

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 118

S.P. 57

In Senate, January 9, 2023

An Act to Ensure Continuity of Care for Pretrial 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.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CARNEY of Cumberland.

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

2 **Sec. 1. 15 MRSA §101-D, sub-§4, ¶B**, as amended by PL 2013, c. 265, §1, is
3 further amended to read:

4 B. Upon a determination by the State Forensic Service under paragraph A, a court
5 having jurisdiction in a criminal case may commit the defendant to the custody of the
6 Commissioner of Health and Human Services for placement in an appropriate
7 institution for the care and treatment of people with mental illness or in an appropriate
8 residential program that provides care and treatment for persons who have intellectual
9 disabilities or autism for observation for a period not to exceed 60 days. If the State
10 Forensic Service requires additional time for observation, it shall communicate its
11 request and the reasons for that request to the court and to counsel for the parties. The
12 court shall accommodate a party's request to be heard on the issue of whether an
13 extension should be granted and may extend the commitment for up to an additional
14 90 days. Unless the defendant objects, an order under this paragraph must authorize
15 the institution or residential program where the defendant is placed by the
16 Commissioner of Health and Human Services to provide treatment to the defendant.
17 When further observation of the defendant is determined no longer necessary by the
18 State Forensic Service, the ~~commissioner~~ Commissioner of Health and Human
19 Services shall report that determination to the court and the court shall terminate the
20 commitment. If the defendant is committed by the court to the custody of the
21 Commissioner of Health and Human Services for observation under this paragraph, the
22 State Forensic Service may release prior court-ordered evaluation reports pertaining to
23 the pending charges, unless otherwise impounded, to the institution or residential
24 program into which the defendant is placed by the Commissioner of Health and Human
25 Services. If the defendant had been incarcerated prior to the commitment for
26 observation and if, during the period of observation, the defendant presents a
27 substantial risk of causing bodily injury to staff or others that cannot be managed in an
28 appropriate institution for the care and treatment of people with mental illness or in an
29 appropriate residential program that provides care and treatment for persons who have
30 intellectual disabilities or autism, the ~~commissioner~~ Commissioner of Health and
31 Human Services may return the defendant to the correctional facility. The
32 ~~commissioner~~ Commissioner of Health and Human Services shall report the risk
33 management issues to the court. Upon receiving the report, the court shall review the
34 report and may enter any order authorized by this section, including termination of the
35 commitment.

36 **SUMMARY**

37 This bill authorizes the State Forensic Service to disclose prior court-ordered
38 evaluation reports pertaining to the pending changes of pretrial defendants to institutions
39 for the care and treatment of people with mental illness or residential programs that provide
40 care and treatment for persons who have intellectual disabilities or autism when the court
41 commits a defendant to the Commissioner of Health and Human Services for observation
42 in such an institution or program.