

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

S.P. 57 - L.D. 118

**An Act to Ensure Continuity of Care for Pretrial Defendants**

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

**Sec. 1. 15 MRSA §101-D, sub-§4, ¶B**, as amended by PL 2013, c. 265, §1, is further amended to read:

B. Upon a determination by the State Forensic Service under paragraph A, a court having jurisdiction in a criminal case may commit the defendant to the custody of the Commissioner of Health and Human Services for placement in an appropriate institution for the care and treatment of people with mental illness or in an appropriate residential program that provides care and treatment for persons who have intellectual disabilities or autism for observation for a period not to exceed 60 days. If the State Forensic Service requires additional time for observation, it shall communicate its request and the reasons for that request to the court and to counsel for the parties. The court shall accommodate a party's request to be heard on the issue of whether an extension should be granted and may extend the commitment for up to an additional 90 days. Unless the defendant objects, an order under this paragraph must authorize the institution or residential program where the defendant is placed by the Commissioner of Health and Human Services to provide treatment to the defendant. When further observation of the defendant is determined no longer necessary by the State Forensic Service, the ~~commissioner~~ Commissioner of Health and Human Services shall report that determination to the court and the court shall terminate the commitment. If the defendant is committed by the court to the custody of the Commissioner of Health and Human Services for observation under this paragraph, the State Forensic Service may release prior court-ordered evaluation reports pertaining to the pending charges, unless otherwise impounded, to each institution or residential program into which the Commissioner of Health and Human Services is considering placing the defendant and, following placement, to the institution or residential program into which the defendant is placed. If the defendant had been incarcerated prior to the commitment for observation and if, during the period of observation, the defendant presents a substantial risk of causing bodily injury to staff or others that cannot be managed in an appropriate institution for the care and treatment of people with mental illness or in an appropriate residential program that provides care and

treatment for persons who have intellectual disabilities or autism, the ~~commissioner~~ Commissioner of Health and Human Services may return the defendant to the correctional facility. The ~~commissioner~~ Commissioner of Health and Human Services shall report the risk management issues to the court. Upon receiving the report, the court shall review the report and may enter any order authorized by this section, including termination of the commitment.