

MAINE STATE LEGISLATURE

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R.O.S.

L.D. 475

DATE: 6-9-03

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CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 367, L.D. 475, Bill, "An Act To Improve Conditions for Inmates with Mental Illness"

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

'Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

PART A

Sec. A-1. 30-A MRSA §1651, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is repealed and the following enacted in its place:

§1651. Examination of jails; board of visitors

1. Examination. At the commencement of each session required by law, the county commissioners shall examine the jail

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COMMITTEE AMENDMENT "A" to H.P. 367, L.D. 475

2 in their county and take necessary precautions for the security
3 of prisoners, for the prevention of infection and sickness and
4 for the accommodations of the prisoners.

6 2. Appointment. The sheriff for each county shall appoint
7 a board of 5 visitors for each correctional facility under the
8 sheriff's supervision.

10 A. Members of the boards of visitors serve for terms of one
11 year except that, of the initial appointments, 2 must be for
12 terms of 3 years, 2 must be for terms of 2 years and one
13 must be for a term of one year.

14 B. Members of the boards of visitors are eligible for
15 reappointment at the expiration of their terms. The boards
16 of visitors must be representative of a broad range of
17 professionals, family members and citizens interested in the
18 well-being of prisoners, including representatives of
19 advocacy groups for human and civil rights, medical and
20 psychiatric professionals, persons who have served in
21 corrections settings and other interested citizens.

22 C. A member of the Legislature may not serve on a board of
23 visitors.

24 D. The sheriffs of 2 or more counties, at their discretion,
25 may appoint a joint board of visitors of 5 or more members.

26 3. Powers. Each board of visitors shall inspect the
27 correctional facility to which it is assigned, subject to
28 reasonable restrictions required by the sheriff to ensure the
29 security of the jail, and make recommendations to the sheriff
30 with respect to inmates who are mentally ill.

31 Sec. A-2. 30-A MRSA §1656, sub-§3-A is enacted to read:

32 3-A. Transfer of prisoners when jail unsuitable for
33 mentally ill. If an inmate in a county jail has been determined
34 by a competent medical authority to require inpatient treatment
35 for mental illness, a Justice of the Superior Court, upon being
36 so notified by the sheriff of that county, may issue an order
37 transferring the inmate to a forensic hospital for treatment. An
38 inmate with respect to whom an application and a certification
39 under Title 34-B, section 3863 are made must be admitted to
40 either state mental health forensic institute.

41 **PART B**

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2 **Sec. B-1. 34-A MRSA §3069, sub-§1**, as amended by PL 1991, c.
314, §57, is further amended to read:

4 **1. Involuntary.** When ~~the chief administrative officer~~ an
5 inmate of a correctional or detention facility ~~believes that any~~
6 ~~person in the facility is mentally ill, requires hospitalization~~
7 ~~and meets requirements for admission~~ has been determined by a
8 competent medical authority to require inpatient treatment for
9 mental illness, the chief administrative officer of that facility
10 shall make application in accordance with Title 34-B, section
3863.

12 A. Any person with respect to whom an application and
13 certification under Title 34-B, section 3863 are made may be
14 admitted to either state mental health institute.

15 B. Except as otherwise specifically provided in this
16 section, Title 34-B, chapter 3, subchapter IV, Article III,
17 is applicable to the person as if the admission of the
18 person were applied for under Title 34-B, section 3863.

19 C. A copy of the document by which the person is held in
20 the facility must accompany the application for admission.

21 D. If the sentence being served at the time of admission
22 has not expired or commitment has not been terminated in
23 accordance with law at the time the person is ready for
24 discharge from hospitalization, the person must be returned
25 by the appropriate officers of the correctional or detention
26 facility.

27 E. Admission to a hospital under this section has no effect
28 upon a sentence then being served or a commitment then in
29 effect. The sentence continues to run and the commitment
30 remains in force, unless terminated in accordance with law.

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33 **PART C**

34 **Sec. C-1. 34-A MRSA §3069, sub-§4** is enacted to read:

35 **4. Review use of seclusion and restraint with prisoners**
36 **with major mental illness; report.** Beginning October 1, 2003,
37 the Department of Behavioral and Developmental Services,
38 utilizing its medical directors and forensic psychiatrists, shall
39 review the use of seclusion and restraint with prisoners with
40 major mental illness in all adult correctional facilities. The
41 department and the Department of Behavioral and Developmental
42 Services shall agree to the design and scope of this review.
43 This review must include, but not be limited to, a case review of
44 the rates of and duration of such practices with prisoners with

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2 major mental illness, whether the use of seclusion and restraint
3 is appropriate and whether there is a pattern of restraint and
4 seclusion with any particular prisoners with major mental
5 illness. Beginning December 30, 2004 and annually thereafter,
6 the Department of Behavioral and Developmental Services shall
7 issue a written report that includes its findings and
8 recommendations for improvements determined to be necessary.
9 That report must be forwarded to the commissioner and to the
10 joint standing committee of the Legislature having jurisdiction
11 over criminal justice and public safety matters.

12 **Sec. C-2. Discharge planning training for state corrections officers.**
13 The Department of Corrections shall assist its correctional
14 officers assigned to inmate discharge planning in increasing the
15 officers' understanding of the services and supports available in
16 the State for inmates with mental illness or substance abuse
17 diagnoses and how to develop and implement an appropriate
18 discharge plan. By January 30, 2004, the department shall report
19 to the Joint Standing Committee on Criminal Justice and Public
20 Safety regarding the development and implementation of the
21 training.

22

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PART D

26 **Sec. D-1. Costs to be absorbed.** The Department of Behavioral
27 and Developmental Services shall absorb within existing resources
28 any costs involved in the implementation of the department's
29 responsibilities under this Act.'

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SUMMARY

34 This amendment replaces the bill. Part A of the amendment
35 directs sheriffs to establish boards of visitors for county
36 jails. Part A also directs that a Justice of the Superior Court,
37 upon being notified by the sheriff of a county in which an inmate
38 has been determined by a competent medical authority to require
39 inpatient treatment for mental illness, may issue an order
40 transferring the inmate to a forensic hospital for treatment. An
41 inmate with respect to whom an application and a certification
42 under the Maine Revised Statutes, Title 34-B, section 3863 are
43 made must be admitted to either state mental health forensic
44 institute.

46 Part B of the amendment rewords a provision of Title 34-A to
47 clarify that a chief administrative officer shall make an
48 application for involuntary hospitalization of an inmate when
49 that inmate has been determined by a competent medical authority
50 to require inpatient treatment for mental illness.

2 Part C of the amendment requires the Department of
Behavioral and Developmental Services to review the use of
4 seclusion and restraint with prisoners with major mental illness
and annually report findings and recommendations to the
6 Commissioner of Corrections and the joint standing committee of
the Legislature having jurisdiction over criminal justice and
8 public safety matters.

10 Part C of the amendment also directs the Department of
Corrections to assist the department's correctional officers
12 assigned to inmate discharge planning in increasing their
understanding of the services and supports available in the State
14 for inmates with mental illness or substance abuse diagnoses.

16 Part D directs the Department of Behavioral and
Developmental Services to absorb within existing resources any
18 costs involved in the implementation of the department's
responsibilities under this bill, as amended.

20 The amendment also adds a mandate preamble.
22

24 **FISCAL NOTE REQUIRED**
(See attached)

121st Maine Legislature
Office of Fiscal and Program Review



LD 475

An Act To Improve Conditions for Inmates with Mental Illness

LR0671(02)

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Exempt State Mandate

Minor cost increase - General Fund

State Mandate

New or Expanded Activity

This bill requires the sheriff for each county to appoint a board of visitors for each correctional facility under the sheriffs supervision. It is also requires the board of visitors to inspect the correctional facility for security purposes. The additional local costs to appoint the board of visitors and inspect the correctional facilities are expected to be minor. Pursuant to the Mandate Preamble, the two-thirds vote all members elected to each House exempts the State from the constitutional requirement to fund 90 % of the additional local costs.

Unit Affected

County

Costs

Insignificant