

# MAINE STATE LEGISLATURE

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(EMERGENCY)  
FIRST SPECIAL SESSION

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ONE HUNDRED AND SEVENTH LEGISLATURE

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Legislative Document

No. 2281

S. P. 732

In Senate, March 1, 1976

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

HARRY N. STARBRANCH, Secretary

Presented by Senator Berry of Androscoggin.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SIX

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AN ACT to Reorganize the Bureau of Corrections.

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**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is essential that the Bureau of Corrections has adequate facilities to provide for the increasing number of adult offenders; and

Whereas, the establishment of a Maine Youth Center in South Portland, serving male and female juvenile offenders, is found appropriate for improved services and cost effectiveness; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1.** 5 MRSA § 1507, sub-§ 1, first sentence, as repealed and replaced by PL 1969, c. 455, § 1, is amended to read:

\$120,000 to provide relief, when need exists, ~~and on a commodity basis only~~ to those institutions where actual average population in a fiscal year exceeds the basic estimates of population upon which the budget was approved and where such relief cannot be absorbed within regular legislative appropriations.

**Sec. 2.** 15 MRSA § 2611, sub-§ 4, ¶ B, as last amended by PL 1967, c. 195, § 1, is repealed and the following enacted in place thereof:

**B. Commit to the Maine Youth Center, if the juvenile is of the proper age;**

**Sec. 3.** 15 MRSA § 2611, sub-§ 5, as last repealed and replaced by PL 1975, c. 538, § 7, is amended to read:

**5. Dispositions after return to a juvenile court.** In instances of commitment of a juvenile to the ~~Boys Training Center or to the Stevens School~~ **Maine Youth Center**, the superintendent thereof following such commitment may for good cause petition the juvenile court having original jurisdiction in the case for a judicial review of disposition. In all cases in which a juvenile is returned to a juvenile court from the ~~Boys Training Center or Stevens School~~ **Maine Youth Center**, the juvenile court may make any of the dispositions otherwise provided in this section.

**Sec. 4.** 15 MRSA § 2611, last ¶, as enacted by PL 1973, c. 522, § 1, is amended to read:

The juvenile court shall not commit a juvenile to the ~~Men's Correctional Center, the Women's Correctional Center, the Boys Training Center or the Stevens School~~ **Maine Youth Center** if the offense or act committed by the juvenile would not be an offense under the criminal statutes of this State, if committed by a person 18 years of age or over.

**Sec. 5.** 15 MRSA § 2711, sub-§§ 1 and 2, as last amended by PL 1967, c. 195, § 2, are repealed and the following enacted in place thereof:

**1. Center.** "Center" means the Maine Youth Center located on the campus of the institution heretofore known as the Boys Training Center at South Portland.

**2. Child or children.** "Child" or "children" means a juvenile committed to the Maine Youth Center.

**Sec. 6.** 15 MRSA § 2712, as last amended by PL 1975, c. 482, is repealed and the following enacted in place thereof:

§ 2712. Establishment; location; personnel

The State shall establish and maintain a training center to rehabilitate children committed thereto as juvenile offenders by the courts of the State. Toward this end, the disciplines of education, casework, group work, psychology, psychiatry, medicine, nursing, vocational training and religion related to human relations and personality development shall be employed. The center shall be coeducational and shall fully separate the housing facilities for boys and girls. The director of the center shall be called the superintendent.

The superintendent of the center shall have an assistant superintendent to be appointed by the superintendent, subject to the Personnel Law who, when the office of superintendent is vacant or the superintendent is absent from the center or unable to perform the duties of the office, shall have the powers, perform the duties and be subject to all the obligations and liabilities of the superintendent.

**Sec. 7.** 15 MRSA § 2714, first sentence, as repealed and replaced by PL 1975, c. 538, § 9, is amended to read:

Only a juvenile as defined in section 2502, subsection 5, who is 11 years of age or older at the time of the court's disposition of the case may be committed to ~~a~~ the center pursuant to chapters 401 to 409.

Sec. 8. 15 MRSA § 2715 is amended to read:

§ 2715. Certification by committing judge

When any child is ordered to be committed to ~~a~~ the center, the court by which such commitment is made shall certify on the mittimus provided the child's birthdate, birthplace, parentage and legal residence.

Sec. 9. 15 MRSA § 2716, 2nd ¶, last sentence, as enacted by PL 1975, c. 106, is repealed.

Sec. 10. 34 MRSA § 1, first paragraph, as last amended by PL 1975, c. 495, § 1, is amended to read:

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 of the following state institutions: The hospitals for the mentally ill, Pine-land Center, the State Prison, the ~~Men's Correctional Center and the Women's Correctional Center~~ **Maine Correctional Center**, the ~~juvenile institutions~~ **Maine Youth Center**, 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. 11. 34 MRSA § 501, as last amended by PL 1967, c. 391, § 7, is further amended to read:

§ 501. Aliens; report to immigration officer

Whenever any person shall be admitted or committed to the State Prison, the ~~Men's Correctional Center, Women's Correctional Center~~ **Maine Correctional Center**, the county jail, or any other state, county, city or private institution which is supported wholly or in part by public funds, it shall be the duty of the warden, superintendent, sheriff or other officer in charge of such institution to inquire at once into the nationality of such person and, if it shall appear that such person is an alien, to notify immediately the United States immigration officer in charge of the district in which such prison, reformatory, jail or other institution is located, of the date of and the reason for such alien's admission or commitment, the length of time for which admitted or committed, the country of which he is a citizen and the date on which and the port at which he last entered the United States.

Sec. 12. 34 MRSA § 529, first sentence, as enacted by PL 1975, c. 492, § 2, and as amended by PL 1975, c. 623, § 51-H, is further amended to read:

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 written consent of the person so sentenced, may transfer ~~after written notice of the transfer to the court which originally had jurisdiction and in the absence of any objection by the court within 14 days following the date of the notice~~ 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 and that no male juvenile shall be transferred to the Stevens School at Hallowell.

Sec. 13. 34 MRSA c. 65, as amended, is repealed.

Sec. 14. 34 MRSA c. 66 is enacted to read:

#### CHAPTER 66

#### MAINE CORRECTIONAL CENTER

##### § 811. Establishment

The Maine Correctional Center, hereafter in this chapter called the "center," located at South Windham, on property of the State heretofore occupied by the Men's Correctional Center in South Windham, shall be maintained for the confinement and rehabilitation of persons under the age of 18 years with respect to whom probable cause has been found under Title 15, section 2611, subsection 3, who have pleaded guilty to, or have been tried and convicted of, crimes in the Superior Court and persons over the age of 18 years and of not more than 26 years of age who have been convicted of, or who have pleaded guilty to, crimes in the courts of the State, and who have been duly sentenced and committed thereto, and women sentenced to the Maine State Prison and committed to the center. If deemed necessary, the facility in Skowhegan formerly known as the Women's Correctional Center may be used, with the consent of the Governor, to alleviate overcrowded conditions at the Maine Correctional Center or as a prerelease center.

All persons committed to the center shall be detained and confined in accordance with the sentences of the courts and rules and regulations of the center. Provisions for the safekeeping or employment of such inmates shall be made for the purpose of teaching such inmates a useful trade or profession and improving their mental and moral condition.

The head of the institution in each location shall be called the superintendent, who shall have supervision and control of the inmates, employees, grounds, buildings and equipment at the center.

The superintendent of the center in each location is authorized, subject to the written approval of the commissioner, to contract with the Director of the Federal Bureau of Prisons acting pursuant to Title 18, U.S.C. § 4002, for the imprisonment, subsistence, care and proper employment of persons convicted of crimes against the United States, and may receive and detain any such persons pursuant to such contracts.

##### § 812. Placement; separation of sexes

At the time of sentencing to the center, the court shall cause inquiry to be made of the department as to the center location to which the sentenced

person shall be delivered by the sheriff or his deputies. Commitment in each case shall be to the Maine Correctional Center and it shall be within the discretion of the department to determine the initial place of delivery of the sentenced person and to transfer from time to time between center locations as the needs of the sentenced person and of the public may require.

At each center location, housing facilities for men and women shall be separated.

§ 813. Transfer of felons for security reasons, overcrowding or effective programming

Any man convicted of a felony and committed to the center may be transferred to the State Prison for reasons of security, or as overcrowding at the center so requires, or in the interest of the inmate and of the public and if the result is the most effective use of available correctional program with respect to the inmate, upon joint recommendation of the superintendent and of the Warden of the State Prison, approved in writing, by the commissioner or his delegate, the Director of Corrections. Any inmate so transferred shall serve the sentence imposed upon him by the court at the State Prison. When in the case of any transferred inmate the reasons for transfer no longer obtain he may be returned to the center, upon joint written recommendation of the superintendent and of the Warden of the State Prison, approved in writing, by the commissioner or his delegate, the Director of Corrections, to continue in execution of his sentence.

§ 814. Powers of officers; uniforms

Employees of the center shall have the same power and authority as sheriffs in their respective counties, only insofar as searching for and apprehending escapees from the center are concerned, when so authorized by the superintendent. Employees of the center may be provided, at the expense of the State, with distinctive uniforms for use when requisite to the performance of their official duties, all of which shall remain the property of the State, or may be provided with an equivalent clothing allowance when the private purchase of special clothing is similarly requisite to the performance of their official duties.

§ 815. Care of children of inmates and prisoners

If any woman is, at the time of her commitment to the center, pregnant with child which shall be born after such commitment, the custody of the child at instance of the department shall be determined in accordance with Title 22, chapter 1055.

§ 816. Land grants to the Department of Conservation

The following lands of the former Women's Correctional Center at Skowhegan are granted to the bureaus of the Department of Conservation, as follows.

1. Land grant to Bureau of Public Lands. All of the open land and timberland north of Norridgewock Avenue, excluding the land immediately adjacent to the institutional buildings, shall be transferred to the Bureau of

**Public Lands, which shall actively manage the timberlands as a working forest.**

2. Land grant to Bureau of Parks and Recreation. All the land lying between Norridgewock Avenue and the Kennebec River belonging to the former Women's Correctional Center, with the exception of the sewerage treatment plant and access thereto, shall be transferred to the Bureau of Parks and Recreation to be managed by the bureau.

Sec. 15. 34 MRSA c. 67, as amended, is repealed.

Sec. 16. 34 MRSA c. 257 is enacted to read:

#### CHAPTER 257

#### SERVICES FOR CHILDREN

##### § 3051. Availability of state facilities

The Department of Mental Health and Corrections shall have control over the facility formerly known as the Stevens School located at Hallowell.

The Commissioner of Mental Health and Corrections shall consult with the Commissioner of Human Services and the Commissioner of Educational and Cultural Services and other public and private agencies and individuals in an effort to promote and support the development of services for children with severe emotional, mental and behavioral disturbances. With the approval of the Governor, the facility located in Hallowell, formerly known as the Stevens School, may be used to house programs developed for services for children.

Sec. 17. **Transitional provision.** Notwithstanding any other provision of law, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of any account, belonging to or intended for the institutions heretofore known as the Men's Correctional Center and the Boys Training Center shall be transferred to or used for the Maine Correctional Center, located in South Windham and the Maine Youth Center, respectively. Notwithstanding any other provision of law, all accrued expenditures, assets, liabilities, balances of appropriations, transfers, revenues or other available funds in any account, or subdivision of any account, belonging to or intended for the institutions heretofore known as the Women's Correctional Center and the Stevens School may be transferred to any institution in or program run by the Department of Health and Corrections, at the direction of the Commissioner of Mental Health and Corrections, with the advice and consent of the Governor and Executive Council. Any funds not so transferred within 60 days after the effective date of this Act shall lapse and become a part of the General Fund.

Sec. 18. **Employee transfer.** All personnel employed by the institutions heretofore known as the Men's Correctional Center and the Boys Training Center shall be considered employees of the Maine Correctional Center, at South Windham and the Maine Youth Center, respectively, and all seniority accrued by such personnel within the organizational units heretofore known as the Men's Correctional Center and the Boys Training Center, respectively, shall follow such personnel into their new organizational units.

All personnel employed at the institutions heretofore known as the Stevens School and the Women's Correctional Center shall have preference under the Personnel Law over all other applicants for positions at the Maine Youth Center and at the Maine Correctional Center, or any other institution within the Department of Mental Health and Corrections, for a period of 60 days from the effective date of this Act, providing such preference shall only attach to those applicants who are otherwise qualified for the position for which application is made. In the event any such personnel are appointed to positions at the Maine Youth Center or the Maine Correctional Center, within 60 days from the effective date of this Act, all seniority accrued by such personnel within the organizational unit formerly known as the Women's Correctional Center/Stevens School shall follow such personnel into their new organizational unit. Additionally, upon appointment within 60 days, for purposes of the retirement system (5 M.R.S.A. Chapter 101), benefits shall be computed as if there had been no break in state service.

The superintendent of the institution heretofore known as the Men's Correctional Center shall be considered the superintendent of the Maine Correctional Center located at South Windham upon the effective date of this Act. The superintendent of the institution heretofore known as the Boys Training Center shall be considered the superintendent of the Maine Youth Center upon the effective date of this Act.

**Sec. 19. Effect on existing commitments.** The abolishment of the Stevens School and the Boys Training Center and the creation of a single, coeducational center, the Maine Youth Center, shall not terminate any commitments to either the Stevens School or the Boys Training Center on the effective date of this Act and each such commitment shall be considered to be to the Maine Youth Center on the effective date of this Act. The abolishment of the Women's Correctional Center and the Men's Correctional Center and the creation of the Maine Correctional Center, shall not terminate any commitments to either the Women's Correctional Center or the Men's Correctional Center on the effective date of this Act and each such commitment shall be considered to be to the Maine Correctional Center on the effective date of this Act and the Commissioner of Mental Health and Corrections shall have discretion to determine in which location of the Maine Correctional Center a committed person shall be placed.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

#### STATEMENT OF FACT

This legislation establishes the Maine Youth Center in South Portland to serve male and female juvenile offenders and establishes correctional centers for adults at South Windham and Skowhegan. The legislation also provides for more flexibility in committing and transferring offenders.

The legislation provides that the Stevens School in Hallowell may be utilized to serve children with severe emotional, mental and behavioral dis-

turbances, subject to the availability of funds, and with the approval of the Governor.

The legislation also provides the ability to use facilities at Skowhegan if it becomes necessary.

This legislation would enable the Institutional Reserve Fund to be used for other expenses than commodities alone. Use of the fund would continue to require the approval of the Governor and Council.