

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND NINETEEN

H.P. 1105 - L.D. 1512

**An Act Regarding Persons Who Are Found Not Criminally Responsible and  
Are Sent out of State for Treatment**

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

**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 readiness for release or discharge. The court shall give notice of the hearing and mail a copy of the report to the Attorney General, offices of the district attorney that prosecuted the criminal charges for which the person was committed under section 103 and the

offices of the district attorneys in whose district the release petition was filed or in whose district release may occur. At the hearing, the court shall receive the testimony of at least one psychiatrist who has treated the person and a member of the State Forensic Service who has examined the person, the testimony of any independent psychiatrist or licensed clinical psychologist who is employed by the prosecutor and has examined the person and any other relevant testimony. If, after hearing, the court finds that 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 court shall order, as applicable:

A. Release from the institution, provided that:

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

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

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

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

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

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

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

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

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

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

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

E. "Superintendent" means the chief administrative officer of a state institution.

2. Committee convened. The commissioner shall convene a committee in each state institution.

3. Duties. The duties of the committee include, but are not limited to:

A. Reviewing practices that affect, or potentially affect, the civil liberties or other rights of patients;

B. Reviewing, investigating and seeking resolution of patient grievances;

C. For forensic patients placed outside the State pursuant to subsection 103:

(1) Reviewing reports submitted to the commissioner by the state institution pursuant to section 104-A, subsection 1 and provided to the committee by the superintendent pursuant to subsection 4;

(2) Reviewing medical records or other records at the request of the patient or the patient's guardian if the patient who is the subject of the review or the patient's guardian has provided informed, written consent; and

(3) Receiving verbal reports at least twice per year from the superintendent of the state institution monitoring the person's placement outside the State;

D. Performing other duties as assigned by the superintendent; and

E. Making recommendations or reporting concerns to the superintendent based on any review under this subsection.

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