

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

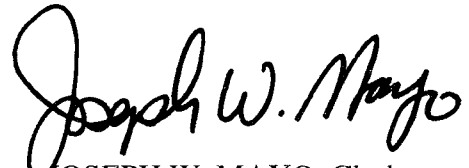
No. 1949

H.P. 1349

House of Representatives, March 18, 1999

**An Act to Require a Waiting Period After the Completion of Certain
Forensic Evaluations.**

Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative MacDOUGALL of North Berwick.
Cosponsored by Senator MacKINNON of York and
Representatives: BROOKS of Winterport, SNOWE-MELLO of Poland, Senator: PARADIS
of Aroostook.

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

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Sec. 1. 15 MRSA §101-B, sub-§1, as amended by PL 1989, c. 621, §1, is further amended to read:

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 the defendant's mental condition with reference to the issues of competency, criminal responsibility, abnormal condition of mind and any other issue involving the mental or emotional condition of the defendant. The examination may be conducted by the State Forensic Service or by a psychiatrist or licensed clinical psychologist independent of the State Forensic Service. 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 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 for that examination with the 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 must be reported without delay to the court following examination, together with copies to counsel for the respondent and counsel for the State. The trial for the defendant may not be held within 60 days after the report is made to the court unless this waiting period is waived by the defendant.

Sec. 2. 15 MRSA §101-B, sub-§7, as enacted by PL 1989, c. 621, §5, is amended to read:

7. Examination after conviction. If the issue of criminal responsibility, mental competence, abnormal condition of mind or any other issue involving the mental or emotional condition of the defendant is raised after conviction, the court may order the convicted person to be examined by the State Forensic Service. If at the time an examination order is entered by the court the convicted person is in execution of any sentence imposed for any criminal conduct, the time limits and bail provisions of this section do not apply. If the defendant has not been sentenced, the sentencing may not be held within 30 days after the report is made to the court unless this waiting period is waived by the defendant.

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SUMMARY

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This bill requires a waiting period of 60 days after a permissive mental examination is reported to a court before the defendant who is the subject of the report may be tried. If a mental examination is ordered by a court for a defendant after the defendant has been convicted but before the defendant is sentenced, this bill requires a waiting period of 30 days after the examination is reported to the court before the defendant may be sentenced.

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