

# MAINE STATE LEGISLATURE

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L.D. 1611

Date: 4-5-10

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STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
124TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1139,  
L.D. 1611, Bill, "An Act To Ensure Humane Treatment for Special Management  
Prisoners"

Amend the amendment by striking out all of the first indented paragraph after the title  
(page 1, line 11 in amendment)

Amend the amendment by striking out all of the substitute title (page 1, lines 12 to 14  
in amendment)

Amend the amendment by striking out all of sections 1 and 2 and inserting the  
following:

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

**Sec. 1. 34-A MRSA §1406 is enacted to read:**

**§1406. Minimum standards governing the humane treatment of special  
management prisoners**

The commissioner shall ensure that special management prisoners are treated in  
accordance with the minimum standards for humane treatment established in this section.

**1. Definitions.** As used in this section, unless the context otherwise indicates, the  
following terms have the following meanings.

A. "Inmate with a serious mental illness" means:

(1) An inmate found to have current symptoms of or who is currently receiving  
treatment for the following diagnosis:

- (a) Schizophrenia;
- (b) Delusional disorder;
- (c) Schizophreniform disorder;
- (d) Schizoaffective disorder;
- (e) Brief psychotic disorder;

**HOUSE AMENDMENT**

1                   (f) Substance-induced psychotic disorder, excluding intoxication and  
2                   withdrawal;

3                   (g) Psychotic disorder not otherwise specified;

4                   (h) Major depressive disorder; or

5                   (i) Bipolar disorder;

6                   (2) An inmate diagnosed with a mental disorder that includes being actively  
7                   suicidal;

8                   (3) An inmate diagnosed with a serious mental illness that is frequently  
9                   characterized by breaks with or perceptions of reality that result in significant  
10                   functional impairment;

11                   (4) An inmate diagnosed with an organic brain syndrome that would result in a  
12                   significant functional impairment if not treated;

13                   (5) An inmate diagnosed with a severe personality disorder that is characterized  
14                   by frequent episodes of psychosis or depression and results in significant  
15                   functional impairment; or

16                   (6) An inmate diagnosed with mental retardation with significant functional  
17                   impairment.

18                   B. "Special management prisoner" means a prisoner housed in a special management  
19                   unit.

20                   C. "Special management unit" means a high-security unit within a prison facility that  
21                   houses a prisoner assigned by the commissioner to a high-risk management status, an  
22                   administrative segregation status or a disciplinary segregation status.

23                   2. Removal of inmate with serious mental illness. The department shall divert or  
24                   remove an inmate with a serious mental illness from confinement in a special  
25                   management unit when such confinement could last for a period in excess of one week.  
26                   Nothing in this subsection may prevent the disciplinary process from proceeding in  
27                   accordance with department rules for disciplinary hearings.

28                   3. Listing of special management prisoners. The commissioner shall maintain a  
29                   current list of all special management prisoners that includes the date of confinement in  
30                   the special management unit, the date of the last annual review conducted pursuant to  
31                   subsection 4, the date of the last mental health evaluation, the reasons for placement in  
32                   the special management unit and, in a case in which a prisoner has been housed in that  
33                   unit for more than 60 days, a written statement of the criteria relied upon to support that  
34                   extended confinement. The commissioner shall provide the board of visitors for each  
35                   correctional facility appointed under section 3001-A, the State Board of Corrections and  
36                   the joint standing committee of the Legislature having jurisdiction over corrections  
37                   matters a copy of the list on a quarterly basis.

38                   4. Annual review. The State Board of Corrections shall annually conduct a  
39                   comprehensive review of the policies, standards and treatment of special management  
40                   prisoners to determine the effectiveness of those policies and standards and the degree to

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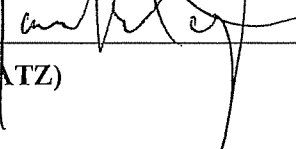
which the treatment of special management prisoners complies with this section. The State Board of Corrections shall annually report its findings under this subsection to the joint standing committee of the Legislature having jurisdiction over corrections matters.

**SUMMARY**

This amendment removes the review of policies related to placement of special management prisoners provided in Committee Amendment "A". The amendment requires the Department of Corrections to divert or remove an inmate with a serious mental illness, as defined in the amendment, from confinement in a special management unit when such confinement could last for a period in excess of one week and states that this provision may not prevent the disciplinary process from proceeding in accordance with department rules for disciplinary hearings.

The amendment also requires the Commissioner of Corrections to maintain a current list of all special management prisoners and, when a prisoner has been retained for more than 60 days in one or more of the units of the special management unit, to also maintain a written statement of the criteria relied upon to support that extended confinement. The commissioner shall provide the boards of visitors, the State Board of Corrections and the joint standing committee of the Legislature having jurisdiction over corrections matters a copy of the list on a quarterly basis.

The amendment further requires the State Board of Corrections to annually conduct a comprehensive review of the policies, standards and treatment of special management prisoners to determine the effectiveness of those policies and standards and the degree to which the treatment of special management prisoners complies with the law. The State Board of Corrections is required to include its findings in an annual report to the joint standing committee of the Legislature having jurisdiction over corrections matters.

SPONSORED BY:   
(Representative SCHATZ)  
TOWN: Blue Hill

FISCAL NOTE REQUIRED  
(See Attached)



# 124th MAINE LEGISLATURE

LD 1611

LR 2289(04)

## An Act To Ensure Humane Treatment for Special Management Prisoners

Fiscal Note for House Amendment "A" to Committee Amendment "A"

Sponsor: Rep. Schatz of Blue Hill

Fiscal Note Required: Yes

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### Fiscal Note

Current biennium cost increase - General Fund

#### Fiscal Detail and Notes

The Department of Corrections will require significant additional General Fund appropriations beginning in fiscal year 2010-11 for the additional costs at the Maine State Prison that result from this bill. Prohibiting a prisoner determined to be suffering from a serious mental illness from being confined in a special management unit will require the department to reassign these prisoners into alternative housing and necessitate the construction of a new close-security housing unit at the Maine State Prison to house the inmates who are displaced. If the department were authorized to issue securities for the construction of a new pod, the debt service on \$12,600,000 is estimated to be approximately \$1,500,000 a year for 10 years. The additional staffing cost associated with the reassignment of prisoners to the 2 existing units is estimated to be \$3,300,000 annually. The annual cost associated with staffing a new 56-bed housing unit is estimated to be \$2,600,000 per year.

The timing of the General Fund appropriations required by the Department of Corrections will depend on how quickly the department will be able to reassign prisoners and the timing of separate legislation authorizing the issuance of securities to construct a new housing unit at the Maine State Prison. Therefore, no appropriations are made at this time.