

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



122nd MAINE LEGISLATURE

SECOND REGULAR SESSION-2006

Legislative Document

No. 1886

H.P. 1326

House of Representatives, January 3, 2006

An Act To Amend the Laws Pertaining to the Department of Corrections

Submitted by the Department of Corrections pursuant to Joint Rule 204.

Received by the Clerk of the House on December 28, 2005. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative BLANCHETTE of Bangor.
Cosponsored by Senator MAYO of Sagadahoc and
Representative: GROSE of Woolwich.

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

2
4 **Sec. 1. 15 MRSA §3203-A, sub-§11**, as enacted by PL 2003, c. 180, §6, is amended to read:

6 **11. Review of order.** Upon petition by a juvenile community
8 corrections officer or, an attorney for the State or a juvenile
10 and after notice and upon a showing of changed circumstances or
12 upon the discovery of new and significant information, the
 Juvenile Court may review an order for detention, conditional
 release or unconditional release and may enter a new order in
 accordance with this section.

14 **Sec. 2. 15 MRSA §3402, sub-§1, ¶D**, as amended by PL 1989, c.
16 502, Pt. A, §45, is further amended to read:

18 D. A detention order entered pursuant to section 3203-A,
20 subsection 5 or any refusal to alter an a detention order
22 ~~for--changed--circumstances--entered upon petition of the~~
 juvenile pursuant to section 3203-A, subsection -5- 11, for
 abuse of discretion, provided that the appeal shall must be
 handled expeditiously.

24 **Sec. 3. 17-A MRSA §1175, first ¶**, as amended by PL 2003, c.
26 186, §1, is further amended to read:

28 Upon complying with subsection 1, a victim of a crime of
30 murder or stalking or of a Class A, Class B or Class C crime for
32 which the defendant is committed to the Department of Corrections
34 or to a county jail, or is placed in institutional confinement
36 under Title 15, section 103 after having been found not
38 criminally responsible by reason of mental disease or defect, or
40 is placed in institutional confinement under Title 15, section
42 101-B after having been found incompetent to stand trial, must
44 receive notice of the defendant's unconditional release and
 discharge from institutional confinement upon the expiration of
 the sentence or upon discharge under Title 15, section 104-A and
 must receive notice of any conditional release of the defendant
 from institutional confinement, including probation, supervised
 release for sex offenders, parole, furlough, work release,
 intensive supervision, supervised community confinement, home
 release monitoring or similar program or release under Title 15,
 section 104-A.

46 **Sec. 4. 17-A MRSA §1175, sub-§3, ¶B**, as enacted by PL 1995, c.
48 680, §5, is amended to read:

50 B. The nature of the release authorized, whether it is a
 conditional release, including probation, supervised release
 for sex offenders, parole, furlough, work release, intensive

2 supervision, supervised community confinement, home release
3 monitoring or a similar program or release under Title 15,
4 section 104-A, or an unconditional release and discharge
5 upon the expiration of a sentence or upon discharge under
6 Title 15, section 104-A;

7 **Sec. 5. 17-A MRSA §1204, sub-§1-C**, as amended by PL 2001, c.
8 439, Pt. 000, §3, is further amended to read:

9
10 **1-C.** The court shall attach as a condition of probation
11 that the ~~convicted-sex-offender~~ 10-year registrant, as defined
12 under Title 34-A, section 11203, subsection 5, or the ~~convicted~~
13 ~~sexually-violent-predator~~ lifetime registrant, as defined under
14 Title 34-A, section 11203, subsection 8, satisfy all
15 responsibilities set forth in Title 34-A, chapter 15, the Sex
16 Offender Registration and Notification Act of 1999.

17 **Sec. 6. 17-A MRSA §1258**, as amended by PL 2001, c. 458, §1,
18 is further amended to read:

19
20 **§1258. Notification of commitments to the Department of**
21 **Corrections**

22
23 At the time of sentencing, the sheriff shall notify the
24 Commissioner of Corrections or the commissioner's designee that a
25 person has been committed to the Department of Corrections and
26 shall inquire as to the correctional facility to which the
27 sentenced person must be delivered by the sheriff or the
28 sheriff's deputies. The commissioner or the commissioner's
29 designee has complete discretion to determine the initial place
30 of confinement. In making this determination, the commissioner
31 or the commissioner's designee shall review all relevant
32 information, including any available mental health information.
33 The commissioner or the commissioner's designee shall immediately
34 inform the sheriff ~~and--the--court~~ of the location of the
35 correctional facility to which the sentenced person must be
36 transported.

37
38 **Sec. 7. 25 MRSA §2001-A, sub-§2, ¶D**, as enacted by PL 2003, c.
39 452, Pt. N, §2 and affected by Pt. X, §2, is amended to read:

40
41 **D.** Law enforcement officers ~~and~~, corrections officers and
42 corrections supervisors as permitted in writing by their
43 employer;

44
45 **Sec. 8. 25 MRSA §2002, sub-§1-B** is enacted to read:

46
47 **1-B. Corrections supervisor.** "Correction supervisor" has
48 the same meaning as set forth in Title 17-A, section 2,
49 subsection 5-B.
50

2 **Sec. 9. 34-A MRSA §1206, sub-§3**, as enacted by PL 1983, c.
459, §6, is repealed.

4 **Sec. 10. 34-A MRSA §3002, sub-§4**, as enacted by PL 2005, c.
6 216, §1, is amended to read:

8 **4. Volunteer activities.** Volunteer activities of a member
10 of a board of visitors may be ~~prescribed~~ proscribed by
departmental policies regarding volunteer activities generally.

12 **Sec. 11. 34-A MRSA §4103**, as enacted by PL 1991, c. 400 and
14 amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

16 **§4103. Superintendent**

18 **1. Chief administrative officer.** The chief administrative
18 officer of the Mountain View Youth Development Center is called
the ~~director~~ superintendent and is responsible to the
20 commissioner.

22 **2. Duties.** In addition to other duties set out in this
24 Title, the ~~director~~ superintendent has the following duties.

26 A. The ~~director~~ superintendent shall exercise supervision
28 over the employees, grounds, buildings and equipment at the
Mountain View Youth Development Center.

30 B. The ~~director~~ superintendent shall supervise and control
32 the juvenile detainees at the Mountain View Youth
Development Center in accordance with department rules.

34 **3. Powers.** In addition to the powers granted in this
36 Title, the ~~director~~ superintendent may appoint one assistant
assistant ~~director~~ superintendent, subject to the Civil Service Law. The
38 assistant ~~director~~ superintendent has the powers, duties,
obligations and liabilities of the ~~director~~ superintendent when
40 the ~~director~~ superintendent is absent or unable to perform the
~~director's~~ superintendent's duties.

42 **Sec. 12. 34-A MRSA §4106**, as enacted by PL 1991, c. 400 and
44 amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

46 **§4106. Powers of employees**

48 Employees of the Mountain View Youth Development Center have
50 the same power as sheriffs in their respective counties to search
for and apprehend escapees from the facility, when authorized to
do so by the ~~director~~ superintendent.

2 **Sec. 13. 34-A MRSA §4108, sub-§2, ¶A**, as enacted by PL 1991,
c. 400 is amended to read:

4 A. Placement under observation must first be approved by
the ~~direetor~~ superintendent.

6 **Sec. 14. 34-A MRSA §4108, sub-§2, ¶D**, as enacted by PL 1991,
8 c. 400 is amended to read:

10 D. When placement under observation exceeds 12 hours, the
12 ~~direetor~~ superintendent shall direct the facility physician
or a member of the facility medical staff to visit the
14 juvenile immediately and at least once in each succeeding
24-hour period the juvenile remains under observation to
16 examine the juvenile's state of health.

18 (1) The ~~direetor~~ superintendent shall give full
consideration to recommendations of the physician or
20 medical staff member concerning the juvenile's dietary
needs and the conditions of the juvenile's confinement
22 required to maintain the juvenile's health. If the
recommendations of the physician or medical staff
24 member are not carried out, the ~~direetor~~ superintendent
shall immediately convey the reasons and circumstances
26 for this decision to the commissioner for review and
final disposition.

28 (2) Placement under observation must be discontinued
if the ~~direetor~~ superintendent, on the advice of the
30 physician, determines that placement under observation
is harmful to the mental or physical health of the
32 juvenile, except that placement under observation may
be continued if the behavior of the juvenile presents a
34 high likelihood of imminent physical harm to that
juvenile or others and there is no less restrictive
36 setting in which that juvenile's safety or that of
others can be ensured. If placement under observation
38 is continued, the physician or a member of the medical
staff shall visit the juvenile at least once every 12
40 hours.

42 **Sec. 15. 34-A MRSA §4108, sub-§2, ¶E**, as enacted by PL 1991,
c. 400 is amended to read:

44 E. When placement under observation exceeds 24 hours, the
46 ~~direetor~~ superintendent shall direct appropriate facility
staff to develop a plan for the further care of the
48 juvenile. The plan must be revised as needed to meet the
changing needs of the juvenile.

50

2 **Sec. 16. 34-A MRSA §4108, sub-§2, ¶G**, as enacted by PL 1991,
c. 400 is amended to read:

4 G. If the recommendations of the physician or medical staff
6 member regarding the juvenile's dietary or other health
8 needs while under observation are not carried out, the
~~director~~ superintendent shall send a written justification
to the commissioner.

10 **Sec. 17. 34-A MRSA §4114**, as enacted by PL 1999, c. 583, §45
12 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to
read:

14 **§4114. Discharge**

16 **1. Duty.** The ~~director~~ superintendent shall cause a
18 juvenile client to be discharged from the Mountain View Youth
Development Center when the client becomes 21 years of age or
20 otherwise reaches the end of the period of the Juvenile Court's
commitment.

22 **2. Power.** The ~~director~~ superintendent may cause a juvenile
24 client to be discharged from the Mountain View Youth Development
Center when the ~~director~~ superintendent determines that discharge
26 is in the best interest of the client or that the client has
benefited optimally from the services and facilities of the
28 Mountain View Youth Development Center.

30 **Sec. 18. 34-A MRSA §5402, sub-§2, ¶A**, as amended by PL 1995,
c. 502, Pt. F, §34, is further amended to read:

32 A. ~~Promulgate~~ Adopt and enforce rules for field probation
34 and parole officers, juvenile ~~caseworkers~~ community
corrections officers, parole officers in correctional
36 facilities and Intensive Supervision Program officers;

38 **Sec. 19. 34-A MRSA §5402, sub-§2, ¶B**, as amended by PL 1995,
c. 502, Pt. F, §34, is further amended to read:

40 B. Appoint, subject to the Civil Service Law, regional
42 correctional administrators, field probation and parole
officers, juvenile ~~caseworkers~~ community corrections
44 officers, Intensive Supervision Program officers and such
other employees as may be required to carry out adequate
46 supervision of all probationers, parolees from the
correctional facilities, persons on intensive supervision
48 and other persons placed under the supervision of an
employee listed in this paragraph;

2 2. It adds a requirement that, upon the request of a
3 victim, the victim be notified when a prisoner is released to
4 supervised release for sex offenders, a sentencing alternative in
5 the Maine Revised Statutes, Title 17-A, section 1231 enacted by
6 Public Law 1999, chapter 788, section 7.

7 3. It changes terminology to reflect the terminology used
8 in the Sex Offender Registration and Notification Act of 1999,
9 Title 34-A, chapter 15.

10 4. It eliminates the requirement that the Commissioner of
11 Corrections notify the court of the initial place of confinement
12 of a person committed to the Department of Corrections.

13 5. It adds correctional supervisors to those who may carry
14 a concealed firearm with the permission of their employer.

15 6. It repeals the provision that requires the Commissioner
16 of Corrections to promulgate rules for community services
17 agreements.

18 7. It corrects an error in terminology in the provision
19 governing boards of visitors.

20 8. It changes the title of the chief administrative officer
21 of the Mountain View Youth Development Center from director to
22 superintendent to make it identical to the title for the chief
23 administrative officer of the Long Creek Youth Development Center.

24 9. It substitutes the term "juvenile community corrections
25 officers" for "juvenile caseworkers" in several provisions.

26 10. It adds references to "supervised release for sex
27 offenders."

28
29
30
31
32
33
34
35
36