

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1010

H. P. 827

House of Representatives, March 11, 1975

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Hughes of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Relating to Transfer of Offenders Among Correctional Institutions,
Residential Facilities and Programs.

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

Sec. 1. 34 MRSA § 528, first ¶, 2nd sentence, as enacted by PL 1973, c. 488, § 1, is repealed and the following enacted in place thereof:

Committed juveniles, inmates and prisoners may be transferred to participate in the Halfway House Program in accordance with applicable provisions of this chapter.

Sec. 2. 34 MRSA § 529 is enacted to read:

§ 529. Transfer

When it appears to the Director of the Bureau of Corrections, for reasons of availability of rehabilitative programs and the most efficient administration of correctional resources, that the requirements of any person sentenced or committed to a penal, correctional or juvenile institution would be better met in a facility, institution or program other than that to which such person was originally sentenced, the Director of the Bureau of Corrections, with the consent of the person so sentenced, may petition the court which originally had jurisdiction of the case for a new sentencing or dispositional hearing for the purpose of transferring such person to another correctional institution, residential facility or program administered by or providing services to the Bureau of Corrections; provided that no juvenile shall be transferred to a facility or program for adult offenders.

When it appears to the Director of the Bureau of Corrections, for reasons of institutional security, that the residence of any person in a penal, correctional or juvenile institution creates a clear and present danger to his own safety or the safety of other persons, the Director of the Bureau of Corrections may petition the court which originally had jurisdiction of the case for a new sentencing or dispositional hearing for the purpose of transferring such person to any other correctional institution, residential facility or program administered by or providing services to the Bureau of Corrections; provided that no juvenile shall be transferred to a facility or program for adult offenders.

A person who is the subject of such a new dispositional or sentencing hearing under this section shall have the same rights to representation by counsel and consideration of evidence on the record as those which existed at the original dispositional or sentencing hearing.

Any person so transferred shall be subject to the general rules and regulations pertaining to persons at the institution or facility, or in the program to which he is transferred, except that the term of his original sentence or commitment shall remain the same, unless altered by the court, and such person shall become eligible for discharge from the correctional system or for hearing by the State Parole Board according to chapter 121, subchapter V, or other provisions of this Title relating to the institution or facility to which he was originally sentenced or committed.

Sec. 3. 34 MRSA § 705, 2nd ¶, as last repealed and replaced by PL 1969, c. 346, § 1, is repealed.

Sec. 4. 34 MRSA § 710, first sentence, as last amended by PL 1973, c. 647, is amended to read:

If a convict sentenced to the State Prison for life or for a limited term of years or transferred thereto ~~from the Men's Correctional Center~~ under section ~~808-A~~ 529 or committed thereto for safekeeping under Title 15, section 453, assaults any officer or other person employed in the government thereof, or breaks or escapes therefrom, or attempts to do so, he may be punished by confinement to hard labor for any term of years, to commence after the completion of his former sentence or upon termination of such sentence by the State Parole Board; said termination shall not take place sooner than the expiration of the parole eligibility hearing date applicable to his former sentence.

Sec. 5. 34 MRSA § 710-A, first ¶, first sentence, as last amended by PL 1971, c. 622, § 124, is amended to read:

If a convict, sentenced to the State Prison for life, or for a limited term of years, or transferred thereto ~~from the Men's Correctional Center~~ under sections 529 and 807 ~~and 808~~, or committed thereto for safekeeping under Title 15, section 453, if armed with a firearm, assaults any officer or other person employed in the government thereof, or breaks or escapes therefrom, or forcibly attempts to do so, he may be punished by confinement to hard labor

for any term of years, to commence after the completion of his former sentence or upon termination of such sentence by the State Parole Board.

Sec. 6. 34 MRSA § 807, first ¶, 3rd sentence, as last repealed and replaced by PL 1969, c. 541, is amended to read:

Any prisoner transferred to the center, under section ~~705~~ 529, who violates this section shall be subject to section 710.

Sec. 7. 34 MRSA § 808-A, as last amended by PL 1971, c. 397, § 7, is repealed.

STATEMENT OF FACT

This legislation, and its accompanying housekeeping amendments, affords the Director of the Bureau of Corrections an option to request the sentencing court for a new sentencing hearing when it appears that an offender would benefit from placement in a program or institution other than that to which the offender was originally assigned.

This legislation is compatible with recommendation #20 of the report of the Governor's Task Force on Corrections.