

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1393

H. P. 1123

House of Representatives, March 21, 1979

Referred to the Joint Select Committee on Correctional Institutions. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Cloutier of South Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Clarify Transfers from County Jails to the Correctional Facilities.

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

34 MRSA § 1046, as amended by PL 1975, c. 453, § 1, is further amended to read:

§ 1046. Transfer of prisoners when jail unfit or insecure

Whenever complaint on oath is made to a Justice of the Superior Court that any jail is unfit for occupation or is insufficient for the secure keeping of any person charged with crime and committed to await trial or under sentence, he shall cause not less than 3 days' notice of such complaint to be given to the jailer or sheriff of the county **and to the warden or superintendent of the state correctional facility if transfer to a state facility is anticipated**, to appear at the time and place fixed in such notice. If on examination the matter complained of is found true, **and the proposed transfer is to a county jail**, he may issue his warrant for the transfer of such prisoner at the expense of said county to any jail ~~or other place of~~ confinement where he may be more securely kept. **If the complaint is found true and the proposed transfer is to a state correctional facility, the Justice of the Superior Court may issue a warrant for the transfer of the prisoner at the expense of the county to a state correctional facility, provided that he also finds that the transfer is for the good of the inmate, the receiving institution is able to resolve the problem causing the need to transfer, the nature of the offense committed by**

the prisoner is so severe that it requires sending to the receiving institution and the security of the sending facility is inadequate to handle the problem. If by fire or other casualty any jail is destroyed or rendered unfit for use, any Justice of the Superior Court may, upon being notified by the district attorney of the county where such jail was or is located, issue his order to the sheriff and his deputies and constables of said county to cause all prisoners who might be liable to imprisonment in said county to be imprisoned in the jail of some adjoining county or in any other place of confinement, said order to be printed in the newspapers of said county.

STATEMENT OF FACT

The purpose of this bill is to mandate that the Bureau of Corrections be consulted in all safekeeping transfer hearings for transfers from jails to the correctional facilities and to provide criteria for such transfers as follows.

1. The transfer shall be for the good of the inmate.
2. The receiving institution must be able to resolve the problem causing the need to transfer.
3. The nature of the offense shall be so severe that it shall require sending to the receiving institution.
4. The sending facility shall demonstrate that its own security is inadequate to handle the problem.