

MAINE STATE LEGISLATURE

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(Governor's Bill)
FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1134

S. P. 376

In Senate, March 5, 1981

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

MAY M. ROSS, Secretary of the Senate

Presented by Senator Gill of Cumberland.

Cosponsors: Representative Kany of Waterville, Representative Prescott of Hampden and Senator Ault of Kennebec.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Create a Department of 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

The Legislature recognizes the need to firmly control all of the state's correctional institutions, provide for the safety of guards and inmates, undertake appropriate programming for the classification, education, rehabilitation and maintenance of inmates and assure an effective system for the supervision of parolees.

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 state institutions 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, the Maine Correctional Center and the facilities at Hallowell, Bangor and Charleston. 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 Senate. 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 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 regulation, rule, order, administrative procedure, policy, determination, directive, authorization, permit, license, privilege 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.

Sec. 5. Legislation for the Second Regular Session of 110th Legislature.

1. The Department of Corrections shall prepare legislation for presentation to the Second Regular Session of the 110th Legislature on or before January 31, 1982, to amend, repeal and rearrange statutes as necessary to reflect the powers, responsibilities and organization of the Department of Corrections.

2. There is established an Advisory Committee to assist the department in the preparation of such legislation, which shall consist of a member of the House of Representatives appointed by the Speaker of the House and a member of the Senate appointed by the President of the Senate; the Chairman of the Governor's Correctional Advisory Commission; the Commissioner of Corrections; a correctional administrator from within the Bureau of Corrections; a member of the Juvenile Justice Advisory Commission appointed by the Governor; a representative of the Governor; and a representative of the Attorney General.

The committee may consult with professional experts in the field of corrections and public administration to assist it as it deems necessary.

3. The legislation prepared by the department shall address, but not be limited to, the following issues: The establishment of an integrated diagnostic and classification system; an integrated industries and jobs program; the classification status of all employees of the department; educational programs for all facilities operated by the department; correctional services to female offenders who are sentenced to the custody of the department; services and programs for juveniles and children, including prevention services; commitment of all prisoners to the custody of the department; arrangements for long-term planning for the capital plants and programs of the department; and correctional community service programs for juvenile and adult offenders within the State.

STATEMENT OF FACT

This bill creates a separate Department of Corrections directly accountable to the Governor.

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

The technical reports and professional evaluations which led to the lock down of the Maine State Prison in April, 1980, demonstrate the fact that correctional services face serious and difficult problems of a long-standing nature.

The legislation is one of several steps being considered to address these issues.

Creation of a separate department should assist the State by increasing 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 transferring 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 13. This includes the 4 staff members presently in the central office of the Bureau of Corrections, 6 staff members transferred from other department resources and the addition of 3 new staff positions to be approved by the Legislature. The appropriation request reflects these new positions, 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. Associate Commissioner;
3. Personnel Officer II;
4. Staff Development Officer; Affirmative Action Officer;
5. Correctional Plans Coordinator;
6. Correctional Program Director;
7. Jail Inspector;
8. Clerk Stenographer II;
9. Accountant II;
10. Accountant I;

11. Clerk Typist III;
12. Clerk Typist II;
13. Personnel Technician; and
14. Chief Advocate.

This bill also renames the Department of Mental Health and Corrections as the Department of Mental Health and Mental 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 departments will be prepared for presentation to the 110th Legislature on or before January 31, 1982, on the basis of what new experience shows to be necessary.

The new statutes will address several major issues confronting the department, which are enumerated in section 5. Other issues will also be addressed by the department and the Advisory Committee established by this section, which will include representatives of the Legislature, administration, Attorney General and the Maine Correctional Advisory Commission.

Most personnel items will be offset by interdepartmental transfers. All other and capital appropriations reflect the increased cost of the larger corrections' central staff.

The appropriation for this bill is contained in the Part II Budget; \$63,043 is requested for Fiscal Year 1982, and \$65,404 is requested for Fiscal Year 1983.