

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

*State Of Maine
120th Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice*

May 2002

Staff:

*Marion Hylan Barr, Legislative Analyst
Jon Clark, Senior Analyst*

*Office of Policy and Legal Analysis
13 State House Station
Augusta, ME 04333
(207) 287-1670*

Members:

*Sen. Michael J. McAlevey, Chair
Sen. William B. O'Gara
Sen. Paul T. Davis, Sr.*

*Rep. Edward J. Povich, Chair
Rep. Michael W. Quint
Rep. Charles E. Mitchell
Rep. Lillian LaFontaine O'Brien
Rep. Patricia A. Blanchette
Rep. Stanley J. Gerzofsky
Rep. Judith B. Peavey
Rep. Edgar Wheeler
Rep. James H. Tobin, Jr.
Rep. Lois A. Snowe-Mello*



Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS

13 State House Station, Augusta, Maine 04333-0013
Telephone: (207) 287-1670
Fax: (207) 287-1275

120th Legislature
Second Regular Session

Summary Of Legislation Before The Joint Standing Committees
May 2002

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PASSED..... Joint Order passed in both bodies
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Bill held by Governor
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 25, 2002.

Patrick T. Norton, Interim Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Criminal Justice

LD 2068

An Act Relating to the Treatment of Persons with Mental Illness Who are Incarcerated

PUBLIC 659

<u>Sponsor(s)</u>	<u>Committee Report</u> OTP-AM	<u>Amendments Adopted</u> H-1020 S-579 GOLDTHWAIT
-------------------	-----------------------------------	---

LD 2068 proposed to implement the recommendations of the Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated relating to treatment and aftercare planning in state prisons and county jails. The Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated was created pursuant to Joint Order, House Paper 1383. LD 2068 was one of 4 bills produced by the committee. (See also LDs 2065, 2075, and 2088.) Specifically, LD 2068 proposed to:

1. Direct the Department of Human Services to establish procedures to ensure that a person receiving federally approved Medicaid services prior to incarceration does not lose Medicaid eligibility merely as a result of that incarceration;
2. Direct the Department of Behavioral and Developmental Services to work with the Department of Corrections and the county jail administrators to develop memoranda of agreement to improve access to forensic beds for transfers of inmates who require care in a State mental health institution;
3. Direct the Department of Behavioral and Developmental Services to develop, in consultation with appropriate state and county correctional facility administrators, procedures to ensure that any inmate of a state or county facility that is hospitalized for treatment of mental illness has a written treatment plan describing the mental health treatment to be provided when the inmate is returned to the correctional facility for the remainder of the inmate's incarceration;
4. Amend certain confidentiality provisions to allow the Department of Behavioral and Developmental Services to share medical records with the Department of Corrections or county jail without the client's consent in cases in which the client suffers an acute deterioration such that the client cannot provide consent;
5. Direct the Department of Corrections and the Maine Jail Association to examine and develop ways of treating inmates with mental illness in the least restrictive setting possible that does not compromise security; and
6. Create an independent Ombudsman for Mentally Ill Inmates.

Committee Amendment "A" (H-1020) proposed to combine most of the provisions of LDs 2065, 2068, 2075 and 2088, (some provisions of those bills were not included and other provisions were changed). Specifically, the amendment proposed to:

1. Expand the police ride-along programs (from LD 2065, unchanged);
2. Direct the Department of Behavioral and Developmental Services to examine the efficiency and effectiveness of the current ride-along program (from LD 2065, unchanged);

Joint Standing Committee on Criminal Justice

3. Establish positions within the trial court system to develop treatment plans and sentencing options for persons with mental illness (from LD 2065, substantively unchanged);
4. Direct the Department of Behavioral and Developmental Services to develop programs to provide mental illness awareness training to judges, jail staff and to others within the criminal justice system who do not currently receive such training (from LD 2065, unchanged);
5. Create a position within the Department of Behavioral and Developmental Services to serve as criminal justice liaison to consult with county jails and the Department of Corrections (from LD 2065, unchanged);
6. Direct the Department of Human Services to establish procedures to ensure that a person receiving federally approved Medicaid services prior to incarceration does not lose Medicaid eligibility merely as a result of that incarceration (from LD 2068, substantially unchanged);
7. Direct the Department of Behavioral and Developmental Services to work with the Department of Corrections and the county jail administrators to develop memoranda of agreement to improve access to forensic beds for transfers of inmates who require care in a State mental health institution (from LD 2068, unchanged);
8. Direct the Department of Behavioral and Developmental Services to develop, in consultation with appropriate state and county correctional facility administrators, procedures to ensure that any inmate of a state or county facility that is hospitalized for treatment of mental illness has a written treatment plan describing the mental health treatment to be provided when the inmate is returned to the correctional facility for the remainder of the inmate's incarceration (from LD 2068, substantially unchanged);
9. Direct the Department of Corrections and the Maine Jail Association to examine and develop ways of treating inmates with mental illness in the least restrictive setting possible that does not compromise security (from LD 2068, unchanged);
10. Create an independent Ombudsman for Mentally Ill Inmates (from LD 2068, with substantial changes);
11. Allow county jails to grant furloughs for longer than 3 days to provide treatment for mental conditions, including a substance abuse condition, as determined by a qualified licensed professional (from LD 2075, with some changes)
12. Create a collaborative process to develop a pilot program to address the needs of persons with mental illness who are incarcerated in county correctional facilities (from LD 2075, with substantial changes);
13. Create a position at each Department of Corrections intake facility (Maine State Prison and Maine Correctional Center) to undertake mental health screening and to collect relevant mental health information upon intake (from LD 2088, unchanged);
14. Fund one psychiatrist and one psychiatric nurse to provide mental health treatment services to inmates in the State facilities (from LD 2088, substantially unchanged);

Joint Standing Committee on Criminal Justice

15. Direct the Department of Corrections to develop a training program to provide specialized forensic training to case management and community support providers and crisis and outpatient providers (from LD 2088, unchanged);
16. Require the formulary used by the Department of Corrections to be comparable to that used at State mental institutions (from LD 2088, with substantial changes);
17. Direct the Department of Corrections to develop a grievance process for addressing complaints about medical or mental health treatment (from LD 2088, with substantial changes); and
18. Add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-579) proposed to remove those portions of the committee amendment that required General Fund appropriations, except the provisions establishing a pilot program to address the needs of persons with mental illness in county jails. The amendment proposed to modify the pilot program to limit it to one pilot location rather than 3 pilot locations and reduce funding to \$65,000. Specifically, the amendment proposed to remove the following provisions from the committee amendment:

1. Part A, section 2, which proposed to expand the so-called ride-along programs;
2. Part B, which proposed to establish a diversion program in the courts;
3. Part C, which proposed to fund mental illness awareness training to persons within the criminal justice system;
4. Part D, which proposed to create a criminal justice liaison within the Department of Behavioral and Developmental Services;
5. Part I, which proposed to establish an ombudsman for mentally ill inmates;
6. Part L, which proposed to fund positions within the Department of Corrections to undertake mental health screening;
7. Part M, which proposed to fund positions within the Department of Corrections to provide mental health services to inmates; and
8. Part N, which proposed to fund forensic training of case management and community support services.

Enacted law summary

Public Law 2001, chapter 659 implements, with a few changes, a number of the provisions of legislative documents 2065, 2068, 2075 and 2088, which were reported by the Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated. The Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated was created pursuant to Joint Order, House Paper 1383. Public Law 2001, chapter 659 does the following.

Joint Standing Committee on Criminal Justice

1. It directs the Department of Behavioral and Developmental Services to examine the efficiency and effectiveness of the current ride-along program.
2. It directs the Department of Human Services to establish procedures to ensure that a person receiving federally approved Medicaid services prior to incarceration does not lose Medicaid eligibility merely as a result of that incarceration.
3. It directs the Department of Behavioral and Developmental Services to work with the Department of Corrections and the county jail administrators to develop memoranda of agreement to improve access to forensic beds for transfers of inmates who require care in a State mental health institution.
4. It directs the Department of Behavioral and Developmental Services to develop, in consultation with appropriate state and county correctional facility administrators, procedures to ensure that any inmate of a state or county facility that is hospitalized for treatment of mental illness has a written treatment plan describing the mental health treatment to be provided when the inmate is returned to the correctional facility for the remainder of the inmate's incarceration.
5. It directs the Department of Corrections and the Maine County Jail Association to examine and develop ways of treating inmates with mental illness in the least restrictive setting possible that does not compromise security.
6. It allows county jails to grant furloughs for longer than 3 days to provide treatment for mental conditions, including a substance abuse condition, as determined by a qualified licensed professional.
7. It creates a collaborative process to create a pilot program to address the needs of persons with mental illness who are incarcerated in county correctional facilities and appropriates \$65,000 to the program.
8. It requires the formulary used by the Department of Corrections to be comparable to that used at State mental institutions.
9. It directs the Department of Corrections to develop a grievance process for addressing complaints about medical or mental health treatment.

LD 2075

An Act to Implement the Recommendations of the Committee to Study the Needs of Persons with Mental Illness Who are Incarcerated Relating to Treatment and Aftercare Planning in County Jails

ONTP

Sponsor(s)

Committee Report
ONTP

Amendments Adopted

LD 2075 proposed to implement recommendations of the Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated relating to treatment and aftercare planning in county jails. The Committee to Study the Needs of Persons with Mental Illness Who Are Incarcerated was created pursuant to Joint Order, House Paper 1383. LD 2075 was one of 4 bills produced by the committee. (See also LDs 2065, 2068, and 2088.) Specifically, LD 2075 proposed to: