When a respondent is acquitted, found not criminally
10 responsible by reason of mental disease or mental defect
11 excluding responsibility, the verdict and judgment shall must so
12 state. In such case the court shall order such person committed
13 to the custody of the Commissioner of Mental Health and Mental
14 Retardation to be placed in an appropriate institution for the
15 mentally ill or the mentally retarded for care and treatment.
16 Upon placement in such appropriate institution and in the event
17 of transfer from one such institution to another of persons
18 committed under this section, notice thereof shall must be given
19 by the commissioner to the committing court.

20 **Sec. 2. 15 MRSA §2121, sub-§1**, as enacted by PL 1979, c. 701,
21 §15, is amended to read:

22
23 **1. Criminal judgment.** "Criminal judgment" means a judgment
24 of conviction of a crime ~~or~~, the orders of adjudication and
25 disposition in a juvenile case and a judgment of not criminally
26 responsible by reason of mental disease or defect.

27 **Sec. 3. 15 MRSA §2124, sub-§1-A** is enacted to read:

28
29 **1-A. Present or future restraint by commitment to the**
30 **Commissioner of Mental Health and Mental Retardation.** Present
31 restraint or impediment as a direct result of commitment to the
32 custody of the Commissioner of Mental Health and Mental
33 Retardation pursuant to section 103 imposed as a result of being
34 found not criminally responsible by reason of mental disease or
35 defect, that is challenged, or future restraint or impediment as
36 a result of such an order of commitment that is challenged when a
37 sentence involving imprisonment is or will be served first.

38
39 A claim for postconviction review is not allowed under this
40 subsection relative to any court proceeding or administrative
41 action that affects release or discharge pursuant to section
42 104-A;

43 **Sec. 4. 15 MRSA §2128, sub-§5**, as enacted by PL 1979, c. 701,
44 §15, is repealed and the following enacted in its place:

45 **5. Delay; application of equitable doctrine of laches.** A
46 petition may be dismissed if it appears that by delay in its
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2 filing the State has been prejudiced in its ability to respond to
3 the petition or to retry the petitioner, unless the petitioner
4 shows that it is based on grounds of which the petitioner could
5 not have had knowledge by the exercise of reasonable diligence
6 before the circumstances prejudicial to the State occurred. If
7 the delay is more than 5 years following the final disposition of
8 any direct appeal to the Maine Law Court or if an appeal is not
9 taken within 5 years following the running of the period within
10 which that appeal must have been initiated, prejudice is
11 presumed, although this presumption is rebuttable by the
12 petitioner. For purposes of this subsection, "final disposition"
13 means that point in time when the mandate of the Law Court is
14 entered in the docket of the trial court and "presumption" has
15 the same meaning as under Rule 301(a) of the Maine Rules of
16 Evidence.

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20 STATEMENT OF FACT

21 This bill amends postconviction review, the Maine Revised
22 Statutes, Title 15, chapter 305-A in 2 respects. First, it
23 allows persons, following a judgment of not criminally
24 responsible by reason of mental disease or mental defect, to
25 collaterally attack that judgment as authorized under Title 15,
26 section 2125. At the same time it precludes following commitment
27 under Title 15, section 103, challenges to court proceedings or
28 administrative actions that affect release or discharge under
29 Title 15, section 104-A. Second, it replaces the current law
30 relating to stale claims with language modelled after current
31 Rule 9 (a) of the "Rules Governing Section 2254 Cases in the
32 United State District Court" and amendments to that rule proposed
33 by the Advisory Committee on the Criminal Rules but not adopted
34 by Congress. This bill also makes 2 nonsubstantive changes to
35 Title 15, section 103.

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