

MAINE STATE LEGISLATURE

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L.D. 1507

DATE: 6/20/95

(Filing No. H- 554)

HUMAN RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1072, L.D. 1507, Bill, "An Act to Prevent the Use of Correctional Facilities for the Detention of the Mentally Ill"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 15 MRSA §2211-A, as amended by PL 1987, c. 402, Pt. A, §112, is repealed and the following enacted in its place:

§2211-A. Persons confined; hospitalization for mental illness

1. Prohibition. A person with serious mental illness may not be detained or confined solely because of that mental illness in any jail, prison or other detention or correctional facility unless that person is being detained or serving a sentence for commission of a crime.

2. Application for hospitalization required. A sheriff or other person responsible for any county or local detention or correctional facility who believes that a person confined in that facility is mentally ill and requires hospitalization shall apply, in writing, for the admission of that person to a hospital for the mentally ill, giving the reasons for requesting the admission. The application and certification must be in accordance with the requirements of Title 34-B, section 3863.

COMMITTEE AMENDMENT

2 3. Terms of admission. A person with respect to whom
3 application and certification are made may be admitted to a
4 hospital for the mentally ill. Except as otherwise specifically
5 provided in this section, Title 34-B, chapter 3, subchapter IV,
6 articles I and III, except section 3868, are applicable to a
7 person admitted under this section as if the admission were
8 applied for under Title 34-B, section 3863.

9 4. No effect on sentence; jurisdiction retained.
10 Admission of a person to a hospital under this section has no
11 effect on a sentence then being served, on an existing commitment
12 on civil process or on detention pending any stage of a criminal
13 proceeding in which that person is the defendant, and the court
14 having jurisdiction retains its jurisdiction. The sentence
15 continues to run and any commitment or detention remains in force
16 unless terminated in accordance with law.

17 5. Disposition of application and certification. A copy of
18 the document by which a person is held in confinement, attested
19 by the sheriff or other person responsible for any county or
20 local detention or correctional facility, must accompany the
21 application for admission. Following that person's admission to a
22 hospital for the mentally ill under this section, a copy of the
23 application and certification similarly attested must be filed
24 with the court having jurisdiction over any civil or criminal
25 case in which that person is the defendant. If a criminal
26 proceeding is pending against the person admitted, the clerk of
27 the court shall forward a copy of the application and
28 certification to the attorney for the defendant and the attorney
29 for the State.

30 6. Discharge from hospital. If the sentence being served
31 at the time of admission has not expired or commitment on civil
32 process or detention has not been terminated in accordance with
33 law at the time the person is ready for discharge from
34 hospitalization, that person must be returned by the sheriff or
35 deputy sheriff of the county from which the person was admitted
36 to the facility from which the person was admitted.

37 7. Transportation expenses. The county where the
38 incarceration originated shall pay all expenses incident to
39 transportation of a person between the hospital and the detention
40 or correctional facility pursuant to this section.

41 8. Competency hearing. Admission to a hospital under this
42 section may not be used to examine or observe a person for the
43 purpose of a criminal proceeding pending in court. Before the
44 trial of a defendant admitted for hospitalization under this
45 section, the court may, at any time upon motion of the
46 defendant's attorney or the attorney for the State or upon the
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2 court's own motion, hold a hearing with respect to the competence
3 of that person to stand trial as provided in section 101-B and
4 appropriate disposition may be made. The court's order following
5 a hearing may terminate an admission effected under this section.

6 9. Alternative; voluntary commitment. If hospitalization
7 is recommended by a licensed physician or licensed psychologist,
8 a person confined in a county or local detention or correctional
9 facility may apply for informal admission to a hospital for the
10 mentally ill under Title 34-B, sections 3831 and 3832, in which
11 case all other provisions of this section as to notice of status
12 as an inmate of a county or local detention or correctional
13 facility, notice to the court and counsel, transportation and
14 expenses and the continuation and termination of sentence,
15 commitment or detention apply. Except as otherwise provided in
16 this section, the provisions of law applicable to persons
17 admitted to a hospital for the mentally ill under Title 34-B,
18 sections 3831 and 3832 apply to a person confined and admitted to
19 a hospital for the mentally ill under those sections.

20 **Sec. 2. 34-B MRSA §1219** is enacted to read:

21 **§1219. State strategy for preventing imprisonment of persons**
22 **with serious mental illness**

23 **1. Development of state strategy.** The department shall
24 develop a comprehensive state strategy for preventing the
25 inappropriate incarceration of seriously mentally ill individuals
26 and for diverting those individuals away from the criminal
27 justice system. This strategy must be developed with the active
28 participation of other agencies and providers responsible for
29 servicing persons with serious mental illness, including: the
30 Department of Human Services; the Department of Corrections; the
31 Department of Human Services, Bureau of Medical Services; and
32 representatives of community mental health centers, area
33 shelters, other community providers, consumers of services and
34 their families, providers of inpatient mental health services,
35 advocates for consumers of mental health services, sheriffs'
36 departments, the Office of Substance Abuse and the Department of
37 Public Safety.

38 **2. Components of strategy.** The state strategy developed
39 under subsection 1 must include, but is not limited to:

40 **A. Identification of existing programs or creation of jail**
41 diversion and community mental health programs to serve
42 persons with serious mental illness who have been charged
43 with minor crimes that are a manifestation of their illness,
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- 2 including identification of financing mechanisms for the
programs and the services provided;
- 4 B. Systems for the evaluation of serious mental illness,
within 24 hours of contact with the criminal justice system,
6 of persons charged with minor crimes and timely referral of
those persons identified as seriously mentally ill to
8 appropriate community mental health programs;
- 10 C. Specific mechanisms for enabling police and correctional
officers to communicate and consult on a timely basis with
12 appropriate mental health personnel about specific cases;
- 14 D. Plans for conducting training, in conjunction with the
Maine Criminal Justice Academy, of law enforcement and
16 correctional personnel about serious mental illness and
effective methods for evaluating, treating and managing
18 persons with serious mental illness;
- 20 E. Plans for training mental health professionals who
participate in state-funded, educational training programs
22 to work with persons with serious mental illness in
correctional facilities, including, but not limited to,
24 on-site field experience in correctional facilities or jail
diversion programs; and
- 26 F. Plans for providing comprehensive treatment, services
28 and support to persons with serious mental illness following
their release from correctional facilities.

30 **Sec. 3. 34-B MRSA §3604, sub-§4 is enacted to read:**

32 **4. Cooperative planning required; grant recipients and**
34 **correctional authorities.** As a condition for receipt of state
36 mental health funding, providers of community mental health
services to persons with serious mental illness shall develop
38 with state and local correctional authorities cooperative plans
for the provision of services to those persons. These plans must
40 include at least the following:

- 42 A. Procedures for timely referral of persons with serious
mental illness to community-based mental health services;
- 44 B. Provision for the treatment and support of persons with
serious mental illness in correctional facilities and
46 commitment of funds within available resources; and
- 48 C. Procedures for referrals of individuals with serious
mental illness to local providers of comprehensive mental
50 health services following release from correctional

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2 facilities, including mechanisms for developing
3 comprehensive treatment plans before the release from
4 correctional facilities of persons with serious mental
5 illness.

6 Providers of community mental health services and other public
7 providers of comprehensive services to persons with serious
8 mental illness that fail to participate in the development of
9 plans to serve this population are not eligible for state funding
10 for the provision of mental health services.'

12 Further amend the bill by inserting at the end before the
13 statement of fact the following:

14 **FISCAL NOTE**

16 The Department of Mental Health and Mental Retardation will
17 incur some minor additional costs to develop a state strategy for
18 preventing imprisonment of persons with serious mental illness
19 and to incorporate the new conditions that are placed on state
20 funds for mental health services into existing contracting
21 procedures. These costs can be absorbed within the department's
22 existing budgeted resources.

24 The additional costs to participate in the development of
25 the required strategy can be absorbed by the affected departments
26 and agencies utilizing existing budgeted resources.'

30 **STATEMENT OF FACT**

32 This amendment replaces the bill. It clarifies language in
33 the bill.

34 The amendment deletes section 2 of the original bill, which
35 would have required the creation of mental health committees in
36 community correctional facilities. It requires the following
37 additional entities to participate in development of a
38 comprehensive state strategy to prevent incarceration of the
39 seriously mentally ill: providers of inpatient mental health
40 services, advocates for consumers of mental health services,
41 sheriffs' departments, local law enforcement agencies, the Office
42 of Substance Abuse and the Department of Public Safety. It
43 declares ineligible for state funding for mental health services
44 those providers of mental health services that do not participate
45 in the development of plans to serve the population with serious
46 mental illness.

48 The amendment adds a fiscal note to the bill.