

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1177

S.P. 405

In Senate, March 8, 2005

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

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator WOODCOCK of Franklin.

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

2
3 **Sec. 1. 15 MRSA §104-A, sub-§1**, as corrected by RR 1995, c. 2,
4 §28 and amended by PL 2003, c. 689, Pt. B, §§6 and 7, is further
5 amended to read:

6
7 **1. Release and discharge.** The term "release," as used in
8 this section, means termination of institutional ~~in-patient~~
9 inpatient residency and return to permanent residency in the
10 community. The head of the institution in which a person is
11 placed, under section 103, shall, annually, forward to the
12 Commissioner of Health and Human Services a report containing the
13 opinion of a staff psychiatrist as to the mental conditions of
14 that person, stating specifically whether the person may be
15 released or discharged without likelihood that the person will
16 cause injury to that person or to others due to mental disease or
17 mental defect. The report must also contain a brief statement of
18 the reasons for the opinion. If a person who has been found not
19 criminally responsible by reason of mental disease or mental
20 defect under section 103 for the crime of murder or a Class A
21 crime is the subject of a report finding that the person may be
22 released, the report must specifically describe the supervision
23 that the Department of Health and Human Services must provide to
24 ensure that the person takes any medication as prescribed and
25 complies with any other conditions of release. The commissioner
26 shall immediately file the report in the Superior Court for the
27 county in which the person is hospitalized. The court shall
28 review each report and, if it is made to appear by the report
29 that any person may be ready for release or discharge, the court
30 shall set a date for and hold a hearing on the issue of the
31 person's readiness for release or discharge. The court shall
32 give notice of the hearing and mail a copy of the report to the
33 Attorney General, offices of the district attorney that
34 prosecuted the criminal charges for which the person was
35 acquitted by reason of insanity and the offices of the district
36 attorneys in whose district the release petition was filed or in
37 whose district release may occur. At the hearing, the court
38 shall receive the testimony of at least one psychiatrist who has
39 treated the person and a member of the State Forensic Service who
40 has examined the person, the testimony of any independent
41 psychiatrist or licensed clinical psychologist who is employed by
42 the ~~prosecuter~~ prosecutor and has examined the person and any
43 other relevant testimony. If, after hearing, the court finds
44 that the person may be released or discharged without likelihood
45 that the person will cause injury to that person or to others due
46 to mental disease or mental defect, the court shall order, as
47 applicable:

48 A. Release from the institution, provided that:

49
50

2 (1) The order for release ~~may--include~~ includes
3 conditions determined appropriate by the court,
4 including, but not limited to, ~~out-patient~~ outpatient
5 treatment and supervision by the Department of Health
6 and Human Services, Division of Mental Health. If the
7 order for release covers a person found not criminally
8 responsible by reason of mental disease or mental
9 defect under section 103 for the crime of murder or a
10 Class A crime, the order must specifically direct the
11 department to provide the level of supervision
12 necessary to ensure that the person takes any
13 medication as prescribed and complies with any other
14 conditions of release; and

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

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

22
23 Release from the institution is subject to annual review by the
24 court and, except for return as ordered by the commissioner under
25 paragraph A, subparagraph (1), must continue until terminated by
26 the court. Each person released under this section shall remain
27 in the custody of the commissioner. The Commissioner of Health
28 and Human Services shall inform the public safety officer of the
29 municipality or the sheriff's office of the county into which the
30 person is released of the release.
31

32 33 SUMMARY

34
35 This bill requires that before a person who has been found
36 not criminally responsible for the crime of murder or a Class A
37 crime by reason of mental disease or mental defect may be
38 released from institutional commitment, the Department of Health
39 and Human Services must identify the level of supervision needed
40 to ensure that the person takes any medication as prescribed and
41 complies with any other conditions of release. The bill also
42 requires that the court order for release direct the Department
43 of Health and Human Services to provide the necessary level of
44 supervision.