



130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 769

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**

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.

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

2 **Sec. 1. 34-A MRSA §3069-C** is enacted to read:

3 **§3069-C. Placement of defendants found incompetent to stand trial**

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

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

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

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

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

21 **3. Disclosure of information.** With respect to an adult defendant who has previously
22 been hospitalized under Title 34-B, chapter 3, subchapter 4, the commissioner may make
23 it a prerequisite to accepting placement of the defendant under this section that necessary
24 information be disclosed to the department pursuant to Title 34-B, section 1207, subsection
25 1, paragraph B.

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

29 **SUMMARY**

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