

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

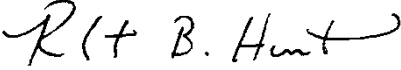
No. 747

H.P. 552

House of Representatives, March 5, 2021

An Act Regarding Civil Mental Health Evaluations of Former Criminal Defendants

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative STOVER of Boothbay.

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

2 **Sec. 1. 15 MRSA §101-D, sub-§5, ¶A,** as amended by PL 2013, c. 434, §1 and
3 affected by §15, is further amended to read:

4 A. Commit the defendant to the custody of the Commissioner of Health and Human
5 Services for placement in an appropriate program for observation, care and treatment
6 of people with mental illness or persons with intellectual disabilities or autism. An
7 appropriate program may be in an institution for the care and treatment of people with
8 mental illness, an intermediate care facility for persons who have intellectual
9 disabilities or autism, a crisis stabilization unit, a nursing home, a residential care
10 facility, an assisted living facility, a hospice, a hospital, an intensive outpatient
11 treatment program or any program specifically approved by the court. At the end of
12 30 days or sooner, and again in the event of recommitment, at the end of 60 days and
13 180 days, the State Forensic Service or other appropriate office of the Department of
14 Health and Human Services shall forward a report to the Commissioner of Health and
15 Human Services relative to the defendant's competence to stand trial and its reasons.
16 The Commissioner of Health and Human Services shall without delay file the report
17 with the court having jurisdiction of the case. The court shall hold a hearing on the
18 question of the defendant's competence to stand trial and receive all relevant testimony
19 bearing on the question. If the State Forensic Service's report or the report of another
20 appropriate office of the Department of Health and Human Services to the court states
21 that the defendant is either now competent or not restorable, the court shall within 30
22 days hold a hearing. If the court determines that the defendant is not competent to
23 stand trial, but there does exist a substantial probability that the defendant will be
24 competent to stand trial in the foreseeable future, the court shall recommit the
25 defendant to the custody of the Commissioner of Health and Human Services for
26 placement in an appropriate program for observation, care and treatment of people with
27 mental illness or persons with intellectual disabilities or autism. An appropriate
28 program may be in an institution for the care and treatment of people with mental
29 illness, an intermediate care facility for persons who have intellectual disabilities or
30 autism, a crisis stabilization unit, a nursing home, a residential care facility, an assisted
31 living facility, a hospice, a hospital, an intensive outpatient treatment program or any
32 program specifically approved by the court. When a person who has been evaluated
33 on behalf of the court by the State Forensic Service or other appropriate office of the
34 Department of Health and Human Services is committed into the custody of the
35 Commissioner of Health and Human Services under this paragraph, the court shall
36 order that the State Forensic Service or other appropriate office of the Department of
37 Health and Human Services share any information that it has collected or generated
38 with respect to the person with the institution or residential program in which the
39 person is placed. ~~If the defendant is charged with an offense under Title 17-A, chapter~~
40 ~~9, 11 or 13 or Title 17-A, section 506-A, 802 or 803-A and the court determines that~~
41 ~~the defendant is not competent to stand trial and there does not exist a substantial~~
42 ~~probability that the defendant can be competent in the foreseeable future, the court shall~~
43 ~~dismiss all charges against the defendant and, unless, Unless the defendant is subject~~
44 ~~to an undischarged term of imprisonment, the court may order the Commissioner of~~
45 ~~Health and Human Services to commence proceedings pursuant to Title 34-B, chapter~~
46 ~~3, subchapter 4. If the defendant is charged with an offense other than an offense under~~

1 Title 17-A, chapter 9, 11 or 13 or Title 17-A, section 506-A, 802 or 803-A and the
2 court determines that the defendant is not competent to stand trial and there does not
3 exist a substantial probability that the defendant can be competent in the foreseeable
4 future, the court shall dismiss all charges against the defendant and, unless the
5 defendant is subject to an undischarged term of imprisonment, notify the appropriate
6 authorities who may institute civil commitment proceedings for the individual if there
7 is reasonable cause to believe the defendant poses a likelihood of serious harm due to
8 mental illness. If the defendant is not currently placed at an institution for the care and
9 treatment of people with mental illness, the court shall take steps to effect the initiation
10 of proceedings pursuant to Title 34-B, chapter 3, subchapter 4, including instructing
11 law enforcement to assess the need for protective custody pursuant to Title 34-B,
12 section 3862 if necessary. If the defendant is subject to an undischarged term of
13 imprisonment, the court shall order the defendant into execution of that sentence and
14 the correctional facility to which the defendant must be transported shall execute the
15 court's order; or

16 **SUMMARY**

17 This bill limits the court's authority to order the Commissioner of Health and Human
18 Services to commence proceedings pursuant to the Maine Revised Statutes, Title 34-B,
19 chapter 3, subchapter 4 to situations in which there is a reasonable cause to believe the
20 defendant poses a likelihood of serious harm due to mental illness. This bill also expands
21 the court's authority to order the commencement of such proceedings.