

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

1 (After Deadline)

2 FIRST REGULAR SESSION  
3

4 ONE HUNDRED AND ELEVENTH LEGISLATURE  
5

6 Legislative Document

No. 1779

8 H.P. 1339

House of Representatives, June 20, 1983

9 Reference to the Committee on Health and Institutional Services is  
10 suggested. Sent up for concurrence and ordered printed.

11 Approved for introduction by a majority of the Legislative Council  
pursuant to Joint Rule 27.

EDWIN H. PERT, Clerk

Presented by Representative Manning of Portland.

12 Cosponsors: Senator Gill of Cumberland, Senator Bustin of Kennebec  
and Representative Nelson of Portland.

13 STATE OF MAINE  
14

15 IN THE YEAR OF OUR LORD  
16 NINETEEN HUNDRED AND EIGHTY-THREE  
17

18 AN ACT to Amend the Statutes Regarding  
19 Corrections.  
20

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

23 Sec. 1. 15 MRSA §3203, sub-§7, ¶B, as repealed  
24 and replaced by PL 1977, c. 664, §18, is repealed and  
25 the following enacted in its place:

26 B. Upon the request of the Commissioner of Cor-  
27 rections or his designee, a judge may approve the  
28 transfer of a juvenile who is detained at the  
29 Maine Youth Center to any jail or other secure  
30 facility intended or used for the detention of  
31 adults:

32 (1) If the judge finds, by clear and con-  
33 vincing evidence, that:

1                   (a) Jurisdiction of the matter as a  
2                   juvenile case has been waived and the  
3                   juvenile has been bound over pursuant  
4                   to section 3104, subsection 4; or

5                   (b) A prosecutor has requested the  
6                   court to bind over the juvenile, pur-  
7                   suant to section 3101, subsection 4,  
8                   because he is accused of having commit-  
9                   ted a subsequent offense, while commit-  
10                   ted to the center; and

11                   (2) If the judge finds, by clear and con-  
12                   vincing evidence, that the juvenile's behav-  
13                   ior:

14                   (a) Presents an imminent danger of  
15                   harm to himself or to others; or

16                   (b) Presents a substantial likelihood  
17                   that the juvenile will absent himself  
18                   from the center.

19                   (3) If the judge finds, by clear and con-  
20                   vincing evidence, that there is no less re-  
21                   strictive alternative to detention in an  
22                   adult facility which will meet the purposes  
23                   of detention.

24                   Sec. 2. 15 MRSA §3314, sub-§4 is enacted to  
25                   read:

26                   4. Medical support. Whenever the court commits  
27                   a juvenile to the Maine Youth Center or to the  
28                   Department of Human Services or Department of Correc-  
29                   tions for placement in a foster home, group care home  
30                   or halfway house, it shall notify his parents or  
31                   legal guardian and, after hearing, may, as justice  
32                   may demand, require the parent or legal guardian to  
33                   provide medical insurance for or contract to pay the  
34                   full cost of any medical treatment which may be pro-  
35                   vided to the juvenile while he is committed.

36                   Sec. 3. 17-A MRSA §1251, as repealed and  
37                   replaced by PL 1977, c. 510, §74, is repealed and the  
38                   following enacted in its place:

1     §1251. Imprisonment for murder

2             A person convicted of murder shall be sentenced  
3 to the Department of Corrections for life or for any  
4 term of years that is not less than 25 years.

5             Sec. 4. 17-A MRSA §1252, sub-§1, as amended by  
6 PL 1977, c. 510, §75, is repealed and the following  
7 enacted in its place:

8             1. In the case of a person convicted of a crime  
9 other than murder, the court may sentence to impris-  
10 onment for a definite term as provided for in this  
11 section, unless the statute which the person is con-  
12 vinced of violating expressly provides that the fine  
13 and imprisonment penalties it authorizes may not be  
14 suspended, in which case the convicted person shall  
15 be sentenced to imprisonment and required to pay the  
16 fine authorized therein. The sentence of the court  
17 shall specify the term to be served and shall commit  
18 the person to the Department of Corrections.

19             Sec. 5. 17-A MRSA §1257 is enacted to read:

20             §1257. Notification of commitments to the Department  
21 of Corrections

22             At the time of sentencing, the court shall notify  
23 the Commissioner of Corrections that a person has  
24 been committed and shall inquire as to the correc-  
25 tional facility to which the sentenced person shall  
26 be delivered by the sheriff or his deputies. The  
27 Commissioner of Corrections shall have complete dis-  
28 cretion to determine the initial place of confine-  
29 ment. The commissioner shall immediately inform the  
30 court of the location of the correctional facility to  
31 which the sentenced person shall be transported.

32             Sec. 6. 30 MRSA §§1760, 1761 and 1762 are  
33 enacted to read:

34             §1760. Transfer from jails

35             The sheriff may transfer a prisoner serving a  
36 sentence in a county jail from one jail to another to  
37 serve any part of his sentence, upon request of the  
38 sheriff and approval of the county commissioners of

1 the county of the sending jail and upon the approval  
2 of the sheriff and county commissioners of the county  
3 of the receiving jail.

4 1. Cost of transfer or return. The cost of the  
5 transfer or return of the prisoner shall be paid by  
6 the county of the sending jail.

7 2. Cost of support. The cost of the support of  
8 the prisoner in the receiving jail shall be the  
9 amount agreed upon by the county commissioners party  
10 to the transfer and shall be paid by the county of  
11 the sending jail.

12 §1761. Transfer from state correctional facilities

13 The sheriff may accept custody of prisoners  
14 transferred to his jail from state correctional  
15 facilities, pursuant to the provisions of Title 34-A,  
16 section 3063.

17 §1762. Removal for disease

18 Removal of prisoners afflicted with dangerous  
19 diseases is governed as follows.

20 1. Removal. If a prisoner in a jail is  
21 afflicted with a disease which the local health offi-  
22 cer, by medical advice, considers dangerous to the  
23 safety and health of other prisoners or of the  
24 inhabitants of the town, the local health officer  
25 shall, by written order, direct the person's removal  
26 to some place of safety, to be securely kept and pro-  
27 vided for until the officer's further order.

28 2. Return. If the person recovers from the dis-  
29 ease, he shall be returned to his place of confine-  
30 ment.

31 3. Removal not deemed escape. A removal under  
32 this section may not be deemed an escape.

33 4. Notice. If the diseased person was committed  
34 to the place of confinement by an order of court or  
35 judicial process, the local health officer shall send  
36 to the office of the clerk of court from which the  
37 order or process was issued:

1           A. The order for the diseased person's removal  
2           or a copy of the order attested by the local  
3           health officer; and

4           B. A statement describing the actions taken pur-  
5           suant to the order.

6           Sec. 7. 30 MRSA §1856, as enacted by PL 1983, c.  
7           459, §4, is repealed and the following enacted in its  
8           place:

9           §1856. Transfer of prisoners when jail unfit or  
10           insecure

11           1. Transfer of prisoners when jail unfit or  
12           insecure. Whenever complaint on oath is made to a  
13           Justice of the Superior Court that a prisoner or  
14           prisoners should be removed from a jail to another  
15           jail or to a state correctional facility because that  
16           jail is unfit for occupation or is insufficient for  
17           the secure keeping of any person charged with a crime  
18           and committed to await trial, the Superior Court Jus-  
19           tice shall:

20           A. Schedule the time and place for a hearing on  
21           this complaint;

22           B. Cause not less than 3 days' notice of that  
23           hearing to be given to the sheriff or sheriffs of  
24           the county jail or jails involved and, if trans-  
25           fer to a state correctional facility is antici-  
26           pated, to the Commissioner of Corrections;

27           C. Order removal, at the expense of the sending  
28           county, of the prisoner or prisoners to a state  
29           correctional facility pending hearing, provided  
30           that the Commissioner of Corrections and the  
31           sending sheriff agree; and

32           D. Conduct a hearing and if the matter com-  
33           plained of is found true:

34                   (1) Issue his warrant for the transfer of  
35                   the prisoner or prisoners, at the expense of  
36                   the sending county, to any jail; or

1                   (2) Issue his warrant for the transfer of  
2 the prisoner or prisoners, at the expense of  
3 the sending county, to a state correctional  
4 facility, provided that he finds that the  
5 receiving institution is able to resolve the  
6 problem causing the need to transfer, the  
7 nature of the offense committed by the pris-  
8 oner is so severe that it requires sending  
9 to the receiving institution and the secur-  
10 ity of the sending facility is inadequate to  
11 handle the problem.

12                   2. Emergency. In the event of an emergency,  
13 regardless of whether a complaint on oath has been  
14 made to a Justice of the Superior Court, the sheriff,  
15 with the agreement of the Commissioner of Correc-  
16 tions, may immediately, at the expense of the sending  
17 county, remove any prisoner from his jail to a state  
18 correctional facility. If removal is made pursuant  
19 to this section, a complaint on oath shall be made to  
20 a Justice of the Superior Court within 24 hours and a  
21 hearing shall be conducted in accordance with the re-  
22 quirements in subsection 1, paragraph D, subparagraph  
23 (1).

24                   3. Transfer of prisoners when jail unfit due to  
25 a casualty. If by fire or other casualty any jail is  
26 destroyed or rendered unfit for use, any Justice of  
27 the Superior Court may, upon being notified by the  
28 district attorney of the county where the jail was or  
29 is located, issue his order to the sheriff and his  
30 deputies and constables of that county to cause all  
31 prisoners who might be liable to imprisonment in that  
32 county to be imprisoned in the jail of some adjoining  
33 county or in any other place of confinement. The  
34 order shall be printed in the newspapers of that  
35 county.

36                   Sec. 8. 34-A MRSA §1204, sub-§4, ¶A, as enacted  
37 by PL 1983, c. 459, §6, is repealed and the following  
38 enacted in its place:

39                   A. Each member of the commission may receive a  
40 per diem expense allowance equal to that received  
41 by Legislators during a special session and may  
42 receive additionally his actual and necessary  
43 expenses incurred in the performance of duties  
44 pertaining to his office.

1           Sec. 9. 34-A MRSA §1207, as enacted by PL 1983,  
2 c. 459, § 6, is repealed and the following enacted in  
3 its place:

4           §1207. Out-of-state prison-made goods

5           1. Purpose. The purpose of this section is to  
6 prohibit the sale within the State of any goods,  
7 wares or merchandise produced in penal institutions  
8 outside of the State and transported into the State.

9           2. Prohibited acts; fines. Prohibited acts and  
10 finances under this section are governed as follows.

11           A. A person is guilty of a civil violation of  
12 sale of out-of-state prison-made goods if that  
13 person sells within this State any goods, wares  
14 or merchandise manufactured, produced or mined,  
15 wholly or in part, by nonparoled convicts or  
16 prisoners, or in any penal or reformatory insti-  
17 tution, in another state and transported into  
18 this State.

19           B. Upon conviction of a civil violation of sale  
20 of out-of-state prison-made goods, a person shall  
21 pay a fine. The fine may be any amount which  
22 does not exceed twice the monetary value of the  
23 transaction.

24           Sec. 10. 34-A MRSA §§1208 and 1209 are enacted  
25 to read:

26           §1208. Standards for county and municipal detention  
27 facilities

28           The commissioner shall establish standards, pur-  
29 suant to the Maine Administrative Procedure Act,  
30 Title 5, chapter 375, for county and municipal jails,  
31 holding facilities and short-term detention areas,  
32 referred to in this section as county and municipal  
33 detention facilities, as follows and shall enforce  
34 them.

35           1. Establishment. The commissioner shall estab-  
36 lish both mandatory and desirable standards for all  
37 county and municipal detention facilities, setting  
38 forth requirements for maintaining safe, healthful  
39 and secure facilities.



1           2. Inspections. Inspections of county and  
2 municipal detention facilities are governed as fol-  
3 lows.

4           A. The commissioner shall conduct a comprehen-  
5 sive inspection of each county and municipal  
6 detention facility every 2 years, in order to  
7 provide the department with information, verified  
8 by on-site inspection, regarding compliance with  
9 all department standards.

10           B. The commissioner shall conduct no fewer than  
11 3 additional inspections of each county and  
12 municipal detention facility during the period  
13 between each comprehensive inspection, in order  
14 to determine continued compliance with standards.

15           C. The commissioner may inspect a county or  
16 municipal detention facility at any time, without  
17 prior notice, to determine compliance with stan-  
18 dards.

19           D. The commissioner shall prepare a written  
20 report of each inspection and shall send a copy  
21 of the report to appropriate county or municipal  
22 officials within 15 days after the inspection.

23                   (1) The report shall summarize inspection  
24 findings.

25                   (2) The report shall list the standards  
26 with which the facility does not comply and  
27 set forth the reasons for noncompliance.

28           E. The commissioner shall order the noncomplying  
29 county or municipality to respond to this report  
30 in accordance with subsection 3.

31           3. Standards compliance. Each county and munic-  
32 ipal detention facility shall, unless granted a vari-  
33 ance pursuant to subsection 5, comply with the manda-  
34 tory standards established by the commissioner.

35           A. Within 60 days from the receipt of an inspec-  
36 tion report for each mandatory standard listed in  
37 subsection 2, paragraph D, subparagraph (2), the  
38 county or municipality shall either:

1                   (1) Correct deficiencies listed in the  
2 report and submit to the department a writ-  
3 ten response listing the corrections made;  
4 or

5                   (2) Offer a plan to correct those deficien-  
6 cies for consideration by the department.

7                   B. If a county or municipality fails to correct  
8 deficiencies and offers no plan of correction, or  
9 if the plan of correction offered to the depart-  
10 ment is determined inadequate by the commis-  
11 sioner, the commissioner shall determine an  
12 appropriate action to restrict or modify the  
13 operations of the facility, consistent with the  
14 nature of the uncorrected deficiencies, which ac-  
15 tion may include ordering an entire facility  
16 closed until the deficiencies have been cor-  
17 rected.

18                   (1) Before any such action is taken, the  
19 commissioner shall notify the county or  
20 municipality in writing of the planned ac-  
21 tion and shall offer the opportunity to meet  
22 and discuss the planned action.

23                   (2) If a meeting is not requested by the  
24 county or municipality within 15 days after  
25 the county or municipality receives notice  
26 of the planned action, or if a meeting is  
27 held and fails to produce a plan of correc-  
28 tion acceptable to the commissioner, the  
29 commissioner shall take the planned action.

30                   4. Emergency powers. The commissioner may take  
31 immediate action in response to noncompliance with a  
32 mandatory standard, if the noncompliance is deter-  
33 mined to endanger the safety of the staff, inmates or  
34 visitors of any county or municipal detention facil-  
35 ity.

36                   A. The commissioner's action under this subsec-  
37 tion shall expire within 90 days or upon compli-  
38 ance with the mandatory standard.

39                   B. After having taken action under this section,  
40 the commissioner shall send a written inspection  
41 report to the affected facility.

1           C. The commissioner shall decide what long-term  
2           action to take with respect to the affected  
3           facility on the basis of county or municipality  
4           response to the inspection report and subsequent  
5           meetings.

6           5. Variances. The commissioner shall establish  
7           written procedures to govern the submission and con-  
8           sideration of requests for variances from established  
9           departmental standards, including provisions for  
10          department consideration of appeals of decisions.

11          A. The commissioner may grant a variance only  
12          when he determines that the variance will not  
13          result in diminishing the safety, health or  
14          security of staff, inmates or visitors of a  
15          county or municipal detention facility.

16          B. The commissioner may grant variances to coun-  
17          ties and municipalities for periods of up to 2  
18          years.

19          C. County and municipal officials may request  
20          variances from mandatory department standards if:

21                 (1) Efforts are underway to achieve compli-  
22                 ance and continued failure to comply is only  
23                 temporary; or

24                 (2) The intent and spirit of the standards  
25                 may be attained through other means.

26          D. The officials applying for a variance have  
27          the burden of showing clear justification for the  
28          variance.

29          6. Advisory review. The commissioner shall cre-  
30          ate and maintain a county and municipal detention  
31          facility advisory committee.

32          A. The committee shall consist of representa-  
33          tives of the Department of Corrections, Maine  
34          Sheriffs' Association, Maine County Commission-  
35          ers' Association, Maine Chiefs of Police Associa-  
36          tion, Attorney General, Legislature and citizens.

37          B. The terms of members of this committee shall  
38          be one year.

1           C. Members of the county and municipal detention  
2           facility advisory committee are eligible for  
3           reappointment at the expiration of their term.

4           D. The commissioner shall consult the committee  
5           when promulgating standards and may consult the  
6           committee when variances are sought, when actions  
7           are contemplated by the commissioner in response  
8           to a failure to comply with standards and when  
9           the commissioner determines that the consultation  
10           is necessary for other reasons.

11           7. Technical assistance. The commissioner may  
12           provide technical assistance to county and municipal  
13           detention facilities to facilitate compliance with  
14           standards.

15           §1209. Juvenile Justice Advisory Group

16           1. Definitions. As used in this section, unless  
17           the context otherwise indicates, the following terms  
18           have the following meanings.

19           A. "Act" means the Juvenile Justice and Delin-  
20           quency Prevention Act of 1974, Public Law 93-415.

21           B. "Group" means the Juvenile Justice Advisory  
22           Group, as established by Executive Order 16  
23           Fiscal Year 1981-82.

24           2. Duties. The group shall:

25           A. Operate as the supervisory board for all  
26           planning, administrative and funding functions of  
27           the Act;

28           B. Make subgrants for planning or for the  
29           improvement of juvenile justice consistent with  
30           the intent of applicable state and federal legis-  
31           lation;

32           C. Develop, approve and implement the state's  
33           juvenile justice plan;

34           D. Monitor state compliance with the require-  
35           ments of the Act;

1 E. Review and approve or disapprove all juvenile  
2 justice and delinquency prevention subgrant  
3 applications submitted to the group;

4 F. Develop more effective education, training,  
5 research, prevention, diversion, treatment and  
6 rehabilitation programs in the area of juvenile  
7 delinquency and improvement of the juvenile jus-  
8 tice system;

9 G. Submit to the Governor and Legislature, at  
10 least annually, recommendations with respect to  
11 matters related to its functions, including  
12 recommendations on state compliance with the re-  
13 quirements of the Act;

14 H. Review the progress and accomplishments of  
15 juvenile justice and delinquency projects funded  
16 under the state plan; and

17 I. Regularly seek comments and opinions from  
18 juveniles currently under the jurisdiction of the  
19 juvenile justice system.

20 3. Membership. Membership of the group is gov-  
21 erned as follows.

22 A. Regular membership of the group shall be in  
23 accordance with the requirements of the Act.

24 B. Members are appointed by the Governor for a  
25 term of 4 years, or until a successor is  
26 appointed, and are eligible for reappointment at  
27 the discretion of the Governor.

28 C. Members appointed to fill an unexpired term  
29 shall serve until the expiration date of that  
30 term or until a successor is appointed.

31 D. The Commissioner of Corrections, Commissioner  
32 of Educational and Cultural Services, Commis-  
33 sioner of Human Services, Commissioner of Mental  
34 Health and Mental Retardation and Commissioner of  
35 Public Safety are ex officio, voting members of  
36 the group.

1 E. Neither a majority of the members of the  
2 group, nor the chairman, may be full-time employ-  
3 ees of the Federal Government, State Government  
4 or local government.

5 F. Members of the group appointed under Execu-  
6 tive Order 4, Fiscal Year 1979-80 shall continue  
7 to serve until the expiration of their terms.

8 4. Departmental duties and powers. The duties  
9 and powers of the Department of Corrections are as  
10 follows.

11 A. The department shall have the powers neces-  
12 sary to an agency designated by the Governor as  
13 the sole agency responsible for supervising the  
14 group in the preparation and administration of  
15 the state plan within the meaning of the Act.

16 B. The department shall serve as the fiscal  
17 agent of the group.

18 C. The department may employ a full-time juve-  
19 nilite justice specialist, subject to the approval  
20 of the group, and such additional staff as neces-  
21 sary.

22 (1) The professional staff shall be unclas-  
23 sified.

24 (2) Clerical staff shall be employed sub-  
25 ject to the Personnel Law.

26 D. The department, at the direction of the  
27 group, may make grants to state agencies, to  
28 units of general local government and to private  
29 not-for-profit organizations for the development  
30 of more effective education, training, research,  
31 prevention, diversion, treatment and rehabilita-  
32 tion programs in the area of juvenile delinquency  
33 and programs to improve the juvenile justice sys-  
34 tem.

35 E. When the group directs that a grant be made  
36 to a department or agency of State Government,  
37 the department shall send to the joint standing  
38 committee of the Legislature having jurisdiction  
39 over appropriations and financial affairs:

1           (1) A copy of the approved grant applica-  
2           tion;

3           (2) Information on the expected length of  
4           programs to be funded by the grant; and

5           (3) Information on restrictions or limita-  
6           tions placed on the grant application.

7           F. The department may accept funds from the Fed-  
8           eral Government, from any political subdivision  
9           of the State, or from any individual, foundation  
10           or corporation and may expend those funds for  
11           purposes consistent with this section.

12           5. Funds not to lapse. Funds appropriated to  
13           carry out the purpose of this section shall not  
14           lapse, but shall carry from year to year.

15           Sec. 11. 34-A MRSA §1402, sub-§6, as enacted by  
16           PL 1983, c. 459, §6, is repealed.

17           Sec. 12. 34-A MRSA §1403, sub-§6 is enacted to  
18           read:

19           6. Acceptance or conveyance of donated personal  
20           property. The commissioner may accept donations of  
21           personal property to be used at a correctional facili-  
22           ty. If, at a later date, the donated property  
23           ceases to be useful to the correctional facility, the  
24           commissioner may sell the property and use the pro-  
25           ceeds for the benefit of the correctional facility to  
26           which the property was originally donated.

27           Sec. 13. 34-A MRSA §3002, sub-§1, as enacted by  
28           PL 1983, c. 459, §6, is repealed and the following  
29           enacted in its place:

30           1. Appointment. The Governor shall appoint a  
31           board of 5 visitors for each correctional facility  
32           under the department.

33           A. The terms of the members of the boards of  
34           visitors are for one year.

35           B. Members of the boards of visitors are eligi-  
36           ble for reappointment at the expiration of their  
37           terms.

1           C. No member of the Legislature may serve on any  
2           board of visitors.

3           D. Each member of the boards of visitors may  
4           receive his actual and necessary expenses incur-  
5           red in the performance of duties pertaining to  
6           his office.

7           Sec. 14. 34-A MRSA §3003, sub-§1, as enacted by  
8 PL 1983, c. 459, §6, is repealed and the following  
9 enacted in its place:

10           1. Limited disclosure. All orders of commit-  
11           ment, medical and administrative records, applica-  
12           tions and reports, and facts contained in them, per-  
13           taining to any person receiving services from the  
14           department, shall be kept confidential and may not be  
15           disclosed by any person, except that documents, other  
16           than those pertaining to information obtained by the  
17           department for the purpose of evaluating a committed  
18           offender's ability to participate in a  
19           community-based program or from informants in a cor-  
20           rectional facility for the purpose of determining  
21           whether prison rules have been violated, may be dis-  
22           closed:

23           A. To any person, if the person receiving ser-  
24           vices, his legal guardian, if any, or, if he is a  
25           minor, his parent or legal guardian, gives his  
26           informed written consent to the disclosure of the  
27           documents referred to in subsection 1 after being  
28           given the opportunity to review the documents  
29           sought to be disclosed;

30           B. To any state agency if necessary to carry out  
31           the statutory functions of that agency; and

32           C. If ordered by a court of record, subject to  
33           any limitation in the Maine Rules of Evidence,  
34           Rule 503.

35           Sec. 15. 34-A MRSA §3006, as enacted by PL 1983,  
36 c. 459, §6, is repealed.

37           Sec. 16. 34-A MRSA §3031, sub-§2, as enacted by  
38 PL 1983, c. 459, §6, is repealed and the following  
39 enacted in its place:



1           2. Medical care. Adequate professional medical  
2 care, not including medical treatment requested by  
3 the prisoner which the correctional facility's treat-  
4 ing physician deems unnecessary;

5           Sec. 17. 34-A M RSA §3032, sub-§3, ¶D, as enacted  
6 by PL 1983, c. 459, §6, is amended to read:

7           D. When segregation exceeds 24 hours, the chief  
8 administrative officer of the correctional facil-  
9 ity shall cause the facility's physician or a  
10 member of the facility's medical staff to visit  
11 the person forthwith and, at least once in each  
12 succeeding 24-hour period of confinement, to  
13 examine the person's state of health.

14           (1) The chief administrative officer shall  
15 give full consideration to recommendations  
16 of the physician or medical staff member as  
17 to the person's dietary needs and the condi-  
18 tions of the person's confinement required  
19 to maintain his health.

20           (2) If the recommendations of the physician  
21 or medical staff member regarding a person's  
22 dietary or other health needs while in  
23 segregation are not carried out, the chief  
24 administrative officer shall send a ~~written~~  
25 report of that fact to the commissioner  
26 immediately convey the reasons and circum-  
27 stances for this decision to the commis-  
28 sioner for his review and final disposition.

29           ~~(3) The segregation shall be discontinued~~  
30 ~~if the physician states that it is harmful~~  
31 ~~to the mental or physical health of the~~  
32 ~~person.~~

33           Sec. 18. 34-A M RSA §3033, sub-§3, as enacted by  
34 PL 1983, c.459, §6, is repealed and the following  
35 enacted in its place:

36           3. Charitable property improvement. The commis-  
37 sioner may authorize the use of able-bodied prisoners  
38 to provide assistance in the improvement of property  
39 owned by charitable, nonprofit organizations.

1           A. The commissioner shall promulgate such rules  
2           as he deems proper to ensure the care and treat-  
3           ment of the prisoners and the safe working condi-  
4           tions of prisoners and departmental employees.

5           B. The commissioner may request that charitable,  
6           nonprofit organizations pay for the transporta-  
7           tion of the prisoners and pay the per diem com-  
8           ensation of guards, correctional officers or  
9           instructors who must accompany the prisoners or  
10          oversee the work to be performed.

11          Sec. 19. 34-A M RSA §3034, as enacted by PL 1983,  
12          c. 459, §6, is repealed.

13          Sec. 20. 34-A M RSA §3035, sub-§1, ¶D is enacted  
14          to read:

15          D. Transportation to work release job sites  
16          shall be arranged by the commissioner.

17                   (1) Prisoners participating in the work  
18                   release program shall be assessed an equi-  
19                   table share of the cost of the transporta-  
20                   tion.

21                   (2) Funds received from prisoners for work  
22                   release transportation shall be placed in  
23                   the General Fund.

24          Sec. 21. 34-A M RSA §3039, as enacted by PL 1983,  
25          c. 459, §6, is repealed and the following enacted in  
26          its place:

27          §3039. Committed offenders' money

28                   When any committed offender confined in a correc-  
29                   tional facility receives money from any source,  
30                   including compensation for work authorized under  
31                   other sections of Maine law or by a policy of the  
32                   department, the money shall be deposited in that cor-  
33                   rectional facility's committed offenders' account.

34                   1. Accounts. The chief administrative officer  
35                   shall promulgate rules for use of the committed  
36                   offenders' account. These rules shall include a  
37                   provision allowing an inmate to remove his money from

1 the committed offenders' account and place it in any  
2 type of investment outside the correctional facility  
3 that he chooses. The chief administrative officer  
4 shall keep a record of all money in the committed  
5 offenders' account and shall be responsible for safe-  
6 keeping of the money while the committed offender is  
7 in the custody of the department and for the delivery  
8 of that money to the committed offender upon his dis-  
9 charge.

10 2. Interest. Any interest accruing as a result  
11 of the deposit of that money in the committed offend-  
12 ers' account may, after first being used to defray  
13 expenses of the account, be expended by the chief  
14 administrative officer of the correctional facility  
15 for the general welfare of all inmates at that facil-  
16 ity.

17 3. Use. During his commitment, any committed  
18 offender may use his money in the committed offend-  
19 ers' account by authorizing the warden to disburse  
20 the money in accordance with the rules governing the  
21 committed offenders' account.

22 Sec. 22. 34-A MRSA §3040-A is enacted to read:

23 §3040-A. Property of deceased committed offenders

24 Property remaining in a correctional facility as  
25 a result of a committed offender's death is governed  
26 as follows.

27 1. Payment. Except as provided in paragraph D,  
28 if any committed offender under the control of the  
29 department dies, leaving on deposit in the committed  
30 offenders' account at a correctional facility an  
31 amount not exceeding \$1,000, and no personal repre-  
32 sentative of his estate is appointed, the chief  
33 administrative officer may pay the balance of his ac-  
34 count to the surviving spouse or next of kin in ac-  
35 cordance with the Probate Code, Title 18-A, sections  
36 2-101 to 2-114, to the funeral director having any  
37 bill outstanding for the burial of the decedent or to  
38 other preferred creditor or creditors who may appear  
39 to be entitled thereto, and shall deliver personal  
40 property in his custody to the surviving spouse or  
41 next of kin in accordance with the Probate Code,  
42 Title 18-A, sections 2-101 to 2-114.

1           2. Time of payment. Payments or delivery pur-  
2 suant to subsection 1 shall not be made until 60 days  
3 have elapsed following the date of death of the com-  
4 mitted offender.

5           3. Liability of payment. For any payment or  
6 delivery made pursuant to subsections 1 and 2, the  
7 chief administrative officer or his designee acting  
8 under this section may not be held liable to the  
9 decendent's personal representative thereafter  
10 appointed, or to his heirs, successors or assigns.

11           4. Alternative payment. Notwithstanding subsec-  
12 tion 1, upon presentation of an affidavit under Title  
13 18-A, section 3-1201, the chief administrative offi-  
14 cer shall pay the balance of any deposit in the com-  
15 mitted offenders' account at a correctional facility  
16 and deliver his personal property to the committed  
17 offender's successor under Title 18-A, sections  
18 3-1201 and 3-1202. The payments under this paragraph  
19 shall take precedence over payments under subsection  
20 1 to the extent of the balance of the deposits in the  
21 committed offenders' account and the personal prop-  
22 erty remaining in the custody of the chief adminis-  
23 trative officer at the time the affidavit is pre-  
24 sented.

25           Sec. 23. 34-A MRSA §3041, as enacted by PL 1983,  
26 c. 459, §6, is repealed.

27           Sec. 24. 34-A MRSA §3044, as enacted by PL 1983,  
28 c. 459, §6, is repealed and the following enacted in  
29 its place:

30           §3044. Escapees; fugitives; apprehension

31           1. Escapees. The commissioner shall take all  
32 proper measures for, and may, with the approval of  
33 the Governor, offer a reward for the apprehension and  
34 return of any committed offender in any correctional  
35 facility who has escaped from the control of the  
36 department.

37           A. The reward may not exceed \$1,000.

38           B. Upon satisfactory proof that the terms of the  
39 reward offer have been complied with, the Gover-

1 nor may draw his warrant upon the Treasurer of  
2 State for the payment of the reward.

3 2. Fugitives. When there is reasonable cause to  
4 believe that a person charged with a crime and  
5 unapprehended for it cannot be arrested and secured  
6 in the ordinary course of proceedings, the Governor  
7 may, upon application in writing of the Attorney Gen-  
8 eral or district attorney for the county in which the  
9 crime was committed, and upon terms which he deems  
10 expedient and proper, offer a suitable reward for the  
11 arrest, return and delivery into custody of the fugi-  
12 tive from justice.

13 A. The reward may not exceed \$1,000.

14 B. Upon satisfactory proof that the terms of the  
15 reward offer have been complied with, the Gover-  
16 nor may draw his warrant upon the Treasurer of  
17 State for the payment of the reward.

18 Sec. 25. 34-A MRSA §§3046 and 3047 are enacted  
19 to read:

20 §3046. Funeral and deathbed visits

21 At the discretion of and under conditions pre-  
22 scribed by the commissioner, a committed offender may  
23 attend the funeral of his spouse, or his natural or  
24 adoptive mother, father, son, daughter, grandfather  
25 or grandmother, grandchild, brother or sister, or may  
26 be permitted deathbed visits to any of those persons,  
27 if the funeral or visit is held within the State.

28 1. Certification of terminal illness. Before a  
29 deathbed visit is permitted, terminal illness must be  
30 certified to the commissioner by the attending physi-  
31 cian.

32 2. Costs. The prisoner, if able, shall pay the  
33 cost of transportation and the per diem compensation  
34 of the accompanying officers if the officers are re-  
35 quired by the commissioner.

36 §3047. Discharge or parole

37 When any committed offender is paroled or dis-  
38 charged, the commissioner:

- 1           1. Clothing. Shall insure that the offender is  
2 provided with decent clothing;
- 3           2. Money. May give the offender no more than  
4 \$50, except that the commissioner may not give money  
5 to a committed offender who:
- 6           A. Has, within the 6 months prior to the date of  
7 his parole or discharge, transferred from his  
8 correctional facilities' account to any person  
9 more than \$500, excluding any money transferred  
10 for the support of his dependents; or
- 11           B. Has, on the date of his parole or discharge,  
12 more than \$500 in personal assets.
- 13           3. Transportation. Shall furnish transportation  
14 to the place where the offender was convicted, except  
15 that:
- 16           A. If the committed offender's home is within  
17 the State, transportation shall be furnished to  
18 his home;
- 19           B. If the committed offender has secured employ-  
20 ment within the State, transportation shall be  
21 furnished to the place of employment;
- 22           C. If the committed offender's home is outside  
23 the State, or if the committed offender has  
24 secured employment outside the State, transporta-  
25 tion shall be furnished to the place on the Maine  
26 border nearest the place of employment; or
- 27           D. If the committed offender requests a reason-  
28 able place nearer the place of incarceration than  
29 any of the foregoing, transportation shall be  
30 furnished to that place; or
- 31           4. Extreme circumstances. May, in extreme cir-  
32 cumstances, if the committed offender's home is out-  
33 side the State, or if the committed offender has  
34 secured employment outside the State, furnish trans-  
35 portation to the committed offender's home or place  
36 of employment.

1           Sec. 26. 34-A MRSA §3061, as enacted by PL 1983,  
2 c. 459, §6, is repealed and the following enacted in  
3 its place:

4           §3061. Transfer to correctional facilities

5           1. Juveniles; exception. The commissioner may  
6 transfer any committed offender from one correctional  
7 facility or program, including prerelease centers,  
8 work release centers, halfway houses or specialized  
9 treatment facilities, to another, provided that no  
10 juvenile may be transferred to another facility or  
11 program for adult offenders.

12           2. Applicable rules. Any person transferred  
13 under this section shall be subject to the general  
14 rules of the facility or program to which he is  
15 transferred, except that:

16           A. The term of his original sentence or commit-  
17 ment remains the same unless altered by the  
18 court; and

19           B. The person becomes eligible for release and  
20 discharge as provided in Title 17-A, section  
21 1254.

22           Sec. 27. 34-A MRSA §3062, sub-§1, as enacted by  
23 PL 1983, c. 459, §6, is repealed and the following  
24 enacted in its place:

25           1. Requirements. The commissioner may transfer  
26 any committed offender to a federal penal or correc-  
27 tional institution if the United States Bureau of  
28 Prisons accepts the commissioner's application for  
29 transfer of the committed offender.

30           Sec. 28. 34-A MRSA §3063, as enacted by PL 1983,  
31 c. 459, §6, is repealed and the following enacted in  
32 its place:

33           §3063. Transfer to jails

34           1. Requirements. The commissioner may authorize  
35 the transfer of committed offenders to any county  
36 jail.

1           2. Jailer's compensation. The jailer who  
2 receives prisoners under subsection 1 is entitled to  
3 receive whatever compensation from the State Treasury  
4 that he and the commissioner agree upon.

5           3. Return to a correctional facility. When the  
6 commissioner determines that the committed offender  
7 should be returned to a correctional facility, he  
8 shall transfer the committed offender back to such a  
9 facility.

10          4. Applicable rules. Any person transferred  
11 under this section shall be subject to the general  
12 rules of the jail to which he is transferred, except  
13 that:

14           A. The term of his original sentence or commit-  
15 ment remains the same unless altered by the  
16 court;

17           B. The person becomes eligible for release and  
18 discharge as provided in Title 17-A, section  
19 1254;

20           C. Committed offenders are entitled to have the  
21 time served in jail under this section deducted  
22 from their sentences; and

23           D. A prisoner transferred pursuant to this  
24 section remains eligible for programs authorized  
25 by section 3035 and may apply pursuant to the  
26 rules governing the correctional facility from  
27 which he was transferred.

28          Sec. 29. 34-A MRSA §§3064, 3065, 3066, 3067 and  
29 3068, as enacted by PL 1983, c. 459, §6, are  
30 repealed.

31          Sec. 30. 34-A MRSA §3071, sub-§1, as enacted by  
32 PL 1983, c. 459, §6, is repealed.

33          Sec. 31. 34-A MRSA §3231, sub-§2, as enacted by  
34 PL 1983, c. 459, §6, is repealed and the following  
35 enacted in its place:

36           2. Residence. The warden, unless directed  
37 otherwise by the commissioner, shall reside con-



1 stantly within the prison. Notwithstanding Title 5,  
2 section 8-B, the warden shall not pay any charge for  
3 the housing facilities.

4 Sec. 32. 34-A MRSA §3231, sub-§3, ¶E, as enacted  
5 by PL 1983, c. 459, §6, is repealed and the following  
6 enacted in its place:

7 E. The warden shall constantly keep on hand a  
8 suitable and sufficient supply of arms, ammuni-  
9 tion, tear gas and other security and riot con-  
10 trol items.

11 Sec. 33. 34-A MRSA §3231, sub-§3, ¶K, as enacted  
12 by PL 1983, c. 459, §6, is repealed and the following  
13 enacted in its place:

14 K. The warden shall receive and take care of any  
15 allowable property that a prisoner has with him  
16 at the time he enters the prison, keep an account  
17 of the prisoner's money and give the prisoner the  
18 opportunity to remove all his property upon dis-  
19 charge.

20 Sec. 34. 34-A MRSA §3231, sub-§3, ¶L, as enacted  
21 by PL 1983, c. 459, §6, is repealed and the following  
22 enacted in its place:

23 L. Upon consultation with the prison physician  
24 and in other cases when he deems it necessary,  
25 the warden shall cause any sick prisoner to be  
26 removed forthwith to a hospital where the pris-  
27 oner shall receive such care, attention, medicine  
28 and diet as the situation requires, until the  
29 warden, after consultation with the hospital med-  
30 ical staff, determines, in his sole discretion,  
31 that the prisoner may leave the hospital without  
32 injury to his health.

33 Sec. 35. 34-A MRSA §3231, sub-§3, ¶N, as enacted  
34 by PL 1983, c. 459, §6, is repealed.

35 Sec. 36. 34-A MRSA §3231, sub-§4, ¶D, as enacted  
36 by PL 1983, c. 459, §6, is repealed.

37 Sec. 37. 34-A MRSA §3231, sub-§5, as enacted by  
38 PL 1983, c. 459, §6, is repealed.

1           Sec. 38. 34-A MRSA §3261, as enacted by PL 1983,  
2 c. 459, §6, is repealed and the following enacted in  
3 its place:

4           §3261. Delivery of committed offenders to the prison

5           When a committed offender, convicted and sen-  
6 tenced to the Department of Corrections, is to be  
7 transported to the prison from any county:

8           1. Duties of commissioner. The commissioner  
9 shall immediately notify the warden and the sheriff  
10 of the county in which the sentencing court is locat-  
11 ed;

12           2. Duties of the sheriff. The sheriff of the  
13 county in which the sentencing court is located  
14 shall:

15           A. Transport the convict to the prison, using a  
16 sufficient number of his appointed deputies when  
17 necessary; and

18           B. Deliver the convict to the officer in charge  
19 of the prison between the hours of 8 a.m. and 4  
20 p.m. on any day, unless prior arrangements for an  
21 alternative time have been made with the warden,  
22 accompanied by a duly signed warrant of commit-  
23 ment and record, as provided by Title 15, section  
24 1707;

25           3. Duties of the jail keeper. When, during the  
26 conveyance of a convict to the prison in pursuance of  
27 his sentence, it is necessary or convenient to lodge  
28 him for safekeeping in a jail until the remainder of  
29 the conveyance can be conveniently performed, the  
30 keeper of the jail shall:

31           A. Receive and safely keep and provide for the  
32 convict, reasonable charges and expenses for this  
33 service to be paid from the State Treasury; and

34           B. Deliver the convict to the custody of the  
35 person employed to convey him, when that person  
36 calls for the convict; and

37           4. Duties of the warden. The warden shall:

1           A. File the warrant and record, as provided by  
2           Title 15, section 1707, with his return thereon  
3           in his office; and

4           B. Cause a copy of the warrant of commitment to  
5           be filed in the office of the clerk of court from  
6           which it was issued.

7           Sec. 39. 34-A MRSA §3262, sub-§2, ¶B, as enacted  
8 by PL 1983, c. 459, §6, is repealed and the following  
9 enacted in its place:

10           B. All sums paid pursuant to contracts author-  
11           ized under this section shall accrue to the oper-  
12           ating budget of the correctional facility where  
13           the committed offender is housed.

14           Sec. 40. 34-A MRSA §§3267 and 3268, as enacted  
15 by PL 1983, c. 459, §6, are repealed.

16           Sec. 41. 34-A MRSA §3401, sub-§§1, 2 and 3, as  
17 enacted by PL 1983, c. 459, §6, are repealed and the  
18 following enacted in their place:

19           1. Men. Men who have been duly sentenced and  
20           committed to the custody of the department;

21           2. Women. Women who have been duly sentenced  
22           and committed to the custody of the custody of the  
23           department;

24           3. Adult pretrial detainees. Adult, pretrial  
25           detainees who have been committed to the custody of  
26           the department; and

27           4. Juvenile pretrial detainees. Juveniles who  
28           have been found appropriate for detention in an adult  
29           facility pursuant to Title 15, section 3203, subsec-  
30           tion 7, paragraph B.

31           Sec. 42. 34-A MRSA §3403, sub-§3 is enacted to  
32 read:

33           3. Industries program. The superintendent shall  
34           establish a vocational training and industries pro-  
35           gram.

1           A. The program shall make services and goods  
2           available for purchase by state agencies or the  
3           public.

4           B. The superintendent may authorize any person  
5           or business entity purchasing goods manufactured  
6           at the center to resell those articles if that  
7           person or entity requests in writing authority  
8           from the superintendent at the time the initial  
9           purchase is made.

10          C. All goods manufactured at the center for sale  
11          shall be distinctly labeled or branded with the  
12          words "Manufactured at the Maine Correctional  
13          Center."

14          D. All revenues from sales of goods and services  
15          produced by prisoners at the Maine Correctional  
16          Center shall be deposited into the Maine Correc-  
17          tional Center Industries Account.

18          E. Funds from this industries account shall be  
19          used only to pay for materials, supplies, equip-  
20          ment and staff salaries for this vocational  
21          training and industries program. Funds shall not  
22          be used to pay inmates for their work. This  
23          paragraph shall be reviewed by the joint standing  
24          committee having jurisdiction over audit and pro-  
25          gram review during the First Regular Session of  
26          the 112th Legislature.

27          Sec. 43. 34-A MRSA §3405, sub-§1, as enacted by  
28          PL 1983, c. 459, §6, is repealed and the following  
29          enacted in its place:

30          1. Powers. Employees of the center:

31           A. Have the same power as sheriffs in their  
32           respective counties to search for and apprehend  
33           escapees from the center when authorized to do so  
34           by the superintendent; and

35           B. May carry weapons and other security equip-  
36           ment when authorized by the superintendent inside  
37           and outside the center in connection with their  
38           assigned duties or training.

1           Sec. 44. 34-A MRSA §3407 is enacted to read:  
2           §3407. Delivery of convicted offenders to the center

3           When a person is convicted and sentenced to the  
4           department and is to be transported to the center  
5           from any county:

6           1. Duties of commissioner. The commissioner  
7           shall immediately notify the superintendent and the  
8           sheriff of the county in which the sentencing court  
9           is located;

10           2. Duties of the sheriff. The sheriff of the  
11           county in which the sentencing court is located  
12           shall:

13           A. Transport the convict to the center, using a  
14           sufficient number of his appointed deputies when  
15           necessary; and

16           B. Deliver the convict to the officer in charge  
17           of the center between the hours of 8 a.m. and 4  
18           p.m., unless prior arrangements are made and  
19           approved by the superintendent, on any day accom-  
20           panied by a duly signed warrant of commitment and  
21           record, as provided by Title 15, section 1707;

22           3. Duties of the jail keeper. When, during the  
23           conveyance of a convict to the center pursuant to his  
24           sentence, it is necessary or convenient to lodge him  
25           for safekeeping in a jail until the remainder of the  
26           conveyance can be conveniently performed, the keeper  
27           of the jail shall:

28           A. Receive and safely keep and provide for the  
29           convict reasonable charges and expenses for this  
30           service to be paid from the State Treasury; and

31           B. Deliver the convict to the custody of the  
32           person employed to convey him, when that person  
33           calls for the convict; and

34           4. Duties of the superintendent. The superin-  
35           tendent shall:

1           A. File the warrant and record, as provided by  
2           Title 15, section 1707, with his return thereon  
3           in his office; and

4           B. Cause a copy of the warrant of commitment to  
5           be filed in the office of the clerk of court from  
6           which it was issued.

7           Sec. 45. 34-A MRSA §3601, as enacted by PL 1983,  
8           c. 459, §6, is repealed and the following enacted in  
9           its place:

10          §3601. Establishment

11           There is established the Charleston Correctional  
12           Facility located at Charleston for the confinement  
13           and rehabilitation of persons who have been duly con-  
14           victed and sentenced to the Department of Correc-  
15           tions.

16           Sec. 46. 34-A MRSA §3804, sub-§1, as enacted by  
17           PL 1983, c. 459, §6, is repealed and the following  
18           enacted in its place:

19           1. Juvenile clients. The superintendent has all  
20           the power which a guardian has over his ward and  
21           which a parent has over his child as to person,  
22           allowable property which the juvenile client has at  
23           the Maine Youth Center, earnings which the juvenile  
24           client receives during his stay at the Maine Youth  
25           Center and for the rehabilitation of every juvenile  
26           client. Each juvenile client is under the direction  
27           of the superintendent, subject to rules of the  
28           department, except that:

29           A. If a juvenile client is or becomes 18 years  
30           of age while still under commitment, the statu-  
31           tory guardianship of the superintendent over him  
32           shall terminate; but

33           B. The juvenile client remains subject to the  
34           control of the superintendent, staff and rules of  
35           the center until the expiration of the period of  
36           commitment or until discharge from the center.

37           Sec. 47. 34-A MRSA §3805, sub-§2, as enacted by  
38           PL 1983, c. 459, §6, is repealed and the following  
39           enacted in its place:

1           2. Limitations. No person may be committed to  
2 the center who is blind or who is a proper subject  
3 for any state institution administered by the Depart-  
4 ment of Mental Health and Mental Retardation.

5           Sec. 48. 34-A MRSA §3807, sub-§2, as enacted by  
6 PL 1983, c. 459, §6, is repealed and the following  
7 enacted in its place:

8           2. Reversion. Upon discharge or placement on  
9 after-care status from the Maine Youth Center, the  
10 custody of the child shall revert to the Department  
11 of Human Services, if the child is still under 18  
12 years of age.

13           Sec. 49. 34-A MRSA §3808, as enacted by PL 1983,  
14 c. 459, §6, is repealed.

15           Sec. 50. 34-A MRSA §3809, sub-§2, ¶E, as enacted  
16 by PL 1983, c. 459, §6, is repealed and the following  
17 enacted in its place:

18           E. When seclusion exceeds 12 hours, the superin-  
19 tendent shall cause the center physician or a  
20 member of the center medical staff to visit the  
21 juvenile client forthwith and, at least once in  
22 each succeeding 24-hour period the client remains  
23 in seclusion, to examine the client's state of  
24 health.

25           (1) The superintendent shall give full con-  
26 sideration to recommendations of the physi-  
27 cian or medical staff member as to the juve-  
28 nile client's dietary needs and the condi-  
29 tions of his confinement required to main-  
30 tain his health. If the recommendations of  
31 the physician or medical staff member are  
32 not carried out, the superintendent shall  
33 immediately convey the reasons and circum-  
34 stances for this decision to the commis-  
35 sioner for his review and final disposition.

36           (2) Use of seclusion shall be discontinued  
37 if the superintendent, upon advice of a  
38 physician, determines that seclusion is  
39 harmful to the mental or physical health of  
40 the juvenile client. Seclusion may be con-





1 B. Offer a treatment program to the mentally  
2 retarded offender.

3 2. Requirements. The correctional treatment  
4 facility for the mentally retarded offender is sub-  
5 ject to the following requirements.

6 A. The facility shall be a specialized 24-hour  
7 facility or living area.

8 B. The committed offenders at the facility shall  
9 be persons assigned to adult correctional facili-  
10 ties.

11 C. The facility shall be located so that mental  
12 retardation support services and personnel are  
13 available to the committed offenders in a secure  
14 setting.

15 D. The facility shall specialize in fostering  
16 the self growth of the mentally retarded  
17 offender.

18 §4003. Admissions

19 1. Classification process. Admission of a men-  
20 tally retarded offender to the facility shall be gov-  
21 erned by the department's classification process.

22 2. Duty of the Bureau of Mental Retarda-  
23 tion. The bureau shall provide the records, reports  
24 and test scores necessary to the classification pro-  
25 cess.

26 §4004. Treatment program

27 The Bureau of Mental Retardation shall design the  
28 treatment program, in consultation with the depart-  
29 ment, to provide habilitation, education and skill  
30 training in order to enhance the committed offender's  
31 ability to function in the correctional environment  
32 and in the community following completion of the sen-  
33 tence.

34 1. Prescriptive program plan. The Bureau of  
35 Mental Retardation shall develop an individual  
36 prescriptive program plan for each mentally retarded  
37 offender.

1           2. Consultative services. The Bureau of Mental  
2 Retardation shall provide consultative services to  
3 the department throughout the mentally retarded  
4 offender's sentence, upon request of the department.

5           3. Assignment to other programs. The correc-  
6 tional classification committee shall review the  
7 treatment program, according to its review proce-  
8 dures, and shall assign a mentally retarded offender  
9 to such other programs as are necessary to fulfill  
10 the prescriptive program requirements.

11           4. Termination. The correctional classification  
12 committee may terminate a person's participation in  
13 the program for cause and may return the person to a  
14 regular correctional facility.

15           5. Program rules. The treatment program shall  
16 be governed by the same rules that are in force for  
17 other inmate programs authorized by a classification  
18 committee.

19           Sec. 52. 34-A MRSA §5205, as enacted by PL 1983,  
20 c. 459, §6, is amended to read:

21           §5205. Expenses

22           The members of the board shall be paid ~~25~~ 50  
23 per day and necessary expenses for each day actually  
24 spent in the work of the board.

25           Sec. 53. 34-A MRSA §9636 is enacted to read:

26           §9636. Hearing

27           Any prisoner for whom a written request for  
28 temporary custody has been received pursuant to Arti-  
29 cle IV, is entitled to a hearing in the Superior  
30 Court prior to his delivery in accordance with Arti-  
31 cle V. The hearing shall be limited to the issue of  
32 whether there are reasonable grounds to believe the  
33 prisoner is in fact the person charged in the indict-  
34 ment, information or complaint of the demanding  
35 state.

36           Sec. 54. 34-B MRSA §5204 is enacted to read:

1 §5204. Services for juveniles committed to the Maine  
2 Youth Center

3 1. Bureau authority. The bureau may provide  
4 consultation services to any mentally retarded juve-  
5 nile committed to the Maine Youth Center if those  
6 services are requested by the Commissioner of the  
7 Department of Corrections. Consultation services may  
8 include participation by appropriate bureau profes-  
9 sionals on the Clinical Services Committee of the  
10 Maine Youth Center in order to assist in the design  
11 of individual treatment plans to provide  
12 habilitation, education and skill training to men-  
13 tally retarded juveniles in residence at the Maine  
14 Youth Center.

15 2. Support services. Whenever a program has  
16 been designed for a mentally retarded juvenile by the  
17 Clinical Services Committee and the Clinical Services  
18 Committee has included participation by the bureau  
19 professionals, the bureau shall provide, insofar as  
20 possible, support services to implement that program.

21 3. Case management. The bureau may provide case  
22 management services to mentally retarded juveniles  
23 who are released from the Maine Youth Center.

24 Sec. 55. Appropriation. The following funds are  
25 appropriated from the General Fund to carry out the  
26 purposes of this Act.

	<u>1983-84</u>	<u>1984-85</u>
27		
28	<u>CORRECTIONS, DEPARTMENT OF</u>	
29	All Other	\$4,025      \$8,050

30 Sec. 56. Effective date. This Act takes effect  
31 January 16, 1984.

32 FISCAL NOTE

33 There may be funds accruing to the Department of  
34 Corrections for federal prisoners boarded in state  
35 correctional facilities.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36

STATEMENT OF FACT

Section 1 establishes criteria upon which a bound-over juvenile can be incarcerated at the Maine Correctional Center.

Under section 2 the parents of a juvenile committed to the Department of Corrections or the Department of Human Services could be required to pay for the costs of medical treatment for their child.

Sections 3 and 4 require all commitments to be made to the Department of Corrections, not to a particular institution. Section 5 requires the court to notify the department of a prisoner's committal.

Section 6 transfers into the jail statutes in the Revised Statutes, Title 30, duties relating to jails which were previously given to the Commissioner of Corrections and repeals archaic references to "workhouses."

Section 7 provides for notification to the commissioner for his consent when a jail inmate is to be transferred to a state correctional facility in an emergency.

Section 8 authorizes the payment of a per diem to members of the Correctional Advisory Committee.

Section 9 changes the current prohibitions on the use of out-of-state prison-made goods to one of a prohibition on their sale and establishes a fine for violation of the statute.

The first provision in section 10 sets forth a procedure the department must follow when promulgating and enforcing mandatory and desirable standards for county and municipal jail facilities.

Currently, the Juvenile Justice Advisory Group is established by executive order. The 2nd provision in this section establishes the group by statute.

The material in section 11 is now covered by the Revised Statutes, Title 34-A, section 1208.

1           Section 12 gives the commissioner statutory  
2 authorization to accept donations of personal prop-  
3 erty made to correctional facilities.

4           Section 13 authorizes reimbursement of expenses  
5 for the members of the boards of visitors for the  
6 state correctional facilities.

7           Section 14 permits the Department of Corrections  
8 to release information to any state agency, if re-  
9 quired for the performance of that agency's statutory  
10 functions. Certain documents and information may be  
11 released only on the informed written consent of the  
12 person to whom they refer; others remain completely  
13 confidential.

14           Section 15 repeals a provision for the commis-  
15 sioner to take certain steps in employee grievances  
16 since the provision was duplicative of those required  
17 by the current collective bargaining agreement.

18           Section 16 clarifies that the decision regarding  
19 medical treatment to be provided prisoners will be  
20 made by the correctional facility's treating physi-  
21 cian.

22           Section 17 requires the Commissioner of Correc-  
23 tions to review any chief administrative officer's  
24 decision not to follow a physician's or other staff  
25 member's recommendation regarding a person's health  
26 needs while in segregation.

27           Section 18 permits the commissioner the flexibil-  
28 ity to allow prisoners to work for charitable, non-  
29 profit organizations, without necessarily charging  
30 the organizations, if that work would enhance the  
31 rehabilitative opportunities available to prisoners.

32           Section 19 repeals archaic language.

33           Section 20 enacts into law a provision currently  
34 in the rules which requires prisoners participating  
35 in work release programs to pay for a share of the  
36 transportation costs.

37           Section 21 authorizes the establishment of an  
38 interest-bearing institutional account at each cor-

1 rectional facility into which inmates may deposit  
2 their money. Interest from the account is used to  
3 defray the expenses of the account. Any surplus is  
4 used for the general welfare of the inmates at that  
5 facility.

6 Section 22 gives the department the authority to  
7 return the property of deceased inmates to their  
8 family or representatives, consistent with the Pro-  
9 bate Code and the Abandoned Property Act.

10 Section 23 repeals the current provision permit-  
11 ting inmates to earn reduction of their sentences for  
12 blood donations. Some inmates are unable to give  
13 blood so the provision was inequitable. Some major  
14 groups do not accept blood donations from inmates.

15 Section 24 modifies the current statute on escape  
16 by allowing the Governor to make the determination as  
17 to whether a reward should be offered and increases  
18 the amount of the award from \$100 to \$1,000.

19 Under current law, only the warden of the Maine  
20 State Prison could grant deathbed visits. Title 34-A,  
21 section 3046 expands that by giving the authority to  
22 the commissioner, who may then delegate it to the  
23 chief administrative officer of any facility. Visits  
24 are now permitted to grandparents and grandchildren,  
25 as well as to spouses, children and siblings.  
26 Section 40 repeals the previous statute.

27 The 2nd part of section 25 allows the commis-  
28 sioner, rather than only the warden, to grant a  
29 gratuity to paroled or discharged inmates. The gratu-  
30 ity may be denied if the inmate has more than \$500 in  
31 assets, rather than cash, as was previously the case.  
32 The commissioner may now also furnish transportation  
33 to a place selected by the inmate, if that option is  
34 less expensive than transportation to the inmate's  
35 home, place of employment or place of conviction.  
36 Finally, in extreme circumstances and at his discre-  
37 tion, the commissioner may furnish transportation  
38 beyond the state's borders. The 2nd part of section  
39 40 repeals the previous provision.

40 Sections 26 to 30 all involve modification of  
41 statutes involving transfer of inmates from one

1 facility to another. The modifications are intended  
2 to conform to recent United States Supreme Court  
3 rulings by eliminating the requirement for a  
4 due-process hearing before transfer and to allow the  
5 department the maximum flexibility to transfer  
6 inmates in order to utilize the facilities effi-  
7 ciently and to best advantage.

8 Section 26 deals with the general provisions and  
9 exceptions. Section 27 deals with transfers to fed-  
10 eral institutions. Section 28 deals with transfers to  
11 county jails. Sections 29 and 30 repeal the previous  
12 provisions.

13 Section 31 authorizes the commissioner to deter-  
14 mine where the warden will reside and permits the  
15 warden to receive free housing.

16 Section 32 expands the kind of items the warden  
17 may store to deal with security and riot control.

18 Section 33 limits the previous statute which had  
19 been interpreted to allow an inmate to bring any per-  
20 sonal property with him. It will now state that only  
21 certain property is allowed. The warden is only  
22 responsible for accounting for the inmate's money on  
23 his discharge.

24 Section 34 removes the authority from the prison  
25 physician to determine when a sick inmate should be  
26 moved to a hospital and gives it to the warden. The  
27 warden is to consult with the hospital medical staff  
28 before having the inmate returned from the hospital.

29 Sections 35 and 36 repeal existing provisions  
30 which limited the warden in ways which did not apply  
31 to other correctional officials or other state offi-  
32 cials. Section 35 prohibits the warden from any other  
33 business activity while in office and section 36  
34 authorizes the warden to convey title to state-owned  
35 real estate.

36 Section 37 repeals a section which exempted the  
37 warden from civil process. There are now deputies  
38 empowered to act in the warden's absence, so this ex-  
39 emption is no longer necessary.

1           Section 38 amends current statute to reflect the  
2 new process of commitment to the department and  
3 authorizes delivery of committed offenders at other  
4 than the usual hours, provided that prior arrange-  
5 ments have been made.

6           Section 39 permits funds derived from boarding  
7 committed offenders to remain at the correctional  
8 facility where they are housed, rather than the funds  
9 going into the General Fund.

10           Section 41 makes clear that bound-over juveniles  
11 may be detained at the Maine Correctional Center.

12           Section 42 establishes a prison industries pro-  
13 gram for vocational training at the Maine Correc-  
14 tional Center. In conformity with recently enacted  
15 legislation for the Maine State Prison, it allows  
16 in-state retailers to resell the articles produced.  
17 The Joint Standing Committee on Audit and Program  
18 Review is to review the use of funds derived from  
19 this program and report back to the 112th Legis-  
20 lature.

21           Section 43 gives Maine Correctional Center  
22 employees authority parallel to that of Maine State  
23 Prison employees to carry weapons and other security  
24 equipment when searching for escapees.

25           Section 44 creates a process for delivering con-  
26 victed offenders to the Maine Correctional Center  
27 which is parallel to the process used at the Maine  
28 State Prison.

29           Section 45 adds language to the statute creating  
30 the Charleston Correctional Facility to clarify that  
31 persons are committed to the department.

32           Section 46 clarifies that the superintendent of  
33 the Maine Youth Center is only responsible for allow-  
34 able property that the client has at the youth cen-  
35 ter.

36           Section 47 removes a reference to specific insti-  
37 tutions and refers instead to institutions operated  
38 by the Department of Mental Health and Mental Retar-  
39 dation.



1 Section 48 clarifies that the custody of a child  
2 on after-care status from the Maine Youth Center  
3 reverts to the Department of Human Services, if that  
4 department had custody before. The current statute  
5 only allows that reversion if the child is dis-  
6 charged.

7 Section 49 deletes a reference to the Stevens  
8 School, a facility no longer within the department.

9 Section 50 parallels the adult provisions by  
10 allowing the superintendent to determine both the  
11 length of time and conditions of a juvenile client's  
12 seclusion. The superintendent must consult with the  
13 physician or medical staff and report to the commis-  
14 sioner if he does not carry out their recommenda-  
15 tions.

16 Section 51 is enabling legislation allowing the  
17 department the authority to establish a facility and  
18 programs for mentally retarded offenders. The pro-  
19 grams will be developed and administered in consulta-  
20 tion with the Department of Mental Health and Mental  
21 Retardation.

22 Section 52 increases the per diem for members of  
23 the parole board from \$25 to \$50 a day.

24 Section 53 amends a provision in the Interstate  
25 Compact on Detainers to comply with a recent United  
26 States Supreme Court decision pertaining to a hearing  
27 and specifies the limitation on that hearing.

28 Section 54 authorizes the Department of Mental  
29 Health and Mental Retardation to provide consulta-  
30 tion, case management and support services to clients  
31 and released clients of the Maine Youth Center.

32 Section 55 appropriates funds to the department  
33 for per diem payments to members of the Parole Board,  
34 the Correctional Advisory Commission and the Boards  
35 of Visitors for the 3 institutions under the depart-  
36 ment. The amounts for the first year are 1/2 those  
37 for the 2nd year, since the bill will take effect  
38 halfway through the fiscal year.

1           Section 56 makes the bill effective on January  
2    16, 1984, one day after the recodification of Title  
3    34 into Title 34-A takes effect. This bill repeals  
4    any provisions which are in conflict.

5

4439061883