

# MAINE STATE LEGISLATURE

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L.D. 1523

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DATE: 5-20-99

(Filing No. H-637)

**JUDICIARY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
119TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1076, L.D. 1523, Bill, "An Act to Amend Criminal Law Procedures Regarding Defendants Found Incompetent to Stand Trial"

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

'Sec. 1. 15 MRSA §101-B, sub-§4, ¶A, as corrected by RR 1995, c. 2, §26, is amended to read:

A. Commit the defendant to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. ~~The commitment may not exceed one year in duration.~~ At the end of 30 days or sooner, and again in the event of recommitment, at the end of 60 days and one year, the State Forensic Service shall forward a report to the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services relative to the defendant's competence to stand trial and its reasons therefor. The commissioner shall without delay file the report with the court having jurisdiction of the case. The court shall without delay set a date for and hold a hearing on the question of the defendant's competence to stand trial and shall receive all relevant testimony bearing on the question. If the court determines that the defendant is not competent to stand trial, but there does exist a substantial

**COMMITTEE AMENDMENT**

probability that the defendant will be competent to stand trial in the foreseeable future, it shall recommit the defendant to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. If the defendant is charged with an offense under Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or 803, and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and order the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services to commence involuntary commitment proceedings pursuant to Title 34-B, chapter 3, subchapter IV. If the defendant is charged with offenses not listed in the previous sentence, and the court determines that the defendant is not competent to stand trial and there does not exist a substantial probability that the defendant can be competent in the foreseeable future, the court shall dismiss all charges against the defendant and notify the appropriate authorities who may institute civil commitment procedures for the individual; or'

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

This bill may lengthen and increase the number of commitments, which may increase the population at the Augusta Mental Health Institute. Future General Fund appropriations may be required by the Department of Mental Health, Mental Retardation and Substance Abuse Services to fund the additional costs if the population increases. The cost to care for a patient at the Augusta Mental Health Institute averages approximately \$290,000 per year.'

**SUMMARY**

This amendment replaces the original bill, which was a concept draft.

This amendment eliminates the provision in current law restricting the length commitments for observation, care and treatment of persons found by the court to be incompetent to stand trial. In State v. Dedekian, 680 A.2d 441 (1996), the

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COMMITTEE AMENDMENT "A" to H.P. 1076, L.D. 1523

2 Maine Supreme Judicial Court determined that the controlling  
factor for determining the length of commitment is whether there  
4 is a substantial probability that the defendant can become  
competent in the foreseeable future. A commitment may continue  
6 beyond one year if there is a substantial probability that the  
defendant will attain capacity in the foreseeable future. By  
8 deleting the one-year limitation, this amendment makes the law  
consistent with the court's interpretation of the constitutional  
10 requirements concerning commitments related to competency to  
stand trial, as stated in Jackson v. Indiana, 406 U.S. 715 (1972).

12 This amendment also requires the court to order the  
Commissioner of Mental Health, Mental Retardation and Substance  
14 Abuse Services to start involuntary commitment procedures for a  
defendant who the court has determined is not competent and there  
16 does not exist a substantial probability that the defendant will  
be competent in the foreseeable future if the defendant is  
18 charged with specific serious crimes: crimes against the person;  
sexual assault; criminal restraint and kidnapping; harassment;  
20 arson; and causing a catastrophe.

22 The amendment also adds a fiscal note to the bill.

**COMMITTEE AMENDMENT**