

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fifth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with
the Revised Statutes of 1964, Title 3 Section 164, Subsection 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1971

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Fourth Legislature

AT THE
SPECIAL SESSION

January 6, 1970
to
February 7, 1970

5. Studies and research. To encourage, participate in or conduct studies, investigations, training, research and demonstrations relating to the control of occupational health hazards;

6. Health education information. To collect and disseminate health education information relating to occupational health and welfare;

7. Inspections. To enter and inspect industrial establishments and places of employment and to enforce the rules and regulations promulgated under this section;

8. Penalties. Any person who violates any provision of this section or the rules and regulations made thereunder shall be punished by a fine of not less than \$50 nor more than \$200 for each offense.

Sec. 2. R. S., T. 26, § 569, amended. Section 569 of Title 26 of the Revised Statutes, as enacted by chapter 454 of the public laws of 1969, is amended to read as follows:

§ 569. Rules and regulations

The rules and regulations formulated under this chapter may supplement, but shall in no manner supersede, the rules and regulations duly promulgated by the Board of Boiler Rules, the Board of Construction Safety Rules and Regulations and the Board of Elevator Rules and Regulations, whose rule making authority is clearly set forth in sections 173, 373 and 432, respectively, and the rules and regulations duly promulgated by the Department of Health and Welfare under the laws administered by that department. Before any rules or regulations are adopted, a public hearing shall be held, suitable notification to be published in at least 3 newspapers throughout the State.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective January 30, 1970

Chapter 555

AN ACT Relating to Clarification of Release and Discharge from Commitment after a Finding of Not Guilty by Reason of Mental Disease or Mental Defect.

Emergency preamble. Whereas, Acts passed by the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it has become clear since the most recent amendment of 15 M.R.S.A. § 104, that conditional release as permitted by the statute is restrictive to the point that rehabilitative programming, permitting gradual return to the community of persons found not guilty by reason of mental disease or mental defect is impossible; and

Whereas, in many instances partial release with continuing immediate custody remaining in the institution prior to actual separation of the patient from the institution, and complete return to the community is indicated as the most therapeutic and safe method by which to assure to the fullest extent possible, that a patient hospitalized following a finding of not guilty of crime by reason of mental disease or mental defect, can move toward return to normal community living; and

Whereas, it is vitally necessary that as far as possible therapeutic and safe methods be employed, and that the law permits the courts and state institutions a wide range of alternatives, in order to assure an optimum use of facilities and programs and positive results in effecting release or discharge from state institutions, of persons committed after being found guilty of crime by reason of mental disease or mental defect; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

R. S., T. 15, § 104, repealed and replaced. Section 104 of Title 15 of the Revised Statutes, as amended by chapter 376 and section 24-E of chapter 504, both of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 104. Release and discharge

The superintendent of the hospital in which a person is hospitalized under section 103, shall, annually, forward to the Commissioner of Mental Health and Corrections a report containing the opinion of the superintendent or hospital staff psychiatrist, as to the condition of any such person and his readiness for release or discharge, which opinion in the case of a person found not guilty of crime by reason of mental disease shall indicate whether such person is, or is not, restored sufficiently to permit release or discharge without likelihood of his causing injury to himself or others, due to mental disease, and in the case of a person found not guilty of crime by reason of mental defect shall indicate whether such person is, or is not, adjusted, socially and otherwise, so as to permit release or discharge without likelihood of his causing injury to himself or others, due to mental defect. The commissioner shall forthwith file such report with the court in the county in which the person is hospitalized. The court shall review the report and if it is made to appear by the report that any such person may be ready for release or discharge, the court shall set a date for, and hold a hearing on the question of such person's readiness for release or discharge, and shall receive the testimony of at least one psychiatrist who has observed or treated such person and any other relevant testimony. If, after hearing, the court finds that such person may be released or discharged without likelihood of his causing injury to himself or others, due to mental disease or mental defect, the court shall order:

1. Release.

A. Continuing residency at the institution in which hospitalized and participation off the grounds thereof in any therapeutic program consid-

ered appropriate by the institution. Discontinuance or modification of any such program shall be subject to the discretion of the institution head, or

B. Separation from the institution subject to conditions deemed appropriate by the court, not limited to, but which may include, outpatient treatment to continue until terminated by the court, subject to annual review by the court, and which may include supervision for one year by the State Probation and Parole Division, which supervision, upon review by the court at the end of the year may be extended for one year.

2. Discharge. Discharged from the custody of the Commissioner of Mental Health and Corrections.

Whenever, in the opinion of the superintendent or staff psychiatrist of the hospital in which a person is hospitalized under section 103, such person may be released or discharged without likelihood of his causing injury to himself or others, due to mental disease or mental defect, the superintendent shall report such opinion and the reasons therefor, to the Commissioner of Mental Health and Corrections. The commissioner shall forthwith forward the report to the court and the court shall hold a hearing and dispose of the matter as provided in the first paragraph of this section.

A person committed under section 103, or his spouse or any next of kin, may petition the court in the county in which the person is hospitalized for a hearing under this section. Upon receiving such petition the court shall request and receive a report from the Commissioner of Mental Health and Corrections, containing the opinion of the superintendent or staff psychiatrist of the hospital in which such person is hospitalized, relative to the readiness of such person for release or discharge, and whether if released or discharged, the patient would be likely to cause injury to himself or others, due to mental disease or mental defect. The hearing and release or discharge, if ordered, shall be as provided in the first paragraph of this section. If release or discharge is not ordered, a petition shall not again be filed for the release or discharge of such person for one year.

Notice of any hearing under this section shall be given to the county attorney and Attorney General at least 14 days before the hearing date.

When, upon hearing, a person who has been released under subsection 1, paragraph B, is found to be suffering from a mental disease or mental defect, and due thereto, is likely to cause injury to himself or others, the court in which he was tried, may by order, stating the fact of such mental disease or mental defect, recommit him to the custody of the Commissioner of Mental Health and Corrections for placement as provided in section 103.

Any person released under this section, or his spouse or next of kin, may, at any time after one year, petition the court for his discharge under this section. The court after hearing may make any disposition provided for in this section. Following such hearing a petition shall not again be brought for one year.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.