

MAINE STATE LEGISLATURE

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(Governor's Bill)
SECOND REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1904

H. P. 1786

House of Representatives, January 25, 1980

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

EDWIN H. PERT, Clerk of the House

Presented by Mrs. Prescott of Hampden.

Cosponsors: Mr. Cloutier of South Portland, Mr. Gray of Thomaston and Mr. Hughes of Auburn.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY

AN ACT to Reorganize the Department of Mental Health and Corrections.

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

Sec. 1. 34 MRSA c. 2 is enacted to read:

CHAPTER 2

DEPARTMENT OF CORRECTIONS

§ 31. Legislative intent

It is the intent of the Legislature that a Department of Corrections be created to improve the administration of correctional institutions, programs and services for individuals sentenced to a state institution or placed on probation. The Department of Corrections shall be a cabinet level department, the commissioner of which is directly accountable to the Governor.

§ 32. Department of Corrections

There is created and established the Department of Corrections to supervise, guide and plan adult and juvenile correctional institutions and programs within the State. Correctional institutions include, without limitation, the Maine Youth

Center, the State Prison and the Maine Correctional Center. Correctional programs include, without limitation, probation and parole, court intake and jail inspection.

The department shall be under the control and supervision of the Commissioner of Corrections, who shall be appointed by the Governor, subject to review by the Joint Standing Committee of the Legislature which is assigned jurisdiction over the subject of health and institutional services and confirmation by the Legislature. The commissioner shall serve at the pleasure of the Governor.

§ 33. Powers and duties

All laws, powers, duties and responsibilities of the Department of Mental Health and Corrections and the Commissioner of Mental Health and Corrections prior to the effective date of this chapter, which pertain to corrections' programs and institutions as set forth in section 32, shall be assigned and delegated to the Department of Corrections and Commissioner of Corrections.

Sec. 2. Revision clause. Wherever in the Revised Statutes the words "Department of Mental Health and Corrections" or "Commissioner of Mental Health and Corrections" or words of similar reference appear or reference is made to that name, they shall be amended to read and mean "Department of Mental Health and Mental Retardation" or "Commissioner of Mental Health and Mental Retardation" respectively, unless otherwise indicated by other provisions of this Act.

Sec. 3. Revision clause. Wherever in the Revised Statutes the words "Bureau of Corrections" or "Director of Corrections" or words of similar reference appear or reference is made to that name, they shall be amended to read and mean "Department of Corrections" or "Commissioner of Corrections" respectively.

Sec. 4. Transition provisions.

1. Rules, regulations and procedures. All existing regulations currently in effect and operation in the Department of Mental Health and Corrections shall continue in effect, except to the extent they conflict with this Act, until rescinded, amended or changed. Those regulations of the Department of Mental Health and Corrections which pertain to the functions and programs for the Department of Corrections, as created by the Revised Statutes, Title 34, chapter 2, will be considered to be regulations of the Department of Corrections. "Regulation" includes, but is not limited to, any regulations, rule, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege, requirement designation or agreement.

2. Funds and equipment transferred. Notwithstanding the Revised Statutes, Title 5, sections 1585 and 1586, all accrued expenditures, assets, liabilities, balances or appropriations, transfers, revenues or other available funds in any account, or subdivision of an account, of the Department of Mental Health and Corrections to be reallocated to the Department of Corrections strictly as the

result of the department reorganization contained in this Act, shall be transferred to the proper place in the new department by the State Controller, upon recommendation of the Commissioner of Mental Health and Retardation, the Commissioner of Corrections and the State Budget Officer, and upon approval by the Governor.

3. Personnel transferred. Personnel of the Bureau of Corrections and all institutions and programs administered or supervised by the bureau, shall be transferred to the new Department of Corrections.

4. Legislation for the 110th Legislature. The Department of Corrections shall prepare legislation for presentation to the First Regular Session of the 110th Legislature, to amend, repeal and rearrange statutes as necessary to reflect the powers, responsibilities and organization of the Department of Corrections created by the Revised Statutes, Title 34, chapter 2.

Sec. 5. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	1980-81
CORRECTIONS, DEPARTMENT OF	
Personal Services	\$41,338
All Other	13,700
Capital Expenditures	1,200
Total	\$56,238

STATEMENT OF FACT

This bill creates a Department of Corrections from the Bureau of Corrections, which currently exists within the Department of Mental Health and Corrections.

The purpose of establishing a cabinet level department for corrections is to improve administration of correctional programs and to provide greater accountability to the Governor and the Legislature.

Correctional services face serious and difficult problems of a long-standing nature. Establishing a Department of Corrections will enable greater emphasis to be placed on resolving these problems. In addition, establishing a Department of Corrections will increase the level of professionalism among corrections' staff and within correctional programs. Further, the establishment of a Department of Corrections underscores the difference in the nature, objectives and management issues faced by corrections and acknowledges the difficulty of administering corrections within the present structure of the Department of Mental Health and Corrections. Finally, a separate department will clarify lines of responsibility between the Governor and those responsible for administering corrections' programs and institutions, a particularly important consideration in light of emergency situations often faced in corrections' institutions.

The establishment of a Department of Corrections will be accomplished utilizing the present resources of the Bureau of Corrections and the transfer of staff from the present Department of Mental Health and Corrections' operations which reflect the bureau's fair share of those resources.

The central office staff required to operate the department will number 12. This includes the 4 staff members presently in the central office of the Bureau of Corrections; 7 staff members transferred from other department resources and the addition of one new staff position to be approved by the Legislature. The appropriation request reflects this new position, as well as capital and all other expenses to operate the department. The staffing complement for the central office is as follows:

1. Commissioner;
2. Director of Community Services;
3. Director of Administrative Services;
4. Special Assistant, Training Director;
5. Correctional Plans Coordinator;
6. Planning Associate II;
7. Jail Inspector;
8. Clerk Stenographer;
9. Accountant II;
10. Account Clerk II;
11. Clerk Stenographer II; and
12. Clerk Typist II.

This bill also renames the Department of Mental Health and Corrections as the Department of Mental Health and Retardation and provides authority to divide the fiscal and personnel resources of the 2 departments on an equitable basis. Further, legislation to amend and recodify statutory provisions concerning the 2 department will be prepared for presentation to the 110th Legislature on the basis of what new experience shows to be necessary.

The \$56,238 appropriated by this bill will provide funds to finance creation of the New Department of Corrections. Most personal items will be offset by interdepartmental transfers. All other and capital appropriations reflect the increase cost of the larger corrections' central staff.