

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1730

H. P. 1312

House of Representatives, April 2, 1973

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Connolly of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Civil and Human Rights of Prisoners.

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

R. S., T. 34, c. 61-A, additional. Title 34 of the Revised Statutes is amended by adding a new chapter 61-A to read as follows:

CHAPTER 61-A

RIGHTS FOR PRISONERS

§ 511. Rights of prisoners

The State of Maine recognizes that prisoners are entitled to every constitutional right exercised by the free population, except for those inherently inconsistent with the operation of a penal institution; since prisons are governmental institutions, the public has a right to information about the operation of prisons and access to the prisons; and prisoners are persons dependent for their survival and well-being on the same essentials as the free society. Therefore the State of Maine officially adopts a bill of rights for prisoners.

1. List. All persons incarcerated in any Maine penal institution are entitled to:

A. Unrestricted access to the courts and to confidential legal counsel from an attorney of the individual's choosing or from a public defender. There shall be adequate opportunity to prepare legal writs and access to a comprehensive and up-to-date legal law library. The right to file or respond to individual or class action, civil or criminal suits;

B. Freedom from the actuality or threat of physical abuse whether by custodial personnel or by other prisoners. Freedom from all forms of cruel and inhuman punishment: Adjustment centers, involuntary segregation, isolation, electric shock treatments, utilizing of depressants and tranquilizing drugs for punishment in the name of therapy, freedom from all unnecessary restraints, food rationing, leg irons, handcuffs, gags, isolation or any and all forms of unjustified or vindictive human behavior;

C. Adequate diet, sanitation facilities, fresh air, exercise, prompt medical and dental treatment and prescription drugs; social, psychological and emotional environment, facilities, activities and treatment essential to promote, develop and sustain individual needs;

D. Maintenance of relationships by frequent meetings and uncensored correspondence with members of the immediate family, personal friends, public officials and representatives of the community. The right to assemble with others of one's choosing, including members of the convicted class for purposes of exchanging and debating various viewpoints on the controversial issues of our day;

E. Reasonable access to the press through both interviews and written articles;

F. Freedom of voluntary religious worship and freedom to change religious affiliations;

G. Full and complete access to all files, documents and records, open and confidential, pertaining to themselves which are maintained by penal authorities, and a further right to grant the same access to a designated agent;

H. Freedom of payment from state and local taxes in any form without full reinstatement of all constitutional and human rights presently revoked upon the conviction of a felony;

I. Freedom from coerced confessions or admissions and the absence of a penalty flowing from a decision to maintain the constitutional right to silence;

J. The right to exercise all forms of peaceful dissent and protest without threat or coercion shall not be limited;

K. Established rules of conduct available to prisoners in writing; prohibition of excessive or disproportionate punishment; procedural due process in any disciplinary hearing that might result in loss of good time, punitive, involuntary, transfer, or an adverse effect on parole decisions; due process includes the right to independent counsel, the right to cross-examination, the right of subpoena and the right to avoid self-incrimination;

L. A judicial proceeding for the determination of parole that incorporates fully due process in the determination of sentence and parole date, including established rules of parole board conduct. Parole may be revoked only upon conviction of a crime and only after a judicial hearing;

M. Unrestricted ability to petition for redress of grievances; freedom from reprisals for making complaints;

N. Full restoration of all civil rights and privileges upon release from prison; the right to vote in any election in which a prisoner would be entitled to vote were he not confined;

O. The same right of legal redress in all matters pertaining to the destiny of their children, parents, siblings and other relatives, as those persons not subject to legal restraint;

P. Full legal protection against illegal search and seizures and invasions of privacy during incarceration and while on parole;

Q. Opportunity for the prisoner voluntarily to avail himself of uncensored reading material and facilities especially provided for vocational training, counseling and continuing education;

R. Opportunity in prison through work-release for work at prevailing wages, eligibility for social security, unemployment compensation and public assistance benefits upon release; exclusive title to and control over all products of literary, artistic or personal craftsmanship produced on the prisoner's own time; freedom from compulsion to work;

S. The right to organize and belong to professional and legal unions related organizations and to receive the full benefits that such membership entails or implies;

T. Freedom from stigma or penalty in any fashion because of a prior arrest or conviction; this includes all judicial or administrative proceedings, employment opportunities, police investigations, or any other harassment or intimidation geared to making him suffer anew for past acts and deterring his rehabilitation and immersion into a law abiding society.

§ 512. Investigation and findings

The State Human Rights Commission shall have the authority to investigate and make appropriate findings to the Legislature and the courts of any alleged violations of this chapter. Such an investigation may be initiated at the request of a prisoner or any citizen of the State or at the discretion of the Human Rights Commission.

The Legislature of the State of Maine shall take such action as it deems necessary to redress violations of this chapter.

STATEMENT OF FACT

The purpose of this bill is to address the inequities and repressive functions within the criminal justice system and to insure that inherent constitutional rights not be denied any man or woman.