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Date: (Filing No. S-)

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STATE OF MAINE
SENATE
131ST LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT “ ” to COMMITTEE AMENDMENT “A” to H.P. 1308, L.D. 2046, “An Act to Continue Allowing the Department of Corrections to Accept Placement of Certain Defendants Found Incompetent to Stand Trial”

Amend the amendment by inserting after the substitute title the following:

'Amend the bill by striking out all of the emergency preamble.'

Amend the amendment by striking out all of sections 1 and 2 and inserting the following:

'Sec. 1. 34-A MRSA §3069-D is enacted to read:

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

1. Acceptance of placement. The commissioner may accept the placement of an adult defendant, referred to in this section as "the defendant," in a mental health unit of a correctional facility whom a court, after hearing, finds by clear and convincing evidence 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 finds that:

A. The defendant is at risk of causing serious harm by engaging in interpersonal violence that is not primarily driven by symptoms of a major mental illness or other disability;

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. Treatment; transfer. The department shall provide services and treatment consistent with the requirements of Title 15, section 101-D, subsection 5 to a defendant accepted for treatment in a mental health unit of a correctional facility under subsection 1. The department may not transfer to another unit of a correctional facility a defendant accepted for treatment in a mental health unit of a correctional facility under subsection 1.

3. Termination of placement. Termination of placement is governed by this subsection.

SENATE AMENDMENT

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

5 B. At any time after 90 days of placement in a mental health unit of a correctional
6 facility, except not within 60 days of resolution of a prior petition under this paragraph,
7 the defendant may petition the court for return to placement in a less restrictive setting
8 on the grounds that the criteria for placement under subsection 1 no longer exist. If a
9 petition is filed under this paragraph, the court shall hold a hearing and issue a decision
10 maintaining or terminating the placement.

11 **4. Disclosure of information.** With respect to a defendant who has previously been
12 hospitalized under Title 34-B, chapter 3, subchapter 4, the commissioner may make it a
13 prerequisite to accepting placement of the defendant under this section that necessary
14 information be disclosed to the department pursuant to Title 34-B, section 1207, subsection
15 1, paragraph B.

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

19 **6. Repeal.** This section is repealed November 1, 2027.'

20 Amend the amendment by inserting after section 4 the following:

21 'Amend the bill by striking out all of the emergency clause.'

22 Amend the amendment by relettering or renumbering any nonconsecutive Part letter or
23 section number to read consecutively.

24 **SUMMARY**

25 This amendment removes the emergency preamble and emergency clause from the bill.
26 Because the Maine Revised Statutes, Title 34-A, section 3069-C is scheduled to be repealed
27 on July 1, 2024, and this amendment will not take effect prior to July 1, 2024, this
28 amendment enacts the provisions of Title 34-A, section 3069-C as Title 34-A, section
29 3069-D but changes the repeal date to November 1, 2027.

30 The amendment removes the provision added in Committee Amendment "A" that
31 requires a court to terminate placement of a defendant in a mental health unit if the court
32 finds by clear and convincing evidence that the placement of the defendant is not the least
33 restrictive placement appropriate for the defendant.

34 The amendment retains the provisions of the committee amendment regarding the
35 stakeholder group and a reporting requirement.

36 **SPONSORED BY:** _____

37 **(Senator BEEBE-CENTER, A.)**

38 **COUNTY: Knox**