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An Act To Amend the Laws Governing Cases Involving the Plea or Finding of Not Criminally Responsible by Reason of Insanity

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

Sec. 1. 15 MRSA §103, first ¶, as amended by PL 2005, c. 263, §1, is further amended to read:

When a court accepts a negotiated plea of not criminally responsible by reason of insanity or when a defendant is found not criminally responsible by reason of insanity by jury verdict or court finding, the judgment must so state. In those cases the court shall order the person committed to the custody of the Commissioner of Health and Human Services to be placed in an appropriate institution for the mentally ill or the mentally retarded for care and treatment. Upon placement in the appropriate institution and in the event of transfer from one institution to another of persons committed under this section, notice of the placement or transfer must be given by the commissioner to the committing court. If the underlying crime for which the defendant pleaded or was found not criminally responsible by reason of insanity involved violence, the defendant must be placed in an appropriate institution for the mentally ill or the mentally retarded for care and treatment for at least 2 years.

Sec. 2. 17-A MRSA §40, sub-§3, as amended by PL 2005, c. 263, §7, is further amended to read:

3. The issue of insanity must be tried before the same jury as tried the issue of guilt. Alternate jurors who were present during the first phase of the trial but who did not participate in the deliberations and verdict thereof may be substituted for jurors who did participate. The defendant may elect to have the issue of insanity tried by the court without a jury unless that defendant is being tried pursuant to subsection 6.

Sec. 3. 17-A MRSA §40, sub-§6 is enacted to read:

6. A defendant tried under this section for murder or a Class A crime must be tried before a jury.

SUMMARY

This bill requires a commitment to an appropriate institution for the mentally ill or the mentally retarded of at least 2 years for a defendant who pleads or is found not criminally responsible by reason of insanity for a crime involving violence and requires a defendant who pleads not criminally responsible by reason of insanity for a charge of murder or Class A crime to be tried before a jury.