

# MAINE STATE LEGISLATURE

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JULY  
REPORTS

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**HEALTH AND HUMAN SERVICES**

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**STATE OF MAINE**

**HOUSE OF REPRESENTATIVES**

**129TH LEGISLATURE**

**FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1105, L.D. 1512, Bill, "An Act Regarding Persons Who Are Found Not Criminally Responsible and Are Sent out of State for Treatment"

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 15 MRSA §104-A, sub-§1, as amended by PL 2005, c. 464, §1, is further amended to read:

**1. Release and discharge.** The term "release," as used in this section, means termination of institutional 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 has been placed in an institution outside the State pursuant to section 103, the institution of this State required to monitor the person's placement shall forward the report to the commissioner every 6 months. 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~~ recommend the supervision for the Department of Health and Human Services ~~will to~~ provide the person and must specifically include measures for the department ~~will to~~ take to provide psychoactive medication monitoring of the person. The commissioner shall immediately file the report in the Superior Court for the county in which the person is committed. If a person has been placed in an institution outside the State, the commissioner shall immediately file the report in the Superior Court for the county in which the institution in this State required to monitor the person's placement is located. The court shall review each 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

**COMMITTEE AMENDMENT**

1 readiness for release or discharge. The court shall give notice of the hearing and mail a  
2 copy of the report to the Attorney General, offices of the district attorney that prosecuted  
3 the criminal charges for which the person was committed under section 103 and the  
4 offices of the district attorneys in whose district the release petition was filed or in whose  
5 district release may occur. At the hearing, the court shall receive the testimony of at least  
6 one psychiatrist who has treated the person and a member of the State Forensic Service  
7 who has examined the person, the testimony of any independent psychiatrist or licensed  
8 clinical psychologist who is employed by the prosecutor and has examined the person and  
9 any other relevant testimony. If, after hearing, the court finds that the person may be  
10 released or discharged without likelihood that the person will cause injury to that person  
11 or to others due to mental disease or mental defect, the court shall order, as applicable:

12 A. Release from the institution, provided that:

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

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

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

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

31 **Sec. 2. 15 MRSA §109** is enacted to read:

32 **§109. Committee for the oversight of patient human rights**

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

35 A. "Commissioner" means the Commissioner of Health and Human Services.

36 B. "Committee" means a committee at a state institution that has responsibility for  
37 overseeing patients in a state institution or forensic patients placed in institutions  
38 outside the State.

39 C. "Department" means the Department of Health and Human Services.

40 D. "State institution" has the same meaning as in Title 34-B, section 1001,  
41 subsection 8.

- 1 E. "Superintendent" means the chief administrative officer of a state institution.
- 2 2. Committee convened. The commissioner shall convene a committee in each
- 3 state institution.
- 4 3. Duties. The duties of the committee include, but are not limited to:
- 5 A. Reviewing practices that affect, or potentially affect, the civil liberties or other
- 6 rights of patients;
- 7 B. Reviewing, investigating and seeking resolution of patient grievances;
- 8 C. For forensic patients placed outside the State pursuant to subsection 103:
- 9 (1) Reviewing reports submitted to the commissioner by the state institution
- 10 pursuant to section 104-A, subsection 1 and provided to the committee by the
- 11 superintendent pursuant to subsection 4;
- 12 (2) Reviewing medical records or other records at the request of the patient or
- 13 the patient's guardian if the patient who is the subject of the review or the
- 14 patient's guardian has provided informed, written consent; and
- 15 (3) Receiving verbal reports at least twice per year from the superintendent of
- 16 the state institution monitoring the person's placement outside the State;
- 17 D. Performing other duties as assigned by the superintendent; and
- 18 E. Making recommendations or reporting concerns to the superintendent based on
- 19 any review under this subsection.
- 20 4. Report; confidentiality. The superintendent shall provide patient reports under
- 21 section 104-A, subsection 1 to the committee. The superintendent shall remove any
- 22 identifying information of the patient in the report reviewed by the committee pursuant to
- 23 subsection 3, paragraph C, subparagraph (1), unless the patient who is the subject of the
- 24 report or the patient's guardian has provided informed, written consent to the full
- 25 disclosure of the report to the committee.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or

27 section number to read consecutively.

## 28 SUMMARY

29 This amendment, which is the unanimous report of the committee:

- 30 1. Removes the requirement in the bill that the court, before placing a person in an
- 31 institution outside the State or upon request of the person after being placed outside the
- 32 State, conduct a hearing;
- 33 2. Reduces the frequency of required status reports on a forensic patient placed
- 34 outside the State from quarterly to every 6 months and requires the report be filed in the
- 35 Superior Court in the county in which the state institution monitoring the person's
- 36 placement is located; and
- 37 3. Replaces the proposed oversight committee of forensic patients in the bill with a
- 38 committee for the oversight of patient human rights, for patients in state institutions or

1 forensic patients placed outside the State, to review practices that affect, or potentially  
2 affect, the civil liberties or other rights of patients; review patient grievances; review  
3 reports regarding the placement of forensic patients outside the State and, among other  
4 duties, to report concerns and make recommendations to the superintendent of the state  
5 institution.

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



# 129th MAINE LEGISLATURE

LD 1512

LR 1344(02)

**An Act Regarding Persons Who Are Found Not Criminally Responsible and Are Sent out of State for Treatment**

**Fiscal Note for Bill as Amended by Committee Amendment**

*A(H-469)*

**Committee: Health and Human Services**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund  
Minor revenue increase - Other Special Revenue Funds

### Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.

### Fiscal Detail and Notes

Any additional costs to the Department of Health and Human Services to implement the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.