

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 1871

H. P. 1383

House of Representatives, April 3, 1973

Referred to the Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Dyar of Strong.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Implementing the Reorganization of the Department of Mental Health and Corrections and the Department of Public Safety.

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

Sec. 1. R. S., T. 34, § 1, amended. The first sentence of the first paragraph of section 1 of Title 34 of the Revised Statutes, as amended by section 4 of chapter 391 of the public laws of 1967, is further amended to read as follows:

The Department of Mental Health ~~and Corrections~~, as heretofore established, hereinafter in this Title called the "department," shall have general supervision, management and control of the research and planning, grounds, buildings and property, officers and employees, and patients and inmates of all the following state institutions: The hospitals for the mentally ill, Pineland Hospital and Training Center ~~the State Prison, the Men's Correctional Center and the Women's Correctional Center, the juvenile institutions, the Governor Baxter State School for the Deaf, the Military and Naval Children's Home and such other charitable and correctional state institutions as may be created from time to time.~~

Sec. 2. R. S., T. 34, § 1, amended. The first sentence of the 2nd paragraphs of section 1 of Title 34 of the Revised Statutes is amended to read as follows:

The department shall be under the control and supervision of a Commissioner of Mental Health ~~and Corrections~~ as heretofore appointed and hereinafter in this Title called the "commissioner," who shall be appointed by the Governor with the advice and consent of the Council; said appointment shall

be for 3 years and until his successor is appointed and qualified, or during the pleasure of the Governor and Council.

Sec. 3. R. S., T. 25, § 1501, repealed. Section 1501 of Title 25 of the Revised Statutes, as amended, is repealed.

Sec. 4. R. S., T. 25, § 1504, amended. The first 2 paragraphs of section 1504 of Title 25 of the Revised Statutes are repealed.

Sec. 5. R. S., T. 25-A, additional. The Revised Statutes is amended by adding a new Title 25-A to read as follows:

TITLE 25-A

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

CHAPTER 1

GENERAL PROVISIONS

§ 1. Department of Public Safety and Corrections; bureaus

There is hereby created and established the Department of Public Safety and Corrections, hereinafter in this Title called the department, to coordinate and efficiently manage the law enforcement responsibilities and correctional facilities of the State of Maine. The Department of Public Safety and Corrections shall be organized into the Bureau of State Police, the Bureau of Corrections, the Bureau of Probation and Parole, the former Enforcement Division of the State Liquor Commission, State Fire Prevention, Youth Community Activities, and Maine Law Enforcement and Criminal Justice and such other bureaus, divisions or sections as the commissioner deems necessary to carry out the duties of the department. The department shall have general supervision, management and control of the grounds, buildings, and property of all state correctional institutions. The department shall have supervision, control and perform all necessary acts relating to the care, custody, treatment, relief, improvement and rehabilitation of the inmates of those institutions.

§ 2. Commissioner

The department shall be under the control and supervision of a Commissioner of Public Safety and Corrections, hereinafter in this Title called the commissioner, who shall be appointed by the Governor, with the advice and consent of the Council, to serve a term coterminous with that of the Governor. He shall be subject to removal for cause by the Governor with the advice and consent of the Council. A vacancy shall be filled for the unexpired term. The commissioner shall be a person experienced in administration and if possible familiar with institutional administration.

§ 3. Bureau heads and employees

The commissioner, with the approval of the Governor and Council, shall appoint the heads of the various bureaus. He shall, subject to the Personnel Law, employ such deputies, division and section heads and other employees,

excepting state police officers, necessary for the efficient operation of the department within limitations as to number and appropriations made by the Legislature.

The Bureau of the State Police shall be under the supervision of the Chief of the State Police. He may be removed by the commissioner with the approval of the Governor and Council only after charges have been preferred in writing and a public hearing. Subject to the approval of the commissioner, the chief may designate a commissioned officer of the State Police to act as his deputy. Subject to the Personnel Law, the Chief of the State Police may enlist suitable persons as members of the State Police. The Chief of the State Police shall make regulations, subject to the approval of the commissioner, for the discipline and control of the State Police. Such regulations and amendments thereto shall be effective upon filing with the Secretary of State.

The Governor and Council shall determine the salary of the bureau heads.

§ 4. Acceptance of federal funds

The department is authorized and empowered to accept for the State any federal funds appropriated under federal law relating to public safety or corrections or the juvenile offender, and to do such acts as are necessary for the purpose of carrying out such federal law and to accept from any other agency of government, individual, group or corporation such funds as may be available in carrying out this Title.

§ 5. Powers and duties; cooperation of others

The specific powers and duties of the State Police shall be to patrol the state highways and other important ways, especially outside the compact portion of cities and towns, for the purpose of enforcing the law, and all laws relating to motor driven and horse drawn vehicles and all rules and regulations in regard thereto, and of arresting all violators thereof and prosecuting all offenders against the same. The State Police shall aid the Department of Transportation in the enforcement of its rules and orders and permit regulations. In addition to such duties and powers, the Chief and members of the State Police are vested with the same powers and duties throughout the several counties of the State as sheriffs have in their respective counties to serve criminal processes, to investigate and prosecute violators of any law of this State and to arrest the offenders thereof, and the same power and duty as sheriffs have to arrest without warrant and detain persons found violating or attempting to violate any other penal law of the State until a legal warrant can be obtained. As arresting officers, or aids, or witnesses in any criminal case, they shall be limited to the same fees as complainants under Title 15, section 1363. Such fees shall be taxed on a bill of costs and shall be paid promptly each month to the Treasurer of State and credited to the General Highway Fund. They shall have the same rights as sheriffs to require aid in executing the duties of their office. They may serve any subpoenas, notices and processes issued by the Secretary of State or the Department of Transportation under authority of law. They shall at

all times be subject to the call of the Governor for emergency purposes at his discretion.

The State Police, sheriffs and deputy sheriffs, constables, city marshals, deputy marshals and police officers of cities and towns shall, so far as possible, cooperate in the detection of crime, the arrest and prosecution of criminals and the preservation of law and order throughout the State.

Municipal and county jails shall at all times be available for detention of persons arrested by state or any other law enforcement officers. In those municipalities where full-time supervision of the jail is not provided by the municipality, full responsibility for the safekeeping and welfare of such person detained shall rest solely with such arresting officer. Expense of any municipality or any damage to the jail resulting from the use of its jail by such officers shall be reimbursed to the municipality by the law enforcement agency for which the arresting officer is acting.

County commissioners of all the several counties are authorized to provide and pay for liability insurance protection for the keeper of the county jail.

The State Police shall prepare and implement such emergency plans, evacuation plans and other arrangements deemed necessary to protect the public and property in this State from hazards or dangers from radiation, radioactive materials, nuclear materials or the occurrence of a radiological incident as a result of the presence of, release of or emissions from radioactive materials, radioactivity or nuclear materials in this State. The hazards or dangers referred to in this paragraph shall be only those arising from the peaceful use of nuclear or atomic materials.

§ 6. Uniform and equipment; to hold no other office

Members of the State Police shall be provided at the expense of the State with a distinctive uniform and badge, and with suitable equipment, all of which shall remain the property of the State. When on duty to enforce the laws of the road, and at such other times as the chief may require, state policemen shall be in uniform. They shall hold no other office during their term of service. It shall be unlawful for any person to wear the prescribed uniform or badge of the State Police or any distinctive part thereof, except on order of the chief of said State Police.

No inspector or member of the State Police shall receive any fee as a complainant or witness, or for making an arrest or for attendance at court, but shall be reimbursed by the State for his actual costs of arrest and actual expenses of travel and attendance. Whenever any fines or penalties are imposed by any court other than the District Court in any proceeding in which a member of the State Police is a complainant or a witness, said court may tax costs for such complainant or witness in the usual manner.

§ 7. Reserve corps

The chief is authorized to establish and maintain a State Police Reserve Corps. To be eligible for membership in such reserve corps, applicants shall meet such standards as may be determined by the chief; shall enlist therein

for a period of not less than 3 years, and shall take the oath prescribed in section 316. Upon the issuance by the Governor of the proclamation provided for in section 307, the chief may order any or all of the members of said reserve corps to active duty as State Police for the duration of the proclaimed emergency or any part thereof. When ordered to active duty, members of said reserve corps shall have the same status as regular members of the State Police.

§ 8. Injury or incapacity

When a state police officer is accidentally injured or incapacitated by disease as the result of law enforcement related employment, the sick leave taken shall not be charged against the accrued sick leave earned under the Personnel Law and rules.

The determination as to whether this section shall apply to any state police officer shall be made by the Industrial Accident Commission.

§ 9. Inspection of county jails; standards; transfer of prisoners

The department may make frequent inspections of all county jails and shall inspect all county jails at least twice in each year and report annually, before December 1st, to the Governor and Executive Council in respect to the conditions of said jails.

The commissioner shall establish standards for all county jails. Such standards shall approximate, insofar as possible, those established by the Inspector of Jails, Federal Bureau of Prisons.

Failure on the part of the county commissioners to maintain standards established under this section, discovered during any jail inspection conducted under this section, shall be reported by the commissioner in writing to the county commissioners of the county in which such jail is located, specifying deficiencies and departures from such standards and ordering their correction. It shall be the responsibility of the county commissioners to cause such deficiencies to be corrected and such standards to be restored, within 6 months from receipt of the report and order of the commissioner. For failure of the county commissioners to comply with such order, the commissioner may order the county jail to be closed and the prisoners transferred to the nearest county jail or jails meeting the prescribed standards and having available room for prisoners. The cost of transfer, support and return of such prisoners shall be paid by the county from whose jail the prisoners are transferred as provided in this section for other transfers. The commissioner may contract with any qualified person to serve as consultant to the department for the purpose of inspections under this section and to inspect the county jails, and any law to the contrary notwithstanding, such qualified person may be an officer, or employee of the department.

The department, upon request of the sending sheriff and approval of the county commissioners, may transfer any prisoner serving a sentence in his jail to any other county jail to serve the balance of his sentence, or any part thereof, upon the approval of the sheriff and county commissioners of

the receiving county. Cost of transfer or return of such prisoner shall be paid by the sending county. The amount to be paid for the support of the prisoner in the receiving county shall be at a rate agreed upon by the county commissioners party to the transfer, and shall be paid by the sending county.

§ 10. Industrial and vocational training

The department shall establish and maintain suitable courses for vocational education in the juvenile, correctional and penal institutions under its control, and to install such equipment as may be necessary, and employ such suitable and qualified instructors subject to the approval of the State Vocational Director as may be necessary to carry out the purposes of this section. The expenses of carrying out this section shall be paid from the appropriations for the above institutions.

§ 11. Employment on public works or service; escapes

The department may authorize the employment of able-bodied prisoners in the State Prison or inmates of the Men's Correctional Center in the construction and improvement of highways or other public works within the State under such arrangements as may be made with the Department of Transportation or other department or commission of the State, county or municipality having such public works in charge, and the department may prescribe such rules and conditions as it deems expedient to insure the proper care and treatment of the prisoners or inmates while so employed and their safekeeping and return. The department may further authorize the training and use of able-bodied prisoners in the State Prison or inmates in the Men's Correctional Center by the State Forestry Department or the Department of Civil Defense and Public Safety to fight fires or provide assistance during or after any civilian disaster. The department may further authorize the use of such prisoners or inmates to provide assistance in the improvement of property owned by charitable organizations as may be approved by the department, provided such charitable organizations pay for the transportation of such prisoners or inmates and for the transportation and per diem compensation for any guards who accompany such prisoners or inmates. Any prisoner or inmate who escapes from any assignments described in this section, or any other assignment beyond the walls of the State Prison or off the grounds of the Men's Correctional Center shall be guilty of escape under this Title or Title 17, section 1405.

§ 12. Improper conduct of officers of institutions

The department may inquire into any improper conduct imputed to its officers in relation to the concerns of their institutions, and for that purpose may issue subpoenas for witnesses and compel their attendance and the production of papers and writings by punishment for contempt in case of willful failure, neglect or refusal, may examine witnesses under oath administered by the commissioner and may adjudicate on such alleged improper conduct in like cases and with the effect as in cases of arbitration.

§ 13. Rules and regulations

The department shall establish such rules and regulations, not inconsistent with law, as it may deem expedient for the care and management and the

custody and preservation of the property of all state correctional institutions and for the government and discipline of the various inmates of the said institutions; and for the production and distribution of industrial products of the said institutions.

It shall establish such rules and regulations for the instruction and employment of the inmates of the various institutions having due regard to their age, sex, strength and disposition for the purpose of securing their improvement and future welfare.

§ 14. Institutional officials may sue for State

Actions, founded on any contract made with the State Purchasing Agent or any official of the department under the authority granted by the said agent on behalf of any of the state institutions enumerated in section 1, may be brought by the official making the contract or his successor in office. Actions for injuries done or occasioned to the real and personal property of the State and appropriated to the use of any state institution and under the management of any officer thereof may be prosecuted in his name. No such action shall abate by the retirement, removal or death of such officer, but his successor, upon notice, shall assume its prosecution.

§ 15. Funds of deceased patients and inmates

If any inmate of any institution under the control of the department shall die, leaving on deposit in his personal account at such institution an amount not exceeding \$500, and no executor of his will or administrator of his estate shall be appointed, the head of the institution may pay the balance of his account to the surviving spouse or next of kin in accordance with Title 18, section 1001, to the funeral director having any bill outstanding for the burial of the decedent or other preferred creditor or creditors who may appear to be entitled thereto, and shall deliver personal property in his custody to the surviving spouse or next of kin in accordance with Title 18, section 1001, who may appear to be entitled thereto. Such payment or delivery shall not be made until 60 days have elapsed following the date of death of the inmate. For any payment or delivery so made, the head of the institution or his designee acting under this section shall not be held liable to the decedent's executor or administrator thereafter appointed, or to his heirs, successors or assigns.

Any balance remaining on deposit in the personal account of a deceased inmate unclaimed for 5 years following the death of the inmate may be deposited with the Treasurer of State who shall, with respect to each institution from the head of which such deposit is received, establish and maintain a trust fund, the principal of which shall be comprised of such deposits, which fund in each case shall be maintained as part of the permanent trust funds of the State. The income from each such trust fund shall be paid by the Treasurer of State to the institution from which the deposit was received, to be expended by the head of the institution for the general benefit of the inmates, provided that prior to any deposit under this section the following conditions shall have been complied with:

1. Petition. The head of the institution in which such funds of any deceased inmate remain shall petition the probate court for the county in

which the institution is located for a judicial determination of the existence of any person entitled as an heir to such funds, which petition verified by the head of the institution shall set forth all facts known to him, or believed by him to be true, regarding the existence and location or nonexistence of the spouse or any next of kin of the decedent.

2. Order of notice of hearing. Following filing of the petition, the probate court shall forthwith order notice of a hearing to be given by certified mail to any person named as spouse or next of kin in the petition whose address is set forth therein, and in instances wherein the name of the spouse or any next of kin is given in the petition without indication of any address, or it is asserted that there is no known spouse or next of kin, the court shall order notice of hearing to be given once each week for 3 successive weeks in the state paper or in a newspaper of general circulation in the county wherein the decedent resided prior to incarceration. Notice under this section shall include the full name of the decedent, his last known residence prior to incarceration, the name of the spouse or of any known next of kin and shall indicate a date and time for hearing on the matter of the disposition of the estate of the decedent at which all persons interested in the estate may appear and be heard.

3. Hearing. At the date and time set forth in the notice, the court shall hold a hearing on the matter of the disposition of the funds of the deceased inmate, at which the court may order distribution to the spouse or any next of kin who show their entitlement thereto, or may in its discretion suspend the proceedings pending filing of a petition for administration of the estate, or if no person appears and proves his entitlement as spouse or next of kin to the funds of the decedent, shall order that such funds be deposited with the Treasurer of State as provided in this section.

4. Collective disposition. A petition may be filed, notice given, a hearing held and disposition made under this section with respect to the funds of one or more deceased patients or inmates at any one time.

Any deposits made with the Treasurer of State under this section remaining unclaimed for 15 years shall then be free from the claim of any heir or any other person. Within 15 years from the deposit with the Treasurer of State of the funds of any deceased patient or inmate, any person entitled thereto by law as an heir may petition the Governor and Council for payment of such amount. The Governor and Council on receiving satisfactory proof of the legal entitlement of any such person to the funds of the deceased patient or inmate shall, by their order, authorize the Treasurer of State to pay from the trust fund established with respect to the institution in which the deceased inmate was hospitalized or incarcerated, an amount equal to the funds of the deceased inmate originally deposited.

CHAPTER 2

STATE BUREAU OF IDENTIFICATION

§ 21. Supervisor; fingerprints and photographs

The Chief of the State Police shall appoint a person who has sufficient identification qualifications, including thorough knowledge of the various

standard identification systems, Maine court procedure, parole and probation, to be Supervisor of the State Bureau of Identification, heretofore established within the Bureau of State Police, and he may delegate members of the State Police to serve in said bureau upon request of the supervisor. The supervisor shall have the authority to hire such civilian personnel, subject to the Personnel Law and the approval of the Chief of the State Police, as he may deem necessary to carry out this section and sections 22 to 26. The Chief of State Police shall supply such bureau with the necessary apparatus and materials for collecting, filing, preserving and distributing criminal records.

§ 22. Recording of fingerprints

The State Police, the persons in charge of all state penal institutions, the wardens or keepers of jails and prisons, the several sheriffs, and the chiefs of police in each of the cities and towns of the State and other law enforcement officers shall have the authority to take or cause to be taken, and shall take or cause to be taken, the fingerprints or photographs or both the fingerprints and photographs of any person in custody charged with the commission of crime, or of any person who they have reason to believe is a fugitive from justice, or of any suspicious person, or of any habitual criminal, and of all unidentified dead persons, and they shall furnish daily to the Supervisor of the State Bureau of Identification copies of the fingerprints and photographs so taken, together with a report of the way the crime was committed, the method of operation of the person arrested, and any psychiatric report or other pertinent information which may be necessary to keep the records and statistics of the State Bureau of Identification, such fingerprints to be taken and additional reports made on forms furnished or approved by the State Bureau of Identification. The Supervisor of the State Bureau of Identification shall immediately upon receipt of such records compare them with other records already on file, and shall furnish to the proper official such information as he may have relative to the criminal record of such persons.

District Court Judges may, in their discretion, have the same authority granted to law enforcement officers under this section.

§ 23. Officers to furnish information

It is made the duty of every clerk of every criminal court, including the District Court, and of every head of every department, bureau and institution, state, county and local, dealing with criminals and of every officer, probation officer, county attorney or person whose duties make him the appropriate officer, to transmit, not later than the first and 15th days of each calendar month, to the Supervisor of the State Bureau of Identification, such information as may be necessary to enable him to comply with sections 22 and 24. Such reports shall be made upon forms which shall be supplied or approved by the State Bureau of Identification.

§ 24. Supervisor to cooperate with other bureaus

The Supervisor of the State Bureau of Identification shall cooperate with similar bureaus in other states and with the national bureau in the Depart-

ment of Justice in Washington, D. C. and he shall develop and carry on an interstate, national and international system of identification.

§ 25. Cooperation with local officials

The Supervisor of the State Bureau of Identification shall afford instruction and offer assistance to all persons required to take fingerprints and photographs in the establishment and operation of their local systems of identification, in order to assure coordination with the system of identification conducted by the state bureau. Neglect or refusal of any person or official to make reports or perform any other act required by sections 21 to 26, shall constitute a misdemeanor, and such person or official, upon conviction thereof, shall be punished by a fine of not more than \$50.

§ 26. Rules and regulations

The Supervisor of the State Bureau of Identification shall make and forward to all persons charged with any duty or responsibility under sections 21 to 25, rules and regulations for the taking and preserving of the fingerprints and other records as provided, such rules and regulations before becoming effective to be approved by the Attorney General.

§ 27. Courts to submit criminal records

Every court in every case wherein a person is convicted of the violation of any criminal statute shall forthwith transmit to the State Bureau of Identification an abstract, duly certified, setting forth therein the names of the parties, the nature of the offense, the date of hearing, the plea, the judgment and the result. For this purpose the State Bureau of Identification shall furnish to said courts proper abstract forms.

§ 28. Fingerprinting of school children

All children in the State attending public schools, or their equivalent, shall be fingerprinted for civilian identification under the supervision of the Commissioner of Educational and Cultural Services and the State Bureau of Identification. It shall be a requirement of matriculation in schools receiving state funds.

§ 29. Authorization of Governor and Council

The law enforcement agencies of the State, upon request of the Governor and Council, shall have the authority to take, or cause to be taken, and shall take, or cause to be taken, the fingerprints of the persons enumerated in section 28 and of any persons who shall request their fingerprints to be taken for civilian identification.

CHAPTER 3

STATE POLICE RETIREMENT SYSTEM

§ 41. System; limitation

Any member of the State Police who shall have served as a member thereof for 20 or more years with a good record shall upon request in writ-

ing to the Chief of the State Police be retired from active service and placed upon the pension rolls, and receive thereafter $\frac{1}{2}$ of the pay per year that is paid to a member of his grade at the time of his retirement. This section shall apply only to persons who were members of the State Police on July 9, 1943.

This section shall apply to a member who may become Chief of the State Police. Such chief shall be credited with the number of years which he served as a member to be added to the number of years served as chief. Upon his request for retirement, made in writing to the Governor and Council, he shall receive thereafter $\frac{1}{2}$ of the pay per year that is paid to him as chief at the time of his retirement, provided he has served at least 4 years as chief; otherwise he shall receive thereafter $\frac{1}{2}$ of the pay per year that was paid to him as a member at the time he was appointed chief.

§ 42. Military leave credits

No credits toward retirement under section 41 shall be allowed to any member of the State Police in military service beyond the period of first enlistment or induction into the Armed Forces of the United States unless the individual involved is compelled to continue service under some mandatory provision.

§ 43. Provision for payment

Funds for the payment of the retirement pay of state police officers shall be included in the annual budget of the Bureau of State Police and the amounts necessary to pay such retirement pay shall be in addition to the regular appropriation for the support of the department. Any person convicted of a felony while receiving a pension under this section shall forfeit such pension.

§ 44. Occupational disability

Upon the filing with the Chief of the State Police of an application by a member of the State Police in service and upon the determination by the chief that he has incurred permanent disability as a result of injuries received in the line of duty, such member may be retired on a disability retirement allowance equal to $\frac{1}{2}$ of the pay per year that is paid to a member of his grade at the time of his disability. A medical board of 3 physicians, designated by the Chief of the State Police, after a medical examination of such member of the State Police, shall first certify that such member is mentally or physically incapacitated for further performance of duty, that such incapacity is likely to be permanent and that he should be retired.

This section shall apply only to persons who were members of the State Police on July 9, 1943.

§ 45. Retirement benefits to wives extended

A surviving widow shall be paid $\frac{1}{2}$ of the amount that any member of the State Police, including the Chief of the State Police, is receiving either as a pension or a disability retirement allowance under this chapter, and said payments shall continue for the remainder of her lifetime or until she should

remarry. Payments to the member shall cease as of the day of his death and shall begin to his widow on the following day.

This section shall apply to a surviving widow of any member of the State Police who at the time of his death had been eligible to or receiving a pension or a disability retirement allowance under this chapter. Payments to those who were surviving widows on September 3, 1965 shall be based upon the amount of pension or disability retirement that said member would have been entitled to receive as of September 3, 1965 under this chapter.

CHAPTER 4

RECORDS

§ 51. Records confidential

All criminal and administrative records of the State Police and the Bureau of Identification are declared to be confidential, except:

1. Operational reports. Operational reports by the bureau;
2. Activity reports. Activity reports by the bureau;
3. Names. Names of State Police applicants;
4. Promotions. Promotions;
5. Resignations. Resignations;
6. Discharges. Discharges;
7. Retirements. Retirements;
8. Statistical reports. Statistical reports by Bureau of Identification;
9. Accident reports. Accident reports;
10. Further statistical reports. Statistical reports by Division of Traffic Records;
11. Accident information. Accident information on pending cases which would not jeopardize the investigation or prosecution of such cases;
12. Further statistical reports. Statistical reports by Division of Criminal Investigation;
13. Open court information. Information made available in open court;
14. Pending case information. Information on pending cases which would not jeopardize the investigation or prosecution;
15. Further statistical reports. Statistical reports by Division of Special Services on truck weights, public utility enforcement and beans;
16. Audits. Annual audits.

Such records other than the exceptions listed may be subpoenaed by a court of record.

CHAPTER 5
NEW ENGLAND STATE POLICE COMPACT

§ 65. Compact entered into by State

The New England State Police Compact is hereby entered into and enacted into law with any and all of the states legally joining therein in the form substantially as follows.

§ 66. Purposes—Article I

The purposes of this compact are to:

1. Detection and apprehension. Provide close and effective cooperation and assistance in detecting and apprehending those engaged in organized criminal activities;
2. Criminal intelligence bureau. Establish and maintain a central criminal intelligence bureau to gather, evaluate and disseminate to the appropriate law enforcement officers of the party states information concerning organized crime, its leaders and their associates;
3. Emergency assistance. Provide mutual aid and assistance in the event of police emergencies, and to provide for the powers, duties, rights, privileges and immunities of police personnel when rendering such aid.

§ 67. Entry into force and withdrawal—Article II

1. Force and effect. This compact shall enter into force when enacted into law by any 3 of the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. Thereafter, this compact shall become effective as to any other of the aforementioned states upon its enactment thereof.
2. Withdrawal. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal, and any records, files or information obtained by officers or employees of a withdrawing state shall continue to be kept, used and disposed of only in such manner as is consistent with this compact and any rules or regulations pursuant thereto.

§ 68. The conference—Article III

1. New England State Police Administrators' Conference. There is established the "New England State Police Administrators' Conference", in this chapter called the "conference", to be composed of the administrative head of the state police department of each party state.
2. Alternates. If authorized by the laws of his party state, the administrative head of the state police department of a party state may provide for the discharge of his duties and the performance of his functions on the con-

ference, for periods none of which shall exceed 15 days, by an alternate. No such alternate shall be entitled to serve unless notification of his identity and appointment shall have been given to the conference in such form as the conference may require.

3. Selection of alternates. An alternate serving pursuant to subsection 2 shall be selected only from among the officers and employees of the state police department, the head of which such alternate is to represent.

4. Vote. The members of the conference shall be entitled to one vote each. No action of the conference shall be binding unless taken at a meeting at which a majority of the total number of votes on the conference are cast in favor thereof. Action of the conference shall be only at a meeting at which a majority of the members of the conference, or their alternates, are present.

5. Seal. The conference shall have a seal.

6. Officers. The conference shall elect annually, from among its members, a chairman, who shall not be eligible to succeed himself, a vice-chairman and a treasurer. The conference shall appoint an executive secretary and fix his duties and compensation. Such executive secretary shall serve at the pleasure of the conference, and together with the treasurer shall be bonded in such amount as the conference shall determine. The executive secretary also shall serve as general secretary of the conference.

7. Personnel. Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive secretary, subject to the direction of the conference, shall appoint, remove or discharge such personnel as may be necessary for the performance of the conference functions and shall fix the duties and compensation of such personnel.

8. Employee benefits. The conference may establish and maintain independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the conference shall be eligible for social security coverage in respect of old age and survivor's insurance, provided that the conference takes such steps as may be necessary pursuant to the laws of the United States, to participate in such program of insurance as a governmental agency or unit. The conference may establish and maintain or participate in such additional programs of employee benefits as may be appropriate. Employment by the conference of a retired officer or employee of a party state shall not affect the pension or other retirement-connected benefits paid to such officer or employee by a party state.

9. Utilization of services. The conference may borrow, accept or contract for the services of personnel from any party state, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of 2 or more of the party states or their subdivisions.

10. Acceptance of aid. The conference may accept for any of its purposes and functions under this compact any and all donations, grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States or any other governmental agency, or from any per-

son, firm or corporation and may receive, utilize and dispose of the same. The conference shall publish in its annual report the terms, conditions, character and amount of any resources accepted by it pursuant hereto together with the identity of the donor.

11. Facilities. The conference may establish and maintain such facilities as may be necessary for the transacting of its business. The conference may acquire, hold and convey real and personal property and any interest therein.

12. Bylaws. The conference shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The conference shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party states. The bylaws shall provide for appropriate notice to the conference members of all conference meetings.

13. Annual report. The conference annually shall make to the governor and legislature of each party state a report covering the activities of the conference for the preceding year, and embodying such recommendations as may have been issued by the conference. The conference may make such additional reports as it may deem desirable.

§ 69. Conference powers—Article IV

The conference shall have power to:

1. New England Criminal Intelligence Bureau. Establish and operate a New England Criminal Intelligence Bureau, in this chapter called "the bureau", in which shall be received, assembled and kept case histories, records, data, personal dossiers and other information concerning persons engaged or otherwise associated with organized crime.

2. Identification. Consider and recommend means of identifying leaders and emerging leaders of organized crime and their associates.

3. Mutual assistance arrangements. Facilitate mutual assistance among the state police of the party states pursuant to Article VII of this compact.

4. Claims and reimbursements. Formulate procedures for claims and reimbursements, pursuant to Article VII of this compact.

5. Promote cooperation. Promote cooperation in law enforcement and make recommendations to the party states and other appropriate law enforcement authorities for the improvement of such cooperation.

6. Other powers. Do all things which may be necessary and incidental to the exercise of the foregoing powers.

§ 70. Disposition of records and information—Article V

The bureau established and operated pursuant to Article IV, subsection 1, of this compact is designated and recognized as the instrument for the performance of a central criminal intelligence service to the state police departments of the party states. The files, records, data and other information of the bu-

reau and, when made pursuant to the bylaws of the conference, any copies thereof shall be available only to duly designated officers and employees of the state police departments of the party states acting within the scope of their official duty. In the possession of the aforesaid officers and employees, such records, data and other information shall be subject to use and disposition in the same manner and pursuant to the same laws, rules and regulations applicable to similar records, data and information of the officer's or employee's agency and the provision of this compact.

§ 71. Additional meetings and services—Article VI

The members of the conference from any 2 or more party states, upon notice to the chairman as to the time and purpose of the meeting, may meet as a section for the discussion of problems common to their states. Any 2 or more party states may designate the conference as a joint agency to maintain for them such additional common services as they may deem desirable for combating organized crime. Except in those cases where all party states join in such designation for common services, the representative of any group of such designating states in the conference shall constitute a separate section of such conference for the performance of the common service or services so designated provided that, if any additional expense is involved, the state so acting shall provide the necessary funds for this purpose. The creation of such a section or joint agency shall not affect the privileges, powers, responsibilities or duties of the states participating therein as embodied in the other articles of this compact.

§ 72. Mutual aid—Article VII

1. Definitions. As used in this article:

A. "Emergency" means an occurrence or condition, temporary in nature, in which the state police department of a party state is, or may reasonably be expected to be, unable to cope with substantial and imminent danger to the public safety, and in which the cooperation of or aid from local police forces within the state is, or may be reasonably expected to be insufficient.

Also "emergency" shall mean a situation in which an investigation of an aspect of organized crime, or events connected with organized crime require augmentation, for a limited time, of the investigative personnel of the state police department from without the State.

B. "Requesting state" means the state whose state police department requests assistance in coping with an emergency.

C. "Responding state" means the state furnishing aid, or requested to furnish aid, pursuant to this article.

2. Request for emergency aid. In case of emergency, upon the request of the administrative head of the state police department of a party state, the administrative head of the state police department of each responding state shall order such part of his state police forces as he, in his discretion, may find necessary, to aid the state police forces of the requesting state in order to carry out the purposes set forth in this compact. In such case, it shall be the

duty of the administrative head of the state police department of each responding state to issue the necessary orders for such use of state police forces of his state without the borders of his state, and to direct such forces to place themselves under the operational control of the administrative head of the state police department of the requesting state.

3. Participation of personnel. The administrative head of the state police department of any party state, in his discretion, may withhold or recall the police forces of his state or any part or any member thereof, serving without its borders.

4. Rights and immunities. Whenever any of the state police forces of any party state are engaged outside their own state in carrying out the purposes of this compact, the individual members so engaged shall have the same powers, duties, rights, privileges and immunities as members of the state police department of the state in which they are engaged, but in any event, a requesting state shall save harmless any member of a responding state police department serving within its borders for any act or acts done by him in the performance of his duty while engaged in carrying out the purposes of this compact.

5. Liability. All liability that may arise under the laws of the requesting state or under the laws of the responding state or under the laws of a 3rd state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

6. Reimbursement. Any responding state rendering aid pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of the materials, transportation and maintenance of state police personnel and equipment incurred in connection with such request; provided, that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense or other cost.

7. Pay and allowances. Each party state shall provide, in the same amounts and manner as if they were on duty within their state, for the pay and allowances of the personnel of its state police department while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact.

8. Compensation and death benefits. Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its state police department in case such members sustain injuries or are killed within their own state, shall provide for the payment of compensation and death benefits in the same manner and on the same terms in case such members sustain injury or are killed while rendering aid pursuant to this compact.

§ 73. Finance—Article VIII

1. Budget. The conference shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures

for such period as may be required by the laws of that party state for presentation to the legislature thereof.

2. Appropriations. Each of the conference's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The total amount of appropriations under any such budget shall be apportioned among the party states as follows: One-third in equal shares; one-third divided among the party states in the proportions that their populations bear to the total population of all the party states; and one-third divided among the party states in the proportions that the major crimes committed in each party state bear to the total number of major crimes committed in all the party states. In determining population pursuant to this subsection, the most recent decennial census compiled by the United States Government shall be used. Numbers of major crimes shall be as reported in the most recent annual "Uniform Crime Report" compiled by the Federal Bureau of Investigation of the United States Department of Justice, or by any agency which may assume responsibility for such compilation in the place of such bureau. In the event that any source of information required to be used for the purpose of this subsection shall be discontinued, the conference shall make its calculations on the basis of the best alternative sources of information and shall identify the sources used.

3. Pledge of credit. The conference shall not pledge the credit of any party state. The conference may meet any of its obligations in whole or in part with funds available to it under Article III, subsection 10 of this compact, provided that the conference takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the conference makes use of funds available to it under Article III, subsection 10 hereof, the conference shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

4. Receipts and disbursements. The conference shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the conference shall be subject to the audit and accounting procedures established under its rules. However, all receipts and disbursements of funds handled by the conference shall be audited yearly by a qualified, public accountant and the report of the audit shall be included in and become part of the annual report of the conference.

5. Inspection of accounts. The accounts of the conference shall be open at any reasonable time for inspection by duly constituted officers of the party states and any persons authorized by the conference.

6. Audit. Nothing contained herein shall be construed to prevent conference compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the conference.

§ 74. Construction and severability—Article IX

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase,

clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

§ 75. Designation of alternate

The Chief of the State Police is authorized to designate an alternate to serve in his place and stead on the New England State Police Administrators' Conference as permitted by Article III, subsections 2 and 3 of the compact. However, it is the intention of the Legislature that such Chief of the State Police shall attend and participate in the work of the conference in person to the maximum extent practicable.

§ 76. Retirement coverage

The employees of the New England State Police Administrators' Conference may, upon the concluding of an agreement for coverage with the State Retirement System, be eligible for and covered by such system. Any such agreement shall provide, as nearly as may be, for the same ratio of employee contribution to total contribution as pertains for members of the State Retirement System generally.

The State Retirement System shall not conclude a retirement agreement pursuant to Article III, subsection 8, of the compact if the New England State Police Administrators' Conference has in force a retirement agreement with any other party state.

CHAPTER 6

PUBLIC WAYS AND PARKING AREAS

§ 91. Definitions

The words "public way" or "public ways" when used in this chapter shall be held to mean all roads and driveways on lands maintained by the State at the state institutions under the jurisdiction of the Department of Public Safety and Corrections.

The words "parking area" or "parking areas" when used in this chapter shall be held to mean all lands maintained by the State at the State institutions under the jurisdiction of the Department of Public Safety and Corrections which may be designated as parking areas by the superintendents of the state institutions.

§ 92. Rules and regulations

The superintendents of the state institutions are authorized and empowered to make and enforce rules and regulations, subject to the approval of the com-

missioner, governing the use of public ways and parking areas maintained by the State at the state institutions. Said rules and regulations shall become effective upon deposit of a copy thereof with the Secretary of State, who shall forward a copy thereof attested under the Great Seal of the State to the District Court in the area of jurisdiction.

§ 93. Special police; powers and duties, cooperation

The superintendents of the state institutions are authorized and empowered to appoint and employ, subject to the Personnel Law, special police officers for the purpose of enforcing rules and regulations made pursuant to section 92.

The powers and duties of the special police officers so appointed and employed shall be to patrol all of the public ways and parking areas subject to this chapter, enforce rules and regulations made under section 92, arrest any violator thereof and prosecute any offender against the same.

The State Police, sheriffs and deputy sheriffs, constables and police officers within the area of jurisdiction shall, so far as possible, cooperate with the special police officers appointed and employed under this section in the enforcement of rules and regulations made pursuant to section 92.

§ 94. Jurisdiction

The District Court within the areas in which the state institutions are located shall have jurisdiction in all proceedings brought under this chapter, which court shall take judicial notice of all rules and regulations adopted pursuant to section 92. In any prosecution for violation of any rules and regulations, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule or regulation.

§ 95. Fines

Any person found guilty of violating any rules or regulations made pursuant to section 92 shall, upon conviction, pay a fine as follows:

1. First offense. For the first offense in any calendar year, a fine of \$1;
2. Second offense. For the second offense in any calendar year, a fine of \$2;
3. Subsequent offense. For each offense in excess of 2 in any calendar year, a fine of \$5.

Notwithstanding any other law, the fines and costs of court paid under this section shall inure to the municipality in which the proceedings take place.

§ 96. Offenses not covered by rules and regulations

Offenses not covered by the rules and regulations made under section 92 shall be dealt with as otherwise provided by law.

Sec. 6. R. S., T. 15, § 2611, sub-§ 4, ¶ G, repealed and replaced. Paragraph G of subsection 4 of section 2611 of Title 15 of the Revised Statutes is repealed and the following enacted in place thereof:

G. Dismiss the action and refer the juvenile to the Department of Mental Health for admission to the Pineland Hospital and Training Center in the manner provided in Title 34, section 2152, on the condition that the court has received a report as provided in section 2503 that the juvenile is mentally retarded or mentally ill;

Sec. 7. R. S., T. 22, § 2883, amended. The 3rd sentence of section 2883 of Title 22 of the Revised Statutes is amended to read as follows:

The superintendents and medical staffs of the Augusta State Hospital, the Bangor State Hospital and Pineland Hospital and Training Center, having charge or control over dead human bodies required to be buried at public expense, when no person satisfies the superintendent of either hospital for the mentally ill or the Pineland Hospital and Training Center and the Department of Mental Health ~~and Corrections~~ that he or she is a member of the family of, or some family connection or next of kin to the deceased, and wishes to claim the body for burial, may for the advancement of science hold an autopsy and examine the body of such person, notwithstanding any provisions of this chapter.

Sec. 8. Allocation. The Revised Statutes, Title 34, chapters 7, 9, 11, 61, 62, 63, 65, 67, 69, 71, 73, 75, 121 and 123 are allocated to be Revised Statutes, Title 25-A.

Sec. 9. Amendatory clause. Whenever in Title 25-A the words "Department of Mental Health and Corrections" or "Commissioner of the Department of Mental Health and Corrections" appear, they shall mean the "Department of Public Safety and Corrections" or "Commissioner of Public Safety and Corrections" as the context may require.

Whenever in Title 34 the words "Department of Mental Health and Corrections" or "Commissioner of the Department of Mental Health and Corrections" appear, they shall mean the "Department of Mental Health" or "Commissioner of the Department of Mental Health" as the context may require.

Sec. 10. Amendatory clause. Wherever in Title 15, chapter 409 the words "department" or "Department of Mental Health and Corrections" are used, they shall mean "Department of Public Safety and Corrections."

Wherever in this chapter the words "commissioner" or "Commissioner of Mental Health" are used, they shall mean "Commissioner of Public Safety and Corrections."

Sec. 11. Amendatory clause. Whenever in the Revised Statutes, Title 25, sections 2391 to 2393, 2396 to 2399, 2432, 2441, 2444, 2445, 2448, 2450, 2452, 2452-A, 2453, 2454, 2455 and 2461 the words "Insurance Commissioner" appear, they shall mean the "Commissioner of Public Safety and Corrections."

Sec. 12. Appropriation transfer. The appropriations to the Department of Mental Health and Corrections for the administration, use and operation of the Bureau of Corrections, Probation and Parole Board, the several correctional institutions and any other agency placed under the new department for

the fiscal year 1974-75 shall be transferred to the Department of Public Safety and Corrections.

All personnel employed by the Bureau of Corrections, Probation and Parole Board in the several correctional institutions and other agencies transferred to the new department shall be transferred to the Department of Public Safety and Corrections on July 1, 1974.

All furniture, supplies, equipment and other property used, maintained or under the control of the Bureau of Corrections, Probation and Parole Board and the several correctional institutions and all other agencies transferred to the new department shall be transferred to the Department of Public Safety and Corrections on July 1, 1974.

Sec. 13. Effective date. This Act shall be effective January 1, 1974 for the purpose of making all necessary appointments required by its terms; making necessary arrangements for transfer of funds, personnel, supplies, equipment and other property required by this Act.

This Act shall be operative on July 1, 1974.

STATEMENT OF FACT

The Bureau of Corrections of the Department of Mental Health and Corrections should be placed under the Department of Public Safety since the bureau really has no function within the present Department of Mental Health and Corrections. It is more strongly oriented towards the functions of the Department of Public Safety and it would be beneficial to place it there. This change would not be detrimental to programs of rehabilitation of inmates.