

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

DATE: *May 22, 2001* (Filing No. S-239)

**CRIMINAL JUSTICE**

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE  
SENATE  
120TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT *A* to S.P. 331, L.D. 1099, Bill, "An Act to Permit Involuntary Medication of Mentally Ill Persons Residing in Department of Corrections Facilities"

Amend the bill by striking out the title and substituting the following:

**'An Act Regarding the Care and Treatment of Persons with Mental Illness Who Are Incarcerated'**

Further amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

**'Emergency preamble. Whereas,** Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** persons with mental illness who are incarcerated in the county jails and state prisons need proper care and treatment that is safe and humane; and

**Whereas,** corrections officers and others in the jails and prisons who are responsible for persons with mental illness who are in their custody require proper training to care for these inmates;

**Whereas,** the current corrections system does not provide adequate care for incarcerated persons with mental illness, nor does it provide those responsible for the care with the tools and training necessary to provide care; and

**COMMITTEE AMENDMENT**

2           **Whereas**, in the judgment of the Legislature, these facts  
4           create an emergency within the meaning of the Constitution of  
6           Maine and require the following legislation as immediately  
8           necessary for the preservation of the public peace, health and  
10           safety; now, therefore,

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

**PART A**

10           **Sec. A-1. 17-A MRSA §1258**, as enacted by PL 1983, c. 673,  
12           §6, is amended to read:

14           **§1258. Notification of commitments to the Department of**  
16           **Corrections**

18           At the time of sentencing, the sheriff shall notify the  
20           Commissioner of Corrections or the commissioner's designee that a  
22           person has been committed to the Department of Corrections and  
24           shall inquire as to the correctional facility to which the  
26           sentenced person shall must be delivered by the sheriff or his  
28           the sheriff's deputies. The commissioner shall ~~have~~ or the  
30           commissioner's designee has complete discretion to determine the  
              initial place of confinement. In making this determination, the  
              commissioner or the commissioner's designee shall review all  
              relevant information, including any available mental health  
              information. The commissioner or the commissioner's designee  
              shall immediately inform the sheriff and the court of the  
              location of the correctional facility to which the sentenced  
              person shall must be transported.

32           **Sec. A-2. 30-A MRSA §1656, sub-§5** is enacted to read:

34           **5. Review of information prior to transfer.** If a prisoner  
36           is transferred to the Department of Corrections, the Commissioner  
38           of Corrections or the commissioner's designee shall review all  
              relevant information, including any available mental health  
              information, prior to determining the prisoner's initial place of  
              confinement.

40           **Sec. A-3. 34-A MRSA §1214** is enacted to read:

42           **§1214. Accreditation**

44           All adult correctional facilities and juvenile facilities  
46           operated by the department must be accredited by a nationally  
48           recognized correctional accrediting body by January 1, 2005 and  
              must maintain accreditation thereafter.



that level of mental health intervention; the provision of mental health services within the institutions provided by or in partnership with the Department of Mental Health, Mental Retardation and Substance Abuse Services; and involuntary medication of prisoners with mental illness;

2. Identify what additional mental health services are needed for incarcerated persons and how those services may best be implemented, provided and funded;

3. Identify what mental health training is required for law enforcement and corrections officers who work in corrections facilities and jails and how that training may best be implemented, provided and funded; and

4. Identify steps necessary for county jails to seek and achieve accreditation.

The experts and interested parties with whom the commission may consult include but are not limited to the following: representatives from the Department of Corrections and the Department of Mental Health, Mental Retardation and Substance Abuse Services; representatives from state, county and municipal law enforcement; persons with mental illness who were formerly incarcerated in a Department of Corrections facility or a county jail; parents or guardians of persons with mental illness who are or were formerly incarcerated in a Department of Corrections facility or a county jail; representatives from advocacy groups for persons with mental illness; and representatives from community mental health agencies. The commission also may consult with other interested parties who may provide additional information.

**Sec. B-6. Staff assistance.** Upon approval of the Legislative Council, the Office of Policy and Legal Analysis shall provide necessary staffing services to the commission.

**Sec. B-7. Compensation.** The members of the commission are entitled to the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2, and reimbursement for necessary expenses incurred for their attendance at authorized meetings of the commission.

**Sec. B-8. Report.** The commission shall submit its report, together with any necessary implementing legislation, to the Legislature no later than December 14, 2001. If the commission requires a limited extension of time to conclude its work, it may apply to the Legislative Council, which may grant the extension.

2 **Sec. B-9. Budget.** The chairs of the commission, with  
3 assistance from the commission staff, shall administer the  
4 commission's budget. Within 10 days after its first meeting, the  
5 commission shall present a work plan and proposed budget to the  
6 Legislative Council for approval. The commission may not incur  
7 expenses that would result in the commission's exceeding its  
8 approved budget. Upon request from the commission, the Executive  
9 Director of the Legislative Council shall promptly provide the  
10 commission chairs and staff with a status report on the  
11 commission's budget, expenditures incurred and paid and available  
12 funds.

13 **Sec. B-10. Appropriation.** The following funds are  
14 appropriated from the General Fund to carry out the purposes of  
15 this Part.

2001-02

18 **LEGISLATURE**

20 **Commission to Study the Needs of Persons**  
22 **with Mental Illness Who Are Incarcerated**

24 Personal Services \$4,290  
25 All Other 4,725

26 Provides funds for the per diem and expenses  
27 of the members of the Commission to Study  
28 the Needs of Persons with Mental Illness Who  
29 Are Incarcerated and to print the required  
30 report.

32 **LEGISLATURE**  
34 **TOTAL**

\$9,015

36 **Emergency clause.** In view of the emergency cited in the  
37 preamble, this Act takes effect when approved.'

38 Further amend the bill by inserting at the end before the  
39 summary the following:  
40

42 **FISCAL NOTE**

2001-02

46 **APPROPRIATIONS/ALLOCATIONS**

48 General Fund \$9,015  
50

2 The Legislature will require an additional General Fund  
4 appropriation of \$9,015 in fiscal year 2001-02 for the per diem  
6 and expenses of legislative members and other eligible members of  
the Commission to Study the Needs of Persons with Mental Illness  
Who Are Incarcerated and to print the required report.

8 The additional costs associated with providing staffing  
10 assistance to the commission during the interim between  
legislative sessions can be absorbed by the Legislature utilizing  
12 existing budgeted resources. If an extension of the reporting  
14 deadline is granted and the commission requires staffing  
assistance during the legislative session, the Legislature may  
16 require an additional General Fund appropriation to contract for  
staff services.

18 The Department of Corrections will incur some minor  
additional costs to consider available mental health information  
20 prior to making a placement decision. These costs can be  
absorbed within the department's existing budgeted resources.

22 The additional costs associated with meeting accreditation  
standards by January 1, 2005 can be absorbed by the Department of  
24 Corrections utilizing existing budgeted resources. The  
department expects to meet these standards during fiscal year  
26 2002-03.'

28  
30 **SUMMARY**

32 This amendment replaces the bill and makes statutory changes  
and creates a commission. Part A of the amendment does the  
34 following.

36 1. It directs the Commissioner of Corrections or the  
commissioner's designee to consider all relevant information,  
38 including available mental health information, prior to making a  
placement decision for a person committed or transferred to the  
40 custody of the Department of Corrections.

42 2. It requires all adult correctional facilities and  
juvenile facilities operated by the Department of Corrections to  
44 be accredited by a nationally recognized correctional accrediting  
body by January 1, 2005 and annually thereafter.

46 3. It clarifies that persons committed to the custody of  
48 the Department of Corrections have a right to adequate mental  
health treatment.

COMMITTEE AMENDMENT "A" to S.P. 331, L.D. 1099

2 Part B of the amendment creates the Commission to Study the  
Needs of Persons with Mental Illness Who Are Incarcerated. The  
4 commission consists of the 13 members of the Joint Standing  
Committee on Criminal Justice who are directed to invite the  
6 participation of experts and interested parties, gather  
information and request necessary data from public and private  
entities in order to:

8  
1. Evaluate the availability and appropriateness of current  
10 mental health services for persons incarcerated in Department of  
Corrections facilities and in county jails, including but not  
12 limited to: access to forensic beds for prisoners in need of  
that level of mental health intervention; the provision of mental  
14 health services within the institutions provided by or in  
partnership with the Department of Mental Health, Mental  
16 Retardation and Substance Abuse Services and involuntary  
medication of prisoners with mental illness;

18  
2. Identify what additional mental health services are  
20 needed for incarcerated persons and how those services may best  
be implemented, provided and funded;

22  
3. Identify what mental health training is required for law  
24 enforcement and corrections officers who work in corrections  
facilities and jails and how that training may best be  
26 implemented, provided and funded; and

28  
4. Identify steps necessary for county jails to seek and  
achieve accreditation.

30  
The commission shall submit its report, together with any  
32 necessary implementing legislation, to the Legislature no later  
than December 14, 2001. The amendment also adds an appropriation  
34 and fiscal note.