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An Act To Amend the Laws Governing the Plea of Not Criminally Responsible by Reason of Mental Disease or Defect in Juvenile Cases

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

Sec. 1. 15 MRSA §3314-C is enacted to read:

§ 3314-C. Commitment of a juvenile acquitted on basis of mental disease or defect

1. Not criminally responsible by reason of mental disease or defect. When a juvenile offender has been adjudicated as not criminally responsible by reason of mental disease or defect the verdict and disposition must so state. The court shall order the juvenile immediately committed to the custody of the Department of Health and Human Services to be placed in an appropriate secure juvenile facility for the seriously mentally ill or the mentally retarded for care and treatment until the juvenile is no longer a threat to the juvenile or to others or until the juvenile's 18th birthday, when the juvenile must be transferred to an adult facility or released.

A. Six months prior to the 18th birthday of a juvenile committed under this section, a member of the State Forensic Service shall examine the juvenile and issue a report to the court. The court shall conduct a hearing prior to the juvenile's 18th birthday to review the appropriateness of continued institutionalization or release. If release is warranted, then the report must contain plans and recommendations for release and reintegration into the community. If continued institutionalization is warranted, then arrangements for transfer to an adult facility at 18 years of age must commence.

B. Upon placement in an appropriate secure juvenile facility and in the event of transfer from one facility to another of a juvenile committed under this section, notice of the placement or transfer must be given by the Department of Health and Human Services to the court.

C. After being placed in an appropriate secure juvenile facility, a juvenile committed under this section must continue to attend age-appropriate schooling or job skills training.

D. The treatment of a juvenile committed under this section must include rehabilitation, including mental health counseling and medication management for the juvenile and family counseling as required by the program and staff of the secure juvenile facility.

2. Annual review. A staff psychiatrist of the secure juvenile facility who is treating a juvenile committed under this section shall conduct an annual review of the juvenile to address issues related to the mental status of the juvenile. The staff psychiatrist shall compile a report based on this review.

A. The report must be submitted to the Department of Health and Human Services, which shall then forward it to the court.

B. The report must address whether the juvenile requires continued institutionalization or is ready for release back into the community without likelihood that the juvenile will cause injury to the juvenile or to others due to mental disease or defect, with reasons supporting the opinion.

C. The report must outline rehabilitation efforts undertaken on behalf of the juvenile.

D. The court shall review the report and, if the recommendation is that the juvenile may be ready for release, shall immediately set a date for a hearing on the issue of the juvenile's readiness for release. The court shall give notice of the hearing and mail a copy of the report to the juvenile community corrections officer, the office of the district attorney that prosecuted the criminal charges for which the juvenile was adjudicated as not criminally responsible by reason of mental disease or defect, the office of the district attorney in whose district the release petition was filed or in whose district release may occur and the defense attorney. Notice of the hearing must be sent to the parents of the juvenile and the victim. If the underlying charge would have been murder or a Class A, B or C offense were the juvenile an adult, the hearing must be public. At the hearing, the staff psychiatrist treating the juvenile shall present testimony in support of the recommendations. Additional testimony from a member of the State Forensic Service, testimony of an independent psychiatrist or a licensed psychologist who has examined the juvenile and is employed by the prosecutor's office and any other relevant testimony must also be considered. The victim of the underlying charge must be permitted to give a victim impact statement if the victim chooses.

E. If, after the hearing pursuant to paragraph D, the court finds that the juvenile remains a risk to the juvenile or to others due to mental disease or defect, the juvenile must remain institutionalized until the juvenile is determined to not be a threat.

If, after the hearing pursuant to paragraph D, the court finds that the juvenile no longer poses a threat to the juvenile or to others, the juvenile may be released. The order for release may include conditions agreed upon or ordered by the court, including, but not limited to, outpatient treatment and supervision of the juvenile by the Department of Health and Human Services. Monitoring of compliance with the conditions remains with the court. The juvenile must be returned to the secure juvenile facility immediately upon the order of the Department of Health and Human Services whenever the person fails to comply with other conditions of release ordered by the court.

SUMMARY

This bill details the procedure by which a juvenile is ordered committed after being found not criminally responsible by reason of mental disease or defect. The Juvenile Court shall order the juvenile committed to the custody of the Department of Health and Human Services to be placed in an appropriate facility, and 6 months prior to the juvenile's 18th birthday a report must be issued by the State Forensic Service reviewing the appropriateness of continued institutionalization or release. A committed juvenile will still attend appropriate schools and job skills training. The treatment for a committed juvenile includes rehabilitation, mental health counseling and medication management and family counseling. An annual review must be conducted for a committed juvenile, and the court may order the juvenile to remain

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committed or released upon conditions if the court finds that the juvenile is no longer a threat to the juvenile or to others.