

MAINE STATE LEGISLATURE

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L.D. 1177

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DATE: 12-29-05

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STATE OF MAINE
SENATE
122ND LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 405, L.D. 1177, Bill, "An Act To Limit the Early Release of Persons Convicted of Certain Crimes"

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

'Sec. 1. 15 MRSA §104-A, sub-§1, as amended by PL 2005, c. 263, §2, is further amended to read:

1. **Release and discharge.** The term "release," as used in this section, means termination of institutional ~~in-patient~~ inpatient residency and return to permanent residency in the community. The head of the institution in which a person is placed, under section 103, shall, annually, forward to the Commissioner of Health and Human Services a report containing the opinion of a staff psychiatrist as to the mental conditions of that person, stating specifically whether the person may be released or discharged without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect. The report must also contain a brief statement of the reasons for the opinion. If a person who has been found not criminally responsible by reason of insanity for the crime of murder or a Class A crime and was committed under section 103 is the subject of a report finding that the person may be released, the report must specifically describe the supervision the Department of Health and Human Services will provide and must specifically include measures the department will take to provide psychoactive medication monitoring. The commissioner shall immediately file the report in the Superior Court for the county in which the person is committed. The court shall review each

COMMITTEE AMENDMENT

report and, if it is made to appear by the report that any person may be ready for release or discharge, the court shall set a date for and hold a hearing on the issue of the person's readiness for release or discharge. The court shall give notice of the hearing and mail a copy of the report to the Attorney General, offices of the district attorney that prosecuted the criminal charges for which the person was committed under section 103 and the offices of the district attorneys in whose district the release petition was filed or in whose district release may occur. At the hearing, the court shall receive the testimony of at least one psychiatrist who has treated the person and a member of the State Forensic Service who has examined the person, the testimony of any independent psychiatrist or licensed clinical psychologist who is employed by the prosecutor and has examined the person and any other relevant testimony. If, after hearing, the court finds that the person may be released or discharged without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect, the court shall order, as applicable:

A. Release from the institution, provided that:

(1) The order for release ~~may--include~~ includes conditions determined appropriate by the court, including, but not limited to, ~~out-patient~~ outpatient treatment and supervision by the Department of Health and Human Services, Division of Mental Health. If the order for release covers a person found not criminally responsible by reason of insanity for the crime of murder or a Class A crime and was committed under section 103, the order must direct the Department of Health and Human Services to provide the level of supervision necessary, including specific measures to provide psychoactive medication monitoring; and

(2) The order for release includes the condition that the person must be returned to the institution immediately upon the order of the commissioner whenever the person fails to comply with other conditions of release ordered by the court; or

B. Discharge from the custody of the Commissioner of Health and Human Services.

Release from the institution is subject to annual review by the court and, except for return as ordered by the commissioner under paragraph A, subparagraph (1), must continue until terminated by the court. Each person released under this section shall remain in the custody of the commissioner. The Commissioner of Health and Human Services shall inform the public safety officer of the

2 municipality or the sheriff's office of the county into which the
person is released of the release.'

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6 **SUMMARY**

8 This amendment replaces the bill. Public Law 2005, chapter
263 amended the laws to describe the defense of not criminally
10 responsible by reason of insanity, and this amendment
incorporates those changes.

12 This amendment addresses the proposed release of a person
14 found not criminally responsible of murder or a Class A crime by
reason of insanity. When the head of the institution in which
16 the person is placed determines that the person may be released,
the annual report must include a statement describing the
18 supervision that would be necessary for the release. The bill
required monitoring of the taking of all prescribed medication.
20 This amendment narrows the language to provide for the monitoring
of just psychoactive medication. This amendment provides that
22 the report provided to the Commissioner of Health and Human
Services, which is then forwarded to the court, must contain
24 details of the supervision the Department of Health and Human
Services will provide, specifically including measures the
26 department will take to provide psychoactive medication
monitoring. If the court orders the person to be released, the
28 order that provides for the release of the person must include
the details of the supervision the department will provide,
30 specifically including the measures the department will take to
provide psychoactive medication monitoring.

FISCAL NOTE REQUIRED
(See attached)



122nd MAINE LEGISLATURE

LD 1177

LR 0457(02)

An Act To Limit the Early Release of Persons Convicted of Certain Crimes

Fiscal Note for Bill as Amended by Committee Amendment "A"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services in implementing this bill can be absorbed by the department utilizing existing resources.