

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)

**This document is from the files of the Office of
the Maine Attorney General as transferred to
the Maine State Law and Legislative Reference
Library on January 19, 2022**

ECW
STATE OF MAINE

Inter-Departmental Memorandum Date July 13, 1972

To R. D. Kennedy, Acting Warden

Dept. Maine State Prison

From Courtland D. Perry, Assistant Attorney General

Dept. Mental Health & Corrections

Subject Scope of Applicability of Maine State Prison Retirement Law

SYLLABUS:

Officers and employees of the Maine State Prison who handle, direct, control, superintend or guide prisoners, regardless of the kind and quantity of such acts, and their supervisors are included within the retirement provisions of 5 M.R.S.A. 1964, §1121, sub-§4, ¶F as enacted by P&SL 1971, Chapter 179, Part E, §2.

FACTS:

The 105th Legislature in Special Session enacted P&SL 1971, Chapter 179, Part E, §2, in language as follows:

"Sec. 2 R.S., T.5, §1121, sub-§4. ¶F, additional. Subsection 4 of section 1121 of Title 5 of the Revised Statutes, as amended, is further amended by adding a new paragraph F to read as follows:

"F. Any member who is the warden or deputy warden of the Maine State Prison, or any officer or employee of the Maine State Prison employed as a guard, or engaged in any management of prisoners, or as the supervising officers of any such guards or employees, and in any case, who has at least 20 years of creditable service in his respective capacity, or cumulatively in any combination of such prison employment capacities, may be retired on or after the attainment of age 50 on a service retirement allowance which is equal to 1/2 of his average final compensation, but unless extended, he must be retired at the attainment of age 60."

Following such enactment the Warden of the Maine State Prison undertook to formulate a list of prison personnel considered to come within the purview of the above enactment. Such list and an addendum thereto containing additional employees were submitted to the Maine State Retirement System. Upon review by the Executive Director of the System and the Department of Personnel, the Warden of the Maine State Prison was advised that certain of the persons listed in the addendum were not considered to come within the coverage of the above enactment. This office was then requested by the Acting Warden of the Maine State Prison to render its

July 13, 1972

opinion as set forth in the question below.

QUESTION:

What is the scope of the applicability of the new law to persons employed at the Prison?

ANSWER:

See Reason.

REASON:

1 M.R.S.A. 1964, §72, sub-§3, provides in part, "words and phrases shall be construed according to the common meaning of the language...."

Applying the above quoted Rule of Construction to the key language of 5 M.R.S.A. 1964, §1121, sub-§4, ¶F, as enacted by P&SL 1971, Chapter 179, Part E, §2, relating to any officer or employee of the prison; viz., "engaged in any management of prisoners," we conclude that Maine State Prison officers and employees who handle, direct, control, superintend or guide prisoners at the Maine State Prison and their supervisors come within the purview of the Act in question. The word "any" preceding the word "management" is taken to relieve the act of management of any restrictions as to kind and quantity; therefore officers and employees of the Prison engaged in "management" of prisoners in whatever degree and of whatever kind within the general usage of the quoted term are covered by the enactment. [See: 3A Words and Phrases, "any," 55-56 and 26 Words and Phrases, "management," 357]

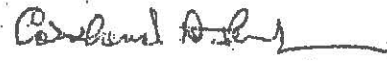
It is beyond the function of this office to enumerate prison positions covered by the enactment. It is considered appropriate that ~~the~~ prison furnish to the Board

R. D. Kennedy, Acting Warden

-3-

July 13, 1972

of Trustees of the Maine State Retirement System supporting data using the definition of "management" as herein discussed for the Board's determination of the positions covered.



Courtland D. Perry
Assistant Attorney General

CDP/a