

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 71

H.P. 69

House of Representatives, January 9, 2007

**An Act To Amend the Laws Governing the Plea of Not Criminally  
Responsible by Reason of Mental Disease or Defect in Juvenile  
Cases**

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative SYKES of Harrison.  
Cosponsored by Senator BARTLETT of Cumberland.

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

2       **Sec. 1. 15 MRSA §3314-C** is enacted to read:

3    **§3314-C. Commitment of a juvenile acquitted on basis of mental disease or defect**

4       **1. Not criminally responsible by reason of mental disease or defect.** When a  
5 juvenile offender has been adjudicated as not criminally responsible by reason of mental  
6 disease or defect the verdict and disposition must so state. The court shall order the  
7 juvenile immediately committed to the custody of the Department of Health and Human  
8 Services to be placed in an appropriate secure juvenile facility for the seriously mentally  
9 ill or the mentally retarded for care and treatment until the juvenile is no longer a threat to  
10 the juvenile or to others or until the juvenile's 18th birthday, when the juvenile must be  
11 transferred to an adult facility or released.

12       A. Six months prior to the 18th birthday of a juvenile committed under this section, a  
13 member of the State Forensic Service shall examine the juvenile and issue a report to  
14 the court. The court shall conduct a hearing prior to the juvenile's 18th birthday to  
15 review the appropriateness of continued institutionalization or release. If release is  
16 warranted, then the report must contain plans and recommendations for release and  
17 reintegration into the community. If continued institutionalization is warranted, then  
18 arrangements for transfer to an adult facility at 18 years of age must commence.

19       B. Upon placement in an appropriate secure juvenile facility and in the event of  
20 transfer from one facility to another of a juvenile committed under this section, notice  
21 of the placement or transfer must be given by the Department of Health and Human  
22 Services to the court.

23       C. After being placed in an appropriate secure juvenile facility, a juvenile committed  
24 under this section must continue to attend age-appropriate schooling or job skills  
25 training.

26       D. The treatment of a juvenile committed under this section must include  
27 rehabilitation, including mental health counseling and medication management for  
28 the juvenile and family counseling as required by the program and staff of the secure  
29 juvenile facility.

30       **2. Annual review.** A staff psychiatrist of the secure juvenile facility who is treating  
31 a juvenile committed under this section shall conduct an annual review of the juvenile to  
32 address issues related to the mental status of the juvenile. The staff psychiatrist shall  
33 compile a report based on this review.

34       A. The report must be submitted to the Department of Health and Human Services,  
35 which shall then forward it to the court.

36       B. The report must address whether the juvenile requires continued  
37 institutionalization or is ready for release back into the community without likelihood  
38 that the juvenile will cause injury to the juvenile or to others due to mental disease or  
39 defect, with reasons supporting the opinion.

40       C. The report must outline rehabilitation efforts undertaken on behalf of the juvenile.

1 D. The court shall review the report and, if the recommendation is that the juvenile  
2 may be ready for release, shall immediately set a date for a hearing on the issue of the  
3 juvenile's readiness for release. The court shall give notice of the hearing and mail a  
4 copy of the report to the juvenile community corrections officer, the office of the  
5 district attorney that prosecuted the criminal charges for which the juvenile was  
6 adjudicated as not criminally responsible by reason of mental disease or defect, the  
7 office of the district attorney in whose district the release petition was filed or in  
8 whose district release may occur and the defense attorney. Notice of the hearing  
9 must be sent to the parents of the juvenile and the victim. If the underlying charge  
10 would have been murder or a Class A, B or C offense were the juvenile an adult, the  
11 hearing must be public. At the hearing, the staff psychiatrist treating the juvenile  
12 shall present testimony in support of the recommendations. Additional testimony  
13 from a member of the State Forensic Service, testimony of an independent  
14 psychiatrist or a licensed psychologist who has examined the juvenile and is  
15 employed by the prosecutor's office and any other relevant testimony must also be  
16 considered. The victim of the underlying charge must be permitted to give a victim  
17 impact statement if the victim chooses.

18 E. If, after the hearing pursuant to paragraph D, the court finds that the juvenile  
19 remains a risk to the juvenile or to others due to mental disease or defect, the juvenile  
20 must remain institutionalized until the juvenile is determined to not be a threat.

21 If, after the hearing pursuant to paragraph D, the court finds that the juvenile no  
22 longer poses a threat to the juvenile or to others, the juvenile may be released. The  
23 order for release may include conditions agreed upon or ordered by the court,  
24 including, but not limited to, outpatient treatment and supervision of the juvenile by  
25 the Department of Health and Human Services. Monitoring of compliance with the  
26 conditions remains with the court. The juvenile must be returned to the secure  
27 juvenile facility immediately upon the order of the Department of Health and Human  
28 Services whenever the person fails to comply with other conditions of release ordered  
29 by the court.

## 30 SUMMARY

31 This bill details the procedure by which a juvenile is ordered committed after being  
32 found not criminally responsible by reason of mental disease or defect. The Juvenile  
33 Court shall order the juvenile committed to the custody of the Department of Health and  
34 Human Services to be placed in an appropriate facility, and 6 months prior to the  
35 juvenile's 18th birthday a report must be issued by the State Forensic Service reviewing  
36 the appropriateness of continued institutionalization or release. A committed juvenile  
37 will still attend appropriate schools and job skills training. The treatment for a committed  
38 juvenile includes rehabilitation, mental health counseling and medication management  
39 and family counseling. An annual review must be conducted for a committed juvenile,  
40 and the court may order the juvenile to remain committed or released upon conditions if  
41 the court finds that the juvenile is no longer a threat to the juvenile or to others.