

# MAINE STATE LEGISLATURE

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SEVENTH REVISION

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REVISED STATUTES

OF THE  
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## CHAPTER 149.

## Disposal of Insane Criminals.

**Sec. 1. Proceedings when a person, committed to jail on a criminal charge, pleads insanity.** R. S. c. 139, § 1. When a person is indicted for an offense, or is committed to jail on a charge thereof by a trial justice, or judge of a police or municipal court, any justice of the court before which he is to be tried, if a plea of insanity is made in court, or he is notified that it will be made, may, in vacation or term time, order such person into the care of the superintendent of either insane hospital, to be detained and observed by him until further order of court, that the truth or falsity of the plea may be ascertained. The superintendent of the hospital to which such person is committed shall, within the first three days of the term next after such commitment, and within the first three days of each subsequent term so long as such person remains in his care, report to the judge of the court before which such person is to be tried, whether his longer detention is required for purposes of observation.

107 Me. 340.

**Sec. 2. Proceedings when grand jury omit to indict, or traverse jury acquit on account of the insanity of the accused.** R. S. c. 139, § 2. When the grand jury omit to find an indictment against any person arrested to answer for an offense, by reason of his insanity, they shall certify that fact to the court; and when a traverse jury, for the same reason, acquit any person indicted, they shall state that fact to the court when they return their verdict; and the court, by a precept stating the fact of insanity, may commit him to the department for the criminal insane at the Augusta state hospital or to either insane hospital; and any person so committed shall be discharged by the court having jurisdiction of the case only on satisfactory proof that his discharge will not endanger the peace and safety of the community; and when such person so discharged is on satisfactory proof again found insane and dangerous, any justice of the superior court may, by a precept stating the fact of his insanity, recommit him to the department for the criminal insane at the Augusta state hospital or to either insane hospital.

**Sec. 3. Discharge of person so committed to the hospital; recommitment.** R. S. c. 139, § 3. Any person so committed to an insane hospital may be discharged by any justice of the superior court, in term time or vacation, on satisfactory proof that his discharge will not endanger the peace and safety of the community; or such justice may, on application, commit him to the custody of any friend who will give bond to the judge of probate for the county of Kennebec, if such commitment was to the Augusta state hospital, or to the judge of probate for the county of Penobscot, if such commitment was to the Bangor state hospital, with sufficient sureties, approved by said judge of probate, conditioned for the safe-keeping of such insane person, and the payment of all damages which any person may sustain by his acts. And when, on satisfactory proof, he is again found insane and dangerous, any justice of the superior court may, by a precept stating the fact of his insanity, recommit him to the insane hospital from which he was discharged.

**Sec. 4. Support at hospital.** R. S. c. 139, § 4. The person so committed shall be there supported at his own expense, if he has sufficient means; otherwise, at the expense of the state.

**Sec. 5. Governor to appoint an examiner of insane convicts, in each county; proceedings when a prisoner becomes insane.** R. S. c. 139, § 5. The governor shall appoint in each county in the state a competent physician, who shall be a resident of the county, to act as an examiner of insane convicts in the county jail of the county. When a convict in the state prison or the county jail becomes insane or a convict whose sentence has expired is there detained, and in the opinion of the warden of the state prison or keeper of the jail is insane, the warden shall forthwith notify the prison physician and the jailer shall forthwith notify such examiner in the county of the fact, and the prison physician or such examiner shall forthwith investigate the case and make a personal examination of the convict or party so detained; and if such physician finds such convict or person detained to be insane he shall forthwith certify such fact in writing to the warden of the state prison or keeper of such jail. Said warden shall apply in writing to the judge of the municipal court for the city of Rockland in the county of Knox, and such keeper shall apply to the judge of the municipal court in the place where such jail is located, if any; otherwise to the judge of the nearest municipal court in the county, and if there is no municipal court in such county, to any justice of the superior court, stating the facts connected therewith, and praying that the condition of such convict or person detained as aforesaid may be inquired into and such decree made as to his commitment or detention as justice may require.

**Sec. 6. Hearing to be appointed by judge; proceedings thereat; appointment of guardian ad litem and counsel.** R. S. c. 139, § 6. Such judge shall thereupon appoint a time and place for a hearing by him of the allegations of such application, and shall cause a true copy of said application to be given in hand to the person so alleged to be insane at least twenty-four hours prior to the time of said hearing, together with a notice of the time and place of said hearing, and that he has a right and will be given an opportunity then and there to be heard in the matter; he shall call before him all testimony necessary for a full understanding of the case, and shall personally examine and interview such person, whether he shall or shall not appear at such hearing, and shall require and receive evidence of at least two reputable physicians not in the employ of the state prison or either of the said jails, all such evidence being given under oath before such judge, with the certificate signed by such physicians and filed with the papers in the case, that in their opinion such person is or is not insane. Such evidence and certificate shall be based upon due inquiry and personal examination of the person to whom insanity is imputed. At said hearing the judge shall appoint a guardian ad litem for the person so alleged to be insane and may in his discretion appoint counsel for such person. The compensation of such guardian and counsel shall be fixed by the judge and included in the expense of the proceedings to be paid by the state or county.

**Sec. 7. Commitment, if person is adjudged insane.** R. S. c. 139, § 7. If upon the foregoing proceedings such judge shall determine that such convict or person detained as aforesaid is insane and that his comfort and safety or that of others interested will thereby be promoted, he shall, in case of such convict or person so detained in the state prison, commit him to the department for the criminal insane at the Augusta state hospital and in the case of a convict or person so detained in either of the county jails he shall commit him to one of the insane hospitals, with a certificate stating the fact of his insanity and directing

that he shall be received and detained accordingly until he is restored or discharged by law. The certificate of said judge shall state the town in which the prisoner or person detained so committed resided at the time of his original commitment to prison or jail. A certified copy of the certificate signed by the prison physician shall accompany said order of commitment made hereunder, and said judge shall keep a record of his doings and furnish a copy to any interested person requiring and paying for it.

**Sec. 8. Persons recovering before expiration of sentence.** R. S. c. 139, § 8. If a person so committed as insane is restored or discharged from such commitment before the expiration of the term of the sentence on which he was originally committed, he shall be returned to the prison or jail in which he was serving his original sentence, and shall be there detained until the time when his original sentence would have expired.

**Sec. 9. Fees for examination and certificate.** R. S. c. 139, § 9. The fee of each physician for such examination and certificate and testifying before said judge shall be five dollars. All the fees, costs and expenses incident to any such hearing shall be taxed by the judge, and in any case relating to the state prison, audited and allowed by the state auditor, and in any cases arising in either of the county jails, by the county commissioners for such county, who shall include therein a reasonable compensation for such judge, and said fees and costs shall be paid by the state and county respectively.

**Sec. 10. Commitment of inmates of jails and persons under indictment.** R. S. c. 139, § 10. Inmates of the county jails and persons under indictment becoming insane before final conviction may be committed to either insane hospital by any justice of the superior court in the county where such person is to be tried, or the case is pending, for observation, under such limitations as such judge may direct.

**Sec. 11. Inquiry into cases of alleged unreasonable detention.** R. S. c. 139, § 11. A friend of any person adjudged insane and committed to the department for the criminal insane at the Augusta state hospital under the foregoing proceedings, thinking such person is unreasonably detained, may apply in writing to any justice of the superior court, who shall inquire into the case and summon before him such witnesses as in his judgment may be necessary and upon such application vacate such commitment; and if the original sentence has expired, discharge such person. He shall tax legal costs and shall decide whether they shall be borne by the petitioner or by the state. If such application is unsuccessful, it shall not be renewed until the expiration of one year.

**Sec. 12. Municipal judges may hold court in towns where prison or jails are located.** R. S. c. 139, § 12. The judge of the municipal court of the city of Rockland is hereby authorized for the purposes provided in the nine preceding sections, if he shall see fit, to hold his court in the town of Thomaston, and the judge of any municipal court to which application is made by any jailer, and which court is located in a town other than that in which the jail is situated, may hold his court for the purposes herein provided in the town where such jail is located.

**Sec. 13. Transfer of criminal insane.** R. S. c. 139, § 13. The superintendent of the Augusta state hospital and the hospital trustees may transfer any patients that are now or may be hereafter committed to the building for the criminal insane at Augusta to any other building of the Augusta state hospital used for the care of the insane, whenever in their judgment it appears necessary, and the safety of the other patients requires it.

**Sec. 14. Commitment of persons insane when motion for sentence is made; proceedings if insane at expiration of term of commitment; support.** R. S. c. 139, § 14. If a person convicted of any crime, in the superior court, is found by the judge of such court to be insane when motion for sentence is made, the court may cause such person to be committed to the department for the criminal insane at the Augusta state hospital under such limitations as the court may direct; provided that the crime of which such person is convicted is punishable by imprisonment in the state prison; otherwise such commitment shall be to one of the insane hospitals; if at the expiration of the period of commitment to the department for the criminal insane at the Augusta state hospital such person has not become of sound mind in the opinion of the superintendent of the Augusta state hospital, he shall be removed to one of the insane hospitals. Persons committed by a justice of the superior court before final conviction, or after conviction and before sentence whether originally committed or subsequently removed thereto, and insane convicts after the expiration of their sentences, shall be supported while in the insane hospital in the manner provided by law in the case of persons committed by municipal officers, and the provisions of sections twenty-eight to thirty inclusive, of chapter one hundred fifty-five shall apply to such cases.

**Sec. 15. Reformatories; preliminary proceedings when inmate becomes insane or is feeble-minded.** 1917, c. 88. 1923, c. 160, § 1. Whenever a woman committed to the reformatory for women, a man committed to the reformatory for men, a girl committed to the state school for girls or a boy committed to the state school for boys has become insane, or in the opinion of the superintendent thereof is in such a condition that she or he is a fit subject for the Pownal state school, the superintendent shall notify the institutional physician of the fact, and the institutional physician shall forthwith investigate the case and make a personal examination of such person; and if such physician finds such person to be insane or a fit subject for the Pownal state school he shall forthwith certify such fact in writing to the superintendent. Said superintendent shall apply in writing to the judge of the municipal court having jurisdiction of offenses in the town where such institution is located, stating the facts connected therewith and praying that the condition of such person may be inquired into and such decree made as to her or his commitment as justice may require.

**Sec. 16. Court proceedings.** 1917, c. 88. 1923, c. 160, § 2. Such judge shall thereupon appoint a time and place for a hearing by him of the allegations of such application and shall cause a true copy of such application to be given in hand to the person so alleged to be insane or a fit subject for the Pownal state school, at least twenty-four hours prior to the time of said hearing, together with a notice of the time and place of said hearing, and that she or he has a right and will be given an opportunity then and there to be heard in the matter; if such person is a minor, notice shall also be given to his or her parents or guardian, if known, as the court may order; he shall call before him all testimony necessary for the full understanding of the case, and shall personally examine and interview such person, whether she or he shall or shall not appear at such hearing, and shall require and receive evidence of at least two reputable physicians not in the employ of either of said institutions, all such evidence being given under oath before such judge, with the certificate signed by such physicians and filed with the papers in the case, that in their opinion such person is or is not insane or is or is not a fit subject for the Pownal state school. Such evidence and certificate shall be based upon due

inquiry and personal examination of the person to whom insanity is imputed or who is alleged to be a fit subject for the Pownal state school. At said hearing the judge shall appoint a guardian ad litem for the person so alleged to be insane or a fit subject for the Pownal state school, and may in his discretion appoint counsel for such person. The compensation for such guardian and counsel shall be fixed by the judge and included in the expense of the proceedings to be paid by the state.

**Sec. 17. Manner of commitment.** 1917, c. 88. 1923, c. 160, § 3. If upon the foregoing proceedings such judge shall determine that such person so committed is insane or that she or he is a fit subject for the Pownal state school and that her or his comfort and safety, or that of others interested, or her or his welfare will thereby be promoted, he shall, in case such person is insane, commit her or him to one of the insane hospitals, with a certificate stating the fact of her or his insanity and directly that she or he shall be received and detained accordingly until she or he is restored or discharged by law; or in case such person is a fit subject for the Pownal state school he shall commit her or him to said school by order of commitment directed to the hospital trustees, directing that she or he shall be received and detained accordingly until she or he is restored or discharged by law, providing that no order of commitment to the Pownal state school be made until application for admission of such person has first been made to the hospital trustees by the superintendent of such institution, which application shall be placed on file at the Pownal state school and evidence thereof presented to the judge accompanied by a certificate of the superintendent of said Pownal state school, stating in substance that such person will be received under provision of section fifty-one of chapter one hundred fifty-five. The certificate of said judge shall state the town in which the person so committed resided at the time of original commitment. A certified copy of the certificate, signed by the institutional physician, shall accompany such order of commitment made hereunder, and said judge shall keep a record of his doings and furnish a copy to any interested person requiring and paying for it.

**Sec. 18. Sections eight, nine and eleven applicable.** 1917, c. 88. 1923, c. 160, § 4. The provisions of sections eight, nine and eleven of this chapter are hereby extended to and made applicable to the case of any woman committed from the reformatory for women, any man committed from the reformatory for men, any girl committed from the state school for girls and any boy committed from the state school for boys, in the foregoing manner, except that said fees and costs shall be audited and allowed by the state auditor and shall be paid by the state.