



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 769

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H.P. 574

House of Representatives, March 5, 2021

### **An Act To Increase the Availability of Mental Health Services for a Defendant Who Has Been Found Incompetent To Stand Trial**

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Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.  
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered  
printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STOVER of Boothbay.

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

**Sec. 1. 34-A M RSA §3069-C** is enacted to read:

**§3069-C. Placement of defendants found incompetent to stand trial**

**1. Acceptance of placement.** The commissioner may accept the placement of an adult defendant in a mental health unit of a correctional facility who a court finds is incompetent to stand trial and whom the court commits to the custody of the Commissioner of Health and Human Services under Title 15, section 101-D, subsection 5 if, in addition to the findings required under Title 15, section 101-D, subsection 5, the court, after hearing, finds that:

A. The defendant is a person with mental illness and, as a result of the defendant's mental illness, it is more probable than not that the defendant poses a likelihood of serious harm to others;

B. There is not sufficient security at a state mental health institute to address the likelihood of serious harm; and

C. There is no other less restrictive alternative to placement in a mental health unit of a correctional facility.

**2. Termination of placement.** The commissioner may terminate the placement of a defendant accepted pursuant to this section if the commissioner determines that the likelihood of serious harm posed by the defendant has decreased or the security at a state mental health institute has increased or for any other reason.

**3. Disclosure of information.** With respect to an adult defendant who has previously been hospitalized under Title 34-B, chapter 3, subchapter 4, the commissioner may make it a prerequisite to accepting placement of the defendant under this section that necessary information be disclosed to the department pursuant to Title 34-B, section 1207, subsection 1, paragraph B.

**4. Application of other laws.** All other applicable provisions of law governing defendants found incompetent to stand trial apply to defendants accepted for placement under this section.

## SUMMARY

This bill authorizes the Commissioner of Corrections to accept the placement of an adult defendant in a mental health unit of a correctional facility when the adult defendant has been found incompetent to stand trial and committed to the custody of the Commissioner of Health and Human Services and certain conditions are met.