

### §3069-B. Placement of defendants for observation

**1. Acceptance of placement.** The commissioner may accept the placement of an adult defendant in a mental health unit of a correctional facility that provides intensive mental health care and treatment for observation whom a court commits to the custody of the Commissioner of Health and Human Services under Title 15, section 101-D, subsection 4 if, in addition to the findings required under Title 15, section 101-D, subsection 4, the court, after hearing, finds by clear and convincing evidence that:

- A. The defendant is a person with mental illness and, as a result of the defendant's mental illness, the defendant poses a likelihood of serious harm to others; [PL 2013, c. 434, §6 (NEW).]
- B. There is not sufficient security at a state mental health institute to address the likelihood of serious harm; and [PL 2013, c. 434, §6 (NEW).]
- C. There is no other less restrictive alternative to placement in a mental health unit of a correctional facility. [PL 2013, c. 434, §6 (NEW).]

The commissioner may not accept the placement of a person who has been found not criminally responsible by reason of insanity.

For purposes of this subsection, "intensive mental health care and treatment" has the same meaning as in section 3049, subsection 1.

[PL 2013, c. 434, §6 (NEW).]

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

[PL 2013, c. 434, §6 (NEW).]

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

[PL 2013, c. 434, §6 (NEW).]

**4. Application of other laws.** All other applicable provisions of law governing defendants committed for observation apply to defendants accepted for placement under this section.

[PL 2013, c. 434, §6 (NEW).]

**5. Discretion.** Nothing in this section or in any other provision of law requires the commissioner to accept the placement of a defendant who is committed for observation.

[PL 2013, c. 434, §6 (NEW).]

#### **6. Repeal.**

[PL 2017, c. 147, §5 (RP).]

#### SECTION HISTORY

PL 2013, c. 434, §6 (NEW). PL 2017, c. 147, §5 (AMD).

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