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HEALTH AND HUMAN SERVICES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 1105, L.D. 1512, Bill, “An Act Regarding Persons Who Are Found Not Criminally Responsible and Are Sent out of State for Treatment”

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 15 MRSA §104-A, sub-§1, as amended by PL 2005, c. 464, §1, is further amended to read:

1. Release and discharge. The term "release," as used in this section, means termination of institutional inpatient residency and return to permanent residency in the community. The head of the institution in which a person is placed, under section 103, shall, annually, forward to the Commissioner of Health and Human Services a report containing the opinion of a staff psychiatrist as to the mental conditions of that person, stating specifically whether the person may be released or discharged without likelihood that the person will cause injury to that person or to others due to mental disease or mental defect. The report must also contain a brief statement of the reasons for the opinion. If a person has been placed in an institution outside the State pursuant to section 103, the institution of this State required to monitor the person's placement shall forward the report to the commissioner every 6 months. If a person who has been found not criminally responsible by reason of insanity for the crime of murder or a Class A crime and was committed under section 103 is the subject of a report finding that the person may be released, the report must specifically ~~describe~~ recommend the supervision for the Department of Health and Human Services ~~will to~~ provide the person and must specifically include measures for the department ~~will to~~ take to provide psychoactive medication monitoring of the person. The commissioner shall immediately file the report in the Superior Court for the county in which the person is committed. If a person has been placed in an institution outside the State, the commissioner shall immediately file the report in the Superior Court for the county in which the institution in this State required to monitor the person's placement is located. The court shall review each report and, if it is made to appear by the report that any person may be ready for release or discharge, the court shall set a date for and hold a hearing on the issue of the person's

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1 readiness for release or discharge. The court shall give notice of the hearing and mail a
2 copy of the report to the Attorney General, offices of the district attorney that prosecuted
3 the criminal charges for which the person was committed under section 103 and the
4 offices of the district attorneys in whose district the release petition was filed or in whose
5 district release may occur. At the hearing, the court shall receive the testimony of at least
6 one psychiatrist who has treated the person and a member of the State Forensic Service
7 who has examined the person, the testimony of any independent psychiatrist or licensed
8 clinical psychologist who is employed by the prosecutor and has examined the person and
9 any other relevant testimony. If, after hearing, the court finds that the person may be
10 released or discharged without likelihood that the person will cause injury to that person
11 or to others due to mental disease or mental defect, the court shall order, as applicable:

12 A. Release from the institution, provided that:

13 (1) The order for release includes conditions determined appropriate by the
14 court, including, but not limited to, outpatient treatment and supervision by the
15 Department of Health and Human Services, Division of Mental Health. If the
16 order for release covers a person found not criminally responsible by reason of
17 insanity for the crime of murder or a Class A crime and was committed under
18 section 103, the order must direct the Department of Health and Human Services
19 to provide the level of supervision necessary, including specific measures to
20 provide psychoactive medication monitoring; and

21 (2) The order for release includes the condition that the person must be returned
22 to the institution immediately upon the order of the commissioner whenever the
23 person fails to comply with other conditions of release ordered by the court; or

24 B. Discharge from the custody of the Commissioner of Health and Human Services.

25 Release from the institution is subject to annual review by the court and, except for return
26 as ordered by the commissioner under paragraph A, subparagraph (1), must continue until
27 terminated by the court. Each person released under this section ~~shall remain~~ remains in
28 the custody of the commissioner. The Commissioner of Health and Human Services shall
29 inform the public safety officer of the municipality or the sheriff's office of the county
30 into which the person is released of the release.

31 **Sec. 2. 15 MRSA §109** is enacted to read:

32 **§109. Committee for the oversight of patient human rights**

33 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
34 following terms have the following meanings.

35 A. "Commissioner" means the Commissioner of Health and Human Services.

36 B. "Committee" means a committee at a state institution that has responsibility for
37 overseeing patients in a state institution or forensic patients placed in institutions
38 outside the State.

39 C. "Department" means the Department of Health and Human Services.

40 D. "State institution" has the same meaning as in Title 34-B, section 1001,
41 subsection 8.

- 1 E. "Superintendent" means the chief administrative officer of a state institution.
2 **2. Committee convened.** The commissioner shall convene a committee in each
3 state institution.
4 **3. Duties.** The duties of the committee include, but are not limited to:
5 A. Reviewing practices that affect, or potentially affect, the civil liberties or other
6 rights of patients;
7 B. Reviewing, investigating and seeking resolution of patient grievances;
8 C. For forensic patients placed outside the State pursuant to subsection 103:
9 (1) Reviewing reports submitted to the commissioner by the state institution
10 pursuant to section 104-A, subsection 1 and provided to the committee by the
11 superintendent pursuant to subsection 4;
12 (2) Reviewing medical records or other records at the request of the patient or
13 the patient's guardian if the patient who is the subject of the review or the
14 patient's guardian has provided informed, written consent; and
15 (3) Receiving verbal reports at least twice per year from the superintendent of
16 the state institution monitoring the person's placement outside the State;
17 D. Performing other duties as assigned by the superintendent; and
18 E. Making recommendations or reporting concerns to the superintendent based on
19 any review under this subsection.

20 **4. Report; confidentiality.** The superintendent shall provide patient reports under
21 section 104-A, subsection 1 to the committee. The superintendent shall remove any
22 identifying information of the patient in the report reviewed by the committee pursuant to
23 subsection 3, paragraph C, subparagraph (1), unless the patient who is the subject of the
24 report or the patient's guardian has provided informed, written consent to the full
25 disclosure of the report to the committee.'

26 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
27 section number to read consecutively.

28 SUMMARY

29 This amendment, which is the unanimous report of the committee:

- 30 1. Removes the requirement in the bill that the court, before placing a person in an
31 institution outside the State or upon request of the person after being placed outside the
32 State, conduct a hearing;
- 33 2. Reduces the frequency of required status reports on a forensic patient placed
34 outside the State from quarterly to every 6 months and requires the report be filed in the
35 Superior Court in the county in which the state institution monitoring the person's
36 placement is located; and
- 37 3. Replaces the proposed oversight committee of forensic patients in the bill with a
38 committee for the oversight of patient human rights, for patients in state institutions or

1 forensic patients placed outside the State, to review practices that affect, or potentially
2 affect, the civil liberties or other rights of patients; review patient grievances; review
3 reports regarding the placement of forensic patients outside the State and, among other
4 duties, to report concerns and make recommendations to the superintendent of the state
5 institution.