

# MAINE STATE LEGISLATURE

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L.D. 723  
  
(Filing No. S- 255)

STATE OF MAINE  
SENATE  
114TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 277, L.D. 723, Bill, "An Act to Require Counties to Accept Prisoners with Sentences up to One Year in Length and to Provide Assistance to Counties in Developing Community Corrections Programs"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Amend the Community Corrections Laws'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 15 MRSA §1710, as amended by PL 1981, c. 493, §§2 and 3, is repealed and the following enacted in its place:

§1710. Transfer of persons under sentence to county jails for rehabilitative reasons

A sheriff having custody of a person sentenced to a county jail for a term of 60 days or more, upon receipt from that person of a request, in writing, for transfer to a state correctional facility, may apply, in writing, to the Commissioner of Corrections for the transfer of that person from the county jail to a state correctional facility, solely for the purpose of permitting that person the opportunity to participate in rehabilitative programs conducted at or from the state correctional facility.

In the event that the Commissioner of Corrections shall accept the application, the commissioner's written acceptance shall be the sheriff's sufficient authority to transport that person to the appropriate institution.

The attested copy of the judgment and order of commitment by which the sheriff has legally held that person before transfer shall be delivered to the chief administrative officer of the

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COMMITTEE AMENDMENT "H" to S.P. 277, L.D. 723

1 correctional facility with a copy of the authorization for  
2 transfer attested by the sheriff and upon which shall be noted by  
3 the delivering officer the date of delivery of the person to the  
4 correctional facility.

5  
6 In no case may the time of sentence to be served at the  
7 state correctional facility exceed the remaining time of the  
8 sentence originally imposed. In every other respect the person  
9 transferred shall be treated as if committed to the state  
10 correctional facility originally, including prosecution in the  
11 event of escape. In the event that any person transferred under  
12 this section is granted furlough or permission to participate in  
13 any other rehabilitative program as authorized under Title 34-A,  
14 section 3035, any such grant shall be subject to the approval of  
15 the sheriff of the county from which jail that person was  
16 transferred.

17  
18 The county responsible for the support of the person  
19 transferred under this section while that person was incarcerated  
20 in the county jail shall pay directly to the Department of  
21 Corrections upon the request of the department an amount computed  
22 at a per diem per capita rate established by the department; the  
23 county shall also reimburse the department for any costs incurred  
24 by it in the provision of extraordinary medical or surgical  
25 treatment to the person transferred. All sums paid under this  
26 section to the department shall become a part of the operating  
27 funds of the department. The payment amount provided for in this  
28 section may be adjusted upon terms mutually agreeable to the  
29 sheriff and the Commissioner of Corrections in the event that the  
30 county jail shall house any work releasee under Title 34-A,  
31 section 3035, simultaneously with any period of transfer of a  
32 transferee under this section.

33  
34 **Sec. 2. 30-A MRSA §1557, sub-§2, as enacted by PL 1987, c.**  
35 **737, Pt. A, §2 and Pt. C, §106, and amended by PL 1989, c. 6; c.**  
36 **9, §2; and c. 104, §§8 and 10, is repealed.**

37  
38 **Sec. 3. 30-A MRSA §1557, sub-§4 is enacted to read:**

39  
40 **4. Reimbursement for transferred prisoners. The county**  
41 **responsible for the support of the prisoner transferred under**  
42 **this section while the prisoner was incarcerated in the county**  
43 **jail shall pay directly to the receiving county jail or the**  
44 **Department of Corrections upon the request of the receiving**  
45 **sheriff or the department an amount computed at a per diem per**  
46 **capita rate established by the receiving county jail or the**  
47 **department. The county shall also reimburse the receiving county**  
48 **jail or the department for any costs incurred by it in the**  
49 **provision of extraordinary medical or surgical treatment to the**  
50 **person transferred.**

51

1           Sec. 4. 30-A MRSA §1656, as enacted by PL 1987, c. 737, Pt.  
A, §2, and Pt. C., §106 and amended by PL 1989, c. 6; c. 9, §2;  
3 and c. 104, §§8 and 10, is further amended to read:

5       **§1656. Transfer of prisoners when jail unfit or insecure**

7           1. **Transfer of prisoners when jail unfit or insecure.**  
Whenever complaint on oath is made to a Justice of the Superior  
9 Court that a prisoner or prisoners should be removed from a jail  
to another jail or to a state correctional facility because that  
11 jail is unfit for occupation or is insufficient for the secure  
keeping of any person charged with a crime and committed to await  
13 trial, awaiting sentencing, or serving a sentence in that jail,  
the Justice of the Superior Court shall:

15           A. Schedule the time and place for a hearing on this  
17 complaint;

19           B. Have not less than 3 days' notice of that hearing given  
to the sheriff or sheriffs of the county jail or jails  
21 involved and, if transfer to a state correctional facility  
is anticipated, to the Commissioner of Corrections;

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

29           D. Conduct a hearing and if the matter complained of is  
found true:

31                   (1) Issue a warrant for the transfer of the prisoner  
33 or prisoners, at the expense of the sending county, to  
any jail; or

35                   (2) Issue a warrant for the transfer of the prisoner  
37 or prisoners, at the expense of the sending county, to  
a state correctional facility, provided that the  
39 Justice of the Superior Court finds that the receiving  
institution is able to resolve the problem causing the  
41 need to transfer, the nature of the offense committed  
or alleged to have been committed by the prisoner is so  
43 severe that it requires sending to the receiving  
institution and the security of the sending facility is  
45 inadequate to handle the problem.

47           2. **Emergency.** In the event of an emergency, regardless of  
whether a complaint on oath has been made to a Justice of the  
49 Superior Court, the sheriff, with the agreement of the  
Commissioner of Corrections, may immediately, at the expense of  
51 the sending county, remove any prisoner from the county jail to a  
state correctional facility. If removal is made under this

1 section, a complaint on oath shall be made to a Justice of the  
2 Superior Court within 24 hours and a hearing shall be conducted  
3 in accordance with the requirements in subsection 1, paragraph D,  
4 subparagraph (2).

5  
6 **3. Transfer of prisoners when jail unfit due to casualty.**  
7 If by fire or other casualty any jail is destroyed or rendered  
8 unfit for use, any Justice of the Superior Court may, upon being  
9 notified by the district attorney of the county where the jail  
10 was or is located, issue a an order to the sheriff and the  
11 deputies and constables of that county to have all prisoners who  
12 might be liable to imprisonment in that county imprisoned in the  
13 jail of some adjoining county or in any other place of  
14 confinement. The order shall be printed in the newspapers having  
15 general circulation in that county.

16  
17 **4. Reimbursement for transferred prisoners.** The county  
18 responsible for the support of the person transferred under this  
19 section while incarcerated in the county jail shall pay directly  
20 to the receiving county jail or the Department of Corrections  
21 upon the request of the receiving sheriff or the department an  
22 amount computed at a per diem per capita rate established by the  
23 receiving county jail or the department. The county shall also  
24 reimburse the receiving county jail or the department for any  
25 costs incurred by it in the provision of extraordinary medical or  
26 surgical treatment to the person transferred.

27  
28 **Sec. 5. 34-A MRSA §1210, sub-§1, ¶B,** as enacted by PL 1985, c.  
29 821, §18, is amended to read:

30 B. "Community corrections" means the delivery of  
31 correctional services in the least restrictive manner by or  
32 for the county, including, but not limited to, preventive or  
33 diversionary correctional programs, pretrial release or  
34 conditional release programs, alternative sentencing or  
35 housing programs, residential treatment and halfway house  
36 programs, community correctional centers and temporary  
37 release programs from a facility for the detention or  
38 confinement of persons convicted of crime or adjudicated  
39 delinquents.

40  
41 **Sec. 6. 34-A MRSA §1210, sub-§2,** as enacted by PL 1985, c.  
42 821, §18, is amended to read:

43  
44 **2. Reimbursement** The Department of Corrections shall, under  
45 this section, reimburse each county quarterly for each actual day  
46 served at that county correctional facility by:

47  
48 A. Persons convicted of a Class A, Class B or Class C crime  
49 sentenced after March 31, 1987, to serve a term of  
50 imprisonment pursuant to Title 17-A, section 1203,  
51 subsection 1, or section 1252, subsection 1; and

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B. Persons convicted of a Class A, Class B or Class C crime sentenced after December 31, 1988, to serve a term of imprisonment pursuant to Title 17-A, section 1203, subsection 1 or 1252, subsection 1.

Reimbursement for periods after June 30, 1987, shall not be authorized until the reimbursable costs for the operations of the jail are agreed upon by the Commissioner of Corrections, or his a designee, and the county commissioners for that county. Reimbursable costs for the operations of the jail, shall, to the extent practicable, be mutually agreed upon prior to the actual expenditures of funds for those costs. Prior approval of all capital expenditures is required for reimbursement of that expense item. If the Commissioner of Corrections and the county commissioners are unable to agree upon reimbursable costs, they shall jointly select an arbitrator to determine those costs. The arbitrator's decision shall be final and both the commissioner and the county commissioners shall be bound by his that decision.

Sec. 7. 34-A. MRSA §1210, sub-§2-A is enacted to read:

2-A. Reimbursement for capital expenditures related to increased jail population. Prior notice by the county of the intent to apply and approval by the commissioner or a designee for both initial and subsequent reimbursement of actual capital building expenditures made after March 31, 1987, to the extent that it reflects the actual increase in the jail population resulting from the net gain of prisoners under Title 17-A, section 1203, subsection 1 and section 1252, subsection 1, is required. At a minimum, this application and approval process shall require:

A. That the county commissioners provide the commissioner with written notice of the intent to apply and the projected cost of a capital building project, or portion of the same, to provide bed space related to the net gain of prisoners resulting from Title 17-A, section 1203, subsection 1, and section 1252, subsection 1, at least 30 months in advance of anticipated reimbursement by the State to the county for the same if secure bed spaces are involved, or 6 months if nonsecure bed spaces are involved;

B. That the county and the commissioner, or designee, agree upon the basis for determining the projected prisoner population and capital building costs related to the net gain of prisoners resulting from Title 17-A, section 1203, subsection 1 and section 1252, subsection 1;

1           C. That the county notify the commissioner in writing, of  
3           the actual final capital building costs for which  
          reimbursement is requested. The commissioner, or a  
5           designee, shall review the request for reimbursement to  
          determine compliance with the basis for reimbursement agreed  
7           upon under paragraph B. If there is compliance, the  
          commissioner or designee shall authorize payment;

9           D. In the case of a county that has received reimbursement  
11          from the State for capital building costs related to the net  
          gain of prisoners resulting from Title 17-A, section 1203,  
13          subsection 1, and section 1252, subsection 1, included as a  
          portion of the daily per diem rate prior to December 1989,  
15          funds already received shall be deducted from the counties'  
          initial reimbursement under this subsection. A county may  
17          only apply one time for reimbursement for actual capital  
          building costs for secure bed space within the perimeter of  
19          a jail facility related to the net gain of prisoners  
          resulting from Title 17-A, section 1203, subsection 1, and  
21          section 1252, subsection 1. Subsequent reimbursement from  
          the State for capital building costs for additional bed  
23          space must be consistent with a comprehensive local plan,  
          approved by the commissioner or a designee, to provide and  
25          monitor community-based programs as defined under section  
          1210, subsection 1, paragraph B. A county may only make  
27          subsequent requests to the State for reimbursement of  
          capital building costs related to the net gain of prisoners  
29          resulting from Title 17-A, section 1203, subsection 1 or  
          section 1252, subsection 1, to provide for alternative  
31          housing, outside the secure perimeter of a jail facility,  
          for prisoners who are classified as minimum security.

33          If the Commissioner of Corrections and the county commissioners  
35          are unable to agree upon reimbursable costs, they shall jointly  
          select an arbitrator to determine those costs. The arbitrator's  
37          decision shall be final and both the commissioner and the county  
          commissioners shall be bound by that decision.

39            Sec. 7. 34-A MRSA §1210, sub-§5, ¶D, as amended by PL 1989, c.  
41            127, §2, is repealed.

43            Sec. 8. 34-A MRSA §1210, sub-§6, as enacted by PL 1985, c.  
          821, §18, is amended to read:

45            6. County Correctional Improvement Account. The county  
47            commissioners of each county shall establish the County  
          Correctional Improvement Account for funds received from the  
49            State under this section, which shall be used for improving,  
          maintaining and developing correctional programs, community-based  
51            correctional programs, standards compliance and capital  
          improvements for the support of prisoners in that county,  
          including personal services, contractual services, commodities,

1 debt service and capital outlay. A portion of all funds received  
2 under this section, except those reimbursed for capital  
3 expenditures, shall be used to develop, monitor and operate  
4 community correctional programs as defined under section 1210,  
5 subsection 1, paragraph B as follows: 10% in 1991, 20% in 1992,  
6 30% in 1993, 40% in 1994 and 50% in 1995 and subsequent years.  
7 Funds in this account unexpended at the end of the year do not  
8 lapse, but shall carry forward into subsequent years. All funds  
9 received under this section shall be dealt with under the normal  
10 budgetary process.

11

**Sec. 9. Appropriation.** The following funds are appropriated  
12 from the General Fund to carry out the purposes of this Act.

13

14

1989-90                      1990-91

15

**CORRECTIONS, DEPARTMENT OF**

16

**Community-based Corrections**

17

All Other                                      \$1,450,000                      \$831,680

18

Provides funds to reimburse  
19 counties for capital  
20 expenditures for building.'

21

22

23

**STATEMENT OF FACT**

24

Current law limits the ability to house sentenced county  
25 jail prisoners who are security problems in state correctional  
26 facilities and does not make explicit provision for the county to  
27 pay the per diem costs if transferred. Sections 1-4 of this  
28 amendment allow transfers of sentenced county jail prisoners, or  
29 those awaiting sentencing, and explicitly establish a basis for  
30 reimbursement.

31

Section 5 of the amendment changes the definition of  
32 "community corrections" to include housing programs.

33

34

Sections 6 and 7 of the amendment separate out the  
35 reimbursement for operating costs and capital building  
36 expenditures. The operating costs are covered under a per diem  
37 rate. The capital costs for the increase in the number of  
38 prisoners sent to county jails under the changes in the Maine  
39 Revised Statutes, Title 34-A, section 1202, subsection 1, are  
40 paid for by the State.

41

42

Section 8 of the amendment makes it clear that a portion of  
43 the money received by counties as reimbursement for the state

44



COMMITTEE AMENDMENT "A" to S.P. 277, L.D. 723

1 prisoners housed in county jails should be used for the  
3 development of community corrections programs.

Reported by Senator Bustin for the Joint Select Committee  
on Corrections. Reproduced and Distributed Pursuant to  
Senate Rule 12.

(6/12/89)

(Filing No. S-255)