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CRIMINAL JUSTICE AND PUBLIC SAFETY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT “ ” to H.P. 282, L.D. 428, “An Act Regarding the State Forensic Service”

Amend the bill by striking out the title and substituting the following:

'An Act to Require Electronic Delivery of Mental Examination Records of Criminal Defendants'

Amend the bill by striking out everything after the enacting clause and inserting the following:

'Sec. 1. 15 MRSA §101-C, sub-§6 is enacted to read:

6. Method of production. A record or copy of a record sent by regular mail to a person or entity pursuant to subsection 1 must also be sent to that person or entity by electronic means, if feasible, the same day as the record is sent by regular mail.

Sec. 2. 15 MRSA §101-D, sub-§1, ¶A, as enacted by PL 2009, c. 268, §3, is amended to read:

A. Upon motion by the defendant or by the State, or upon its own motion, a court having jurisdiction in any criminal case may for cause shown order that the defendant be examined by the State Forensic Service for evaluation of the defendant's competency to proceed. When ordered to evaluate a defendant under this paragraph, the State Forensic Service shall promptly examine the defendant and report its initial determination regarding the defendant's competency to proceed to the court. The State Forensic Service shall send the report to the court by electronic means. If, based upon its examination, the State Forensic Service concludes that further examination is necessary to fully evaluate the defendant's competency to proceed, the report must so state and must set forth recommendations as to the nature and scope of any further examination. The court shall forward any report filed by the State Forensic Service to the defendant or the defendant's attorney and to the attorney for the State.

Sec. 3. 15 MRSA §101-D, sub-§1, ¶C, as enacted by PL 2009, c. 268, §3, is amended to read:

C. If the report submitted pursuant to paragraph A recommends further evaluation of the defendant or upon motion by the defendant or by the State for good cause shown, the court may order further evaluation of the defendant by the State Forensic Service. Any order for further evaluation may designate the specialty of the person to perform the evaluation. In addition, if at any time during a criminal proceeding an issue of competency to proceed arises with respect to a defendant initially determined to be competent, the court may order such further examination by the State Forensic Service as the court finds necessary and appropriate. The State Forensic Service shall send any further report under this paragraph to the court by electronic means. The court shall forward any further report filed by the State Forensic Service to the defendant or the defendant’s attorney and to the attorney for the State.

Sec. 4. 15 MRSA §101-D, sub-§2, ¶A, as amended by PL 2015, c. 431, §4, is further amended by amending subparagraph (1) to read:

(1) When ordered to evaluate a defendant under this paragraph, the State Forensic Service shall promptly examine the defendant and the circumstances of the crime and provide a report of its evaluation to the court. The State Forensic Service shall send the report to the court by electronic means. If, based upon its examination, the State Forensic Service concludes that further examination is necessary to fully evaluate the defendant's mental state at the time of the crime, the report must so state and must set forth recommendations as to the nature and scope of any further examination.

Sec. 5. 15 MRSA §101-D, sub-§2, ¶D, as amended by PL 2015, c. 431, §4, is further amended to read:

D. If the report submitted pursuant to paragraph A recommends further evaluation of the defendant or upon motion by the defendant or by the State for good cause shown, the court may order further evaluation of the defendant by the State Forensic Service. An order for further evaluation may designate the specialty of the person to perform the evaluation. The State Forensic Service shall send any further report under this paragraph to the court by electronic means. The court shall forward any further report filed by the State Forensic Service to the defendant or the defendant's attorney and, unless the defendant had objected to the order for examination, to the attorney for the State.

The court may order an examination under this paragraph over the objection of the defendant, but any report filed by the State Forensic Service must be impounded and may not be shared with the attorney for the State, unless with reference to criminal responsibility the defendant enters a plea of not criminally responsible by reason of insanity or with reference to an abnormal condition of mind the defendant provides notice to the attorney for the State of the intention to introduce testimony as to the defendant’s abnormal condition of mind pursuant to the Maine Rules of Unified Criminal Procedure, Rule 16A(a).

Sec. 6. 15 MRSA §101-D, sub-§3, ¶A, as enacted by PL 2009, c. 268, §3, is amended to read:

A. Upon motion by the defendant or by the State or upon its own motion a court having jurisdiction in any criminal case may for cause shown order that the defendant be examined by the State Forensic Service for evaluation with respect to any issue

1 necessary for determination in the case, including the appropriate sentence. The court's
2 order shall set forth the issue or issues to be addressed by the State Forensic Service.
3 When ordered to evaluate a defendant under this paragraph, the State Forensic Service
4 shall promptly examine the defendant and the circumstances relevant to the issues
5 identified in the court's order and report to the court regarding the defendant's mental
6 condition as it pertains to those issues. The State Forensic Service shall send the report
7 to the court by electronic means. Prior to a verdict or finding of guilty or prior to
8 acceptance of a plea of guilty or nolo contendere, the court may not order examination
9 under this subsection over the objection of the defendant unless the defendant has
10 asserted, or intends to assert, the defendant's mental condition as a basis for an
11 objection, a defense or for mitigation at sentencing. The court shall forward any report
12 filed by the State Forensic Service to the defendant or the defendant's attorney and to
13 the attorney for the State.

14 **Sec. 7. Effective date.** This Act takes effect January 1, 2028.'

15 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
16 number to read consecutively.

17 SUMMARY

18 This amendment, which is the majority report of the committee, replaces the bill, which
19 is a concept draft, and changes the title. The amendment requires the State Forensic Service
20 to send mental examination reports of a defendant accused of a crime to a court by
21 electronic means. The amendment also requires that when a person or entity that has been
22 ordered to conduct a mental examination on a criminal defendant requests a record from a
23 certain entity, that entity must provide the requested records by electronic means, if
24 feasible, the same day it is sent by regular mail. This legislation does not take effect until
25 January 1, 2028.

26 FISCAL NOTE REQUIRED

27 (See attached)