

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## FIRST REGULAR SESSION - 1989

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Legislative Document

No. 265

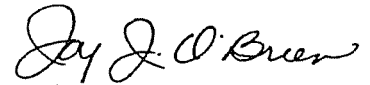
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S.P. 145

In Senate, February 21, 1989

Submitted by the Department of Corrections pursuant to Joint Rule 24.

Reference to the Joint Select Committee on Corrections suggested and ordered printed.

  
JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator GILL of Cumberland.

Cosponsored by Senator PERKINS of Hancock, Representative MANNING of Portland and Representative HIGGINS of Scarborough.

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STATE OF MAINE

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

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An Act to Clarify and Make Changes to the Statute Governing the  
Operation of the Department of Corrections.

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

3 **Sec. 1. 34-A MRSA §1210, sub-§4, ¶D,** as enacted by PL 1985, c.  
5 821, §18, is amended to read:

7 D. By ~~August 1st and~~ February 1st of each calendar year,  
9 the county shall provide, in a format provided by the  
11 Department of Corrections, a copy of actual expenditures for  
13 the support of prisoners for the previous ~~12-months~~ calendar  
15 year. The Department of Audit shall establish, in  
17 consultation with the counties and the Department of  
Corrections, a uniform system of accounting for the support  
of prisoners for the counties pursuant to its authority in  
Title 5, section 243 and consistent with the requirements of  
this section. No county may be reimbursed after July 1,  
1987, until it has implemented the uniform accounting system  
for the expenditure for support of prisoners.

19 **Sec. 2. 34-A MRSA §1210, sub-§5,** as amended by PL 1987, c.  
21 335, §§1, 2, is further amended to read:

23 5. **Adjustment to the reimbursement.** Beginning July 1,  
25 1987, the Commissioner of Corrections shall, ~~semiannually,~~ set  
27 annually the reimbursement for each county to include all actual  
29 costs for the support of prisoners. The actual cost for the  
31 support of prisoners shall be calculated on the basis of the  
previous ~~12-months~~ calendar year, for each county, by dividing  
costs for prisoner support by the total number of days prisoners  
are detained in that county and prisoners committed to that  
county serve. Support of prisoners shall include the following  
line items:

33 A. Personal Services;

35 B. Contractual Services:

37 (1) Professional fees and services:

39 (a) Medical, dental and psychological;

41 (b) In-house correctional programs and community  
43 correctional programs as defined in this section;

45 (c) Board of prisoners; and

47 (d) Insurances;

49 (2) Prisoner transportation:

51 (a) Gas and oil; and

(b) Auto repairs;

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(3) Utilities:

- (a) Electricity;
- (b) Gas;
- (c) Sewage and water;
- (d) Telephone; and
- (e) Rubbish removal;

(4) Rentals;

(5) Repairs and maintenance;

(6) General operating expenses:

- (a) Postage; and
- (b) Printing; and

(7) Other:

- (a) Staff training and education;

C. Commodities:

(1) Food;

(2) Fuel; and

(3) Supplies:

- (a) Cleaning;
- (b) Institutional; and
- (c) Office;

D. Capital expenditures to the extent that it reflects the actual increase in jail population resulting from net gain of prisoners under Title 17-A, section 1203, subsection 1 and section 1252, subsection 1, as amended:

(1) Equipment:

- (a) Furniture and fixtures; and

(2) Buildings; and

1 E. Capital expenditures, replacement:

3 (1) Equipment:

5 (a) Furniture and fixtures; and

7 (b) Vehicles.

9 Sec. 3. 34-A MRSA §1403, sub-§8, ¶A, as enacted by PL 1985, c.  
11 67, §1, is amended to read:

13 A. The commissioner may receive in any correctional  
15 facility prisoners or juveniles detained by the United  
17 States or convicted or adjudicated of an offense against the  
United States and committed for a term of imprisonment in  
excess of one year or institutionalization to the custody of  
the Attorney General of the United States if:

19 (1) The Attorney General of the United States  
21 designates a Maine correctional facility as the place  
of confinement for the prisoner or juvenile; and

23 (2) The commissioner approves and agrees to accept the  
25 prisoner or juvenile to be kept in a Maine correctional  
27 facility in pursuance of his the prisoner's or  
juvenile's sentence.

29 Sec. 4. 34-A MRSA §1403, sub-§9, as amended by PL 1987, c.  
589, is further amended to read:

31 9. Industries programs. The commissioner may establish  
33 vocational-training, work and industries programs including those  
permitted under a certification issued by the United States  
Department of Justice under the United States Code, Title 18,  
35 Section 1761.

37 A. The program may make services and goods available for  
39 purchase by state agencies or the public.

41 B. The commissioner may authorize any person or business  
43 entity purchasing goods manufactured at a correctional  
45 facility to resell those articles if that person or entity  
requests, in writing, authority from the commissioner at the  
time the initial purchase is made.

47 C. All goods manufactured at a correctional facility for  
49 sale shall be distinctly labeled or branded with the words  
"Manufactured at a Maine State Correctional Facility",  
51 except those goods produced under a program certified by the  
United States Department of Justice ~~pursuant to the Prison  
Industries Enhancement Act, Public Law 96-157, Section 827  
(1979)~~ under the United States Code, Title 18, Section 1761.

1 D. All revenues from direct sales of goods and services  
2 produced by prisoners at correctional facilities and all  
3 amounts received from a private sector industry  
4 participating with the Department of Corrections in an  
5 industries program certified by the United States Department  
6 of Justice under the United States Code, Title 18, Section  
7 1761, in consideration of lease of industry space, provision  
8 of utilities, trash removal and other services provided to  
9 the private industry which are related to the use of  
10 industry space at correctional facilities shall be deposited  
11 into the department Industries Accounts, which shall not  
12 lapse.

13  
14 E. Funds from these industries accounts may be used to pay  
15 for materials, supplies, equipment and salaries ~~for~~ and  
16 other costs of establishing and operating vocational  
17 training, work and industrial programs. For industries  
18 programs certified by the United States Department of  
19 Justice under the United States Code, Title 18, Section  
20 1761, mandatory contributions to the Crime Victim Assistance  
21 Program shall be made from these industries accounts and  
22 transferred to the control of the Department of Human  
23 Services to be used exclusively for the Crime Victim  
24 Assistance Program.

25  
26 F. The commissioner shall, in consultation with the State  
27 Apprenticeship and Training Council, develop policies  
28 concerning job displacement and safety and policies to  
29 develop opportunities in the prison industries programs.

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31 **Sec. 5. 34-A MRSA §3031, sub-§5,** as enacted by PL 1983, c.  
32 459, §6, is amended to read:

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34 5. Exercise. A reasonable opportunity for physical exercise  
35 ~~and-recreational-activities;~~

36  
37 **Sec. 6. 34-A MRSA § 3032, sub-§3, ¶D,** as amended by PL 1983, c.  
38 581, §§17, 59, is further amended to read:

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40 D. When segregation exceeds 24 hours, the chief  
41 administrative officer of the correctional facility shall  
42 cause the facility's physician or a member of the facility's  
43 medical staff to visit the person ~~forthwith~~ immediately and,  
44 at least once in each succeeding 24-hour period of  
45 confinement, to examine the person's state of health. When  
46 no physician or medical staff member is present within the  
47 facility and a visit is required by this paragraph, the  
48 ranking officer on grounds and in charge shall visit the  
49 person in confinement, in lieu of the visit by the physician  
50 or medical staff member. The officer making the visit shall  
51 contact immediately the physician or medical staff member on

1 call if there is reasonable cause to believe such action is  
2 necessary.

3 **Sec. 7. 34-A MRSA §3033, sub-§1,** as enacted by PL 1983, c.  
4 459, §6, is amended to read:

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7 1. **Public works.** The commissioner may authorize the  
8 employment of able-bodied prisoners ~~in the prison or Maine~~  
9 ~~Correctional Center~~ in the construction and improvement of  
10 highways or other public works within the State under such  
11 arrangements as may be made with the Department of Transportation  
12 or with another department or commission of the State, county or  
13 municipality in charge of these public works, and the  
14 commissioner may prescribe whatever rules and conditions he deems  
15 the commissioner considers expedient to ~~insure~~ ensure the proper  
16 care and treatment of the prisoners while so employed and to  
17 ensure their safekeeping and return.

18 **Sec. 8. 34-A MRSA §3033, sub-§2,** as amended by PL 1987, c.  
19 370, §7, is further amended to read:

20  
21 2. **Fire or disaster.** The commissioner may authorize the  
22 training and use of able-bodied prisoners ~~in the prison or in the~~  
23 ~~Maine Correctional Center~~ by the Bureau of Forestry or the Maine  
24 Emergency Management Agency, to fight fires or provide assistance  
25 during or after a civil disaster.

26  
27 **Sec. 9. 34-A MRSA §3033, sub-§4,** as enacted by PL 1983, c.  
28 459, §6, is amended to read:

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31 4. **Prohibited act.** A person is guilty of escape under Title  
32 17-A, section 755, if he that person is a prisoner and escapes  
33 from any assignments described in this section or from any other  
34 assignment beyond the walls of ~~the prison or off the grounds of~~  
35 ~~the Maine Correctional Center~~ or other security restraints  
36 surrounding a correctional facility or otherwise off the grounds  
37 of an assigned location.

38 **Sec. 10. 34-A MRSA §3038-A,** as enacted by PL 1983, c. 459,  
39 §6, is amended to read:

40  
41 **§3038-A. Care of children of committed offenders**

42  
43 1. **Commitment of child.** If any ~~male~~ a committed offender,  
44 at the time of his commitment to the ~~Maine State Prison or the~~  
45 ~~Maine Correctional Center~~ custody of the Department of  
46 Corrections, is the ~~father~~ parent of and has ~~under his~~ is  
47 providing exclusive care for any child which who might otherwise  
48 be left without proper care or guardianship, the judge committing  
49 him that offender shall cause his the child to be committed to:

50  
51

1           A. A children's home provided by law for the child's care  
or guardianship;

3  
5           B. The care and custody of some relative or proper person  
willing to assume the care; or

7           C. The custody of the Department of Human Services.

9           2. **Controlling statute.** Any commitment of a child under  
11 this section is subject to Title 22, sections 4006, 4037, 4038,  
4061 and 4063.

13           **Sec. 11. 34-A MRSA §3604, sub-§1,** as enacted by PL 1983, c.  
15 459, §6, is amended to read:

17           1. **Evaluation.** Before assignment to the Charleston  
19 Correctional Facility, prisoners must be evaluated for security  
status, program needs and emotional stability by the  
21 classification process at the Maine Correctional Center or the  
prison approved by the Commissioner of Corrections.

23           **Sec. 12. 34-A MRSA §5402, sub-§3, ¶¶C and D,** as enacted by PL  
25 1983, c. 459, §6, are amended to read:

27           C. Sign documents, including warrants and extradition  
papers, for the board when so instructed by the board; and

29           D. With the approval of the commissioner, in special  
instances and in the absence or illness of the Assistant  
31 Director of Probation and Parole, delegate any  
responsibilities of the assistant director to a district  
33 supervisor.

35                   (1) This delegation shall not exceed 20 working days.

37                   (2) During the period of the delegation, the district  
39 supervisor has all the responsibilities and obligations  
of the assistant director; and

41           **Sec. 13. 34-A MRSA §5402, sub-§3, ¶E** is enacted to read:

43           E. With the approval of the commissioner, delegate the  
45 responsibility to warn persons interfering with a  
47 probationer, parolee or a prisoner on intensive supervision  
to a district supervisor.

49           **Sec. 14. 34-A MRSA §5404,** as amended by PL 1987, c. 315, §2,  
is further amended to read:

51           **§5404. Probation and parole officers and intensive supervision  
program officers**



1  
3 In addition to duties prescribed by the director and by the  
court having jurisdiction, a probation and parole or intensive  
5 supervision program officer shall:

7 1. Investigation. Investigate any criminal case or matter  
concerning probation ~~ex,~~ parole or intensive supervision referred  
9 to him the officer for investigation and report the result of the  
investigation;

11 2. Arrest. Arrest in the following circumstances:

13 A. Arrest and return probation and parole violators upon  
request of the chief administrative officer of a  
15 correctional facility;

17 B. Arrest and return to a correctional facility persons  
released from the correctional facility under section 3035;  
19 and

21 C. If the officer has probable cause to believe that a  
person under the supervision of the Division of Probation  
23 and Parole has violated a condition of his that person's  
probation or parole or intensive supervision, he the officer  
25 may arrest that person.

27 3. Supervision. Supervise persons as follows:

29 A. Supervise the probation ~~ex,~~ parole or intensive  
31 supervision of each person placed under his the officer's  
supervision;

33 B. Supervise persons released from a correctional facility  
under section 3035, if the chief administrative officer of  
35 the facility requests the supervision and the director  
agrees to the supervision; and

37 C. Keep informed of the conduct and condition of each  
39 person placed under his the officer's supervision and use  
suitable methods to encourage him the person to improve his  
41 that person's conduct and condition; ~~and.~~

43 ~~D. With the approval of the commissioner, delegate his~~  
45 ~~responsibility to warn persons interfering with a~~  
~~probationer or parolee to a district supervisor.~~

47 4. Records and reports. Keep records of each case and make  
reports as required; and

49 5. Money. Collect and disburse money according to the order  
51 of the court having jurisdiction.

1 A. The officer shall make a detailed account under oath of  
all fines received.

3 B. The officer shall pay the fines collected to the  
5 appropriate county treasurer by the 15th day of the month  
7 following collection.

9

## STATEMENT OF FACT

11

Section 1 changes the reporting frequency for county jail  
13 expenditure reports to an annual basis, rather than the current  
semiannual filing.

15

Section 2 changes the reimbursement computation for payment  
17 of costs to support prisoners in county jails to an annual basis.

19

Section 3 authorizes the Commissioner of Corrections to  
21 accept United States prisoners and juveniles for confinement in a  
state correctional facility even though the term of imprisonment  
is one year or less.

23

Section 4 clarifies the commissioner's authority to  
25 establish industries programs; provides a means by which Prison  
Industries Enhancement Act, United States Code, Title 18, section  
27 1761, programs may be self-funding, thus adding no new cost to  
the taxpayer while increasing rehabilitative programs for  
29 prisoners; and establishes the necessary authority for transfer  
and receipt of funds for the Crime Victim Assistance Program.

31

Section 5 removes recreation as a prisoner right in  
33 accordance with court decisions.

35

Section 6 assures that regular observations of persons in  
37 segregation for a period of time exceeding 24 hours are made when  
the facility physician or medical staff member is not present in  
the facility.

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Section 7 extends the commissioner's authority to permit the  
41 use of prisoner employees in public works projects to prisoners  
from all state correctional facilities.

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Section 8 extends the commissioner's authority to permit the  
45 use of prisoner labor to fight fires or provide assistance during  
or following a civil disaster to include those prisoners in all  
47 state correctional facilities.

49

Section 9 clarifies what constitutes escape from a work  
assignment.

51

1           Section 10 makes it clear that a dependent child of a female  
committed offender shall receive the same protection as a  
3 dependent child of a male committed offender.

5           Section 11 attempts to correct the misconception that  
prisoners are transferred to Charleston Correctional Facility  
7 only from the Maine Correctional Center or the prison and that  
those 2 facilities use a classification process which differs  
9 from that used in other Department of Corrections facilities.

11          Section 12 places a conjunction where one is needed and also  
changes a punctuation mark in the Maine Revised Statutes.

13  
15          Section 13 places the responsibility of the Director of  
Probation and Parole where it is appropriate.

17          Section 14 adds the necessary language to make it clear that  
those officers who perform intensive supervision program  
19 functions have the same authority as other probation and parole  
division officers. This section also deletes a responsibility  
21 which belongs to the Director of Probation and Parole.