

MAINE STATE LEGISLATURE

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L.D. 1189

(Filing No. H- 445)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
114TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 857, L.D. 1189, Bill, "An Act to Transfer Jurisdiction over County Jails from County Government to the Department of Corrections"

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. 4 MRSA §1057, sub-§§1 and 3, as enacted by PL 1987, c. 339, §3, are amended to read:

1. Fund established. There is hereby established a fund to be known as the Jail Operations Surcharge Fund. This fund shall be maintained by the Treasurer of State for the sole purpose of ~~reimbursing-counties~~ paying for costs associated with operations of the jail system.

3. Payment. Monthly, the Treasurer of State shall make payments from this fund to ~~each-county-in-direct-proportion-to-the-amount-of-revenue-obtained-from-all-courts-within-each-county,-provided-a-county-may-not-receive-an-amount-greater-than-the-prior-year's-expenditures-on-its-jail~~ the Department of Corrections. The amount of total payments made ~~to-counties~~ shall equal 2% of the total fines, forfeitures and penalties, including this surcharge, received by the Treasurer of State. The balance remaining in the Jail Operations Surcharge Fund at the end of each month shall accrue to the General Fund.

Sec. 2. 12 MRSA §7910, sub-§5, as enacted by PL 1979, c. 420, §1, is repealed.

Sec. 3. 15 MRSA §224, sub-§4, as enacted by PL 1977, c. 66, is amended to read:

4. Expenses for rendition of escaped prisoners. Expenses for rendition of prisoners who have escaped from custody shall be

1 paid by the State ~~of Maine~~ if the escape occurred while the
2 prisoner was committed to or being held at a state institution or
3 while the prisoner was in the custody of a state officer, ~~shall~~
4 ~~be paid by the sheriff if the escape occurred while the prisoner~~
5 ~~was committed to or being held at a county jail~~ or while in the
6 custody of a county officer or shall be paid by a municipality if
7 the escape occurred while the prisoner was being held at a lockup
8 or in the custody of a municipal officer. Escape and custody
9 shall have the same meaning as defined in Title 17-A.

11 **Sec. 4. 15 MRSA §453**, as amended by PL 1969, c. 506, §1, is
12 repealed.

13 **Sec. 5. 15 MRSA §1023, sub-§5**, as amended by PL 1989, c. 185,
14 §25, is further amended to read:

15 **5. Fees.** A bail commissioner shall receive a fee not to
16 exceed \$25 for the charges pursuant to which the defendant is
17 presently in custody. The bail commissioner shall submit such
18 the forms as the Judicial Department shall direct to verify the
19 amount of fees received under this subsection. ~~The sheriff~~ of
20 ~~the county jail administrator of the jail~~ in which the defendant
21 is detained may create a fund for the distribution by the ~~sheriff~~
22 ~~jail administrator~~ or the ~~sheriff's jail administrator's~~ designee
23 for the payment in whole or in part of the \$25 bail commissioner
24 fee for those defendants who do not have the financial ability to
25 pay that fee.

26 **Sec. 6. 15 MRSA §1705**, as repealed and replaced by PL 1985,
27 c. 242, is repealed.

28 **Sec. 7. 15 MRSA §1710**, as amended by PL 1981, c. 493, §§2 and
29 3, is repealed.

30 **Sec. 8. 15 MRSA §2211-A**, as amended by PL 1987, c. 402, Pt.
31 A, §112, is repealed.

32 **Sec. 9. 17-A MRSA §1253, sub-§1**, as repealed and replaced by
33 PL 1985, c. 821, §11, is amended to read:

34 **1.** The sentence of any person committed to the custody of
35 the Department of Corrections shall commence to run on the date
36 on which that person is received into the correctional facility
37 or jail designated as the initial place of confinement by the
38 Commissioner of Corrections pursuant to section 1258. That day is
39 counted as the first full day of the sentence.

40 The sentence of any person committed to the custody of a ~~sheriff~~
41 jail administrator shall commence to run on the date on which
42 that person is received into the ~~county~~ jail specified in the
43 sentence. That day is counted as the first full day of the
44 sentence if the term of imprisonment, or the initial unsuspended
45 sentence.

1 portion of a split sentence, is over 30 days; otherwise, credit
is accorded only for the portion of that day for which the person
3 is actually in execution of the sentence.

5 **Sec. 10. 17-A MRSA §1253, sub-§1-A**, as repealed and replaced
by PL 1985, c. 282, §6, is repealed.

7
9 **Sec. 11. 17-A MRSA §1341, sub-§1**, as enacted by PL 1985, c.
752, §1, is amended to read:

11 1. **Assessment.** When a person is sentenced to incarceration
13 in a county jail, the sentencing court shall consider and may
assess as part of the sentence a reimbursement fee to help defray
the expenses of the offender's room and board. The fee may not
15 exceed the cost of incarcerating the offender or \$20 per day,
whichever is less. Any reimbursement fee assessed shall be
17 collected by the ~~county--treasurer~~ jail administrator of the
~~county jail~~ in which the offender is incarcerated and paid into
19 the treasury of ~~that-county~~ the State.

21 **Sec. 12. 19 MRSA §483**, as amended by PL 1971, c. 544, §62, is
repealed.

23 **Sec. 13. 19 MRSA §775**, as enacted by PL 1979, c. 668, §6, is
25 repealed.

27 **Sec. 14. 25 MRSA §1502, last ¶** is repealed.

29 **Sec. 15. 25 MRSA §2805, sub-§1**, as amended by PL 1985, c. 155,
§4, is further amended to read:

31 1. **Basic training.** As a condition to the continued
33 employment of any person as a full-time law enforcement officer
by a municipality or county, that person shall successfully
35 complete, within the first 6 months of his employment, a basic
training course at the Maine Criminal Justice Academy. The board
37 of trustees, under extenuating and emergency circumstances in
individual cases, may extend that period for not more than 90
39 days. In addition, the board of trustees may waive in individual
cases such basic training requirement when the facts indicate
41 that an equivalent course has been successfully completed. This
section shall not apply to any person employed as a full-time
43 local law enforcement officer in a municipality on September 23,
1971, or in a county on July 1, 1972.

45 As a condition to employment of any person as a full-time
47 corrections officer, as defined in subsection 2, paragraph C, by
a municipality, county or the State, the person shall complete an
49 entry level training course as approved by the Maine Criminal
Justice Academy.

51

1 As a condition to the continued employment of any person as a
2 full-time corrections officer, as defined in subsection 2,
3 paragraph C, by a municipality or county or by the State, the
4 person shall successfully complete, within the first 6 months of
5 his employment as a corrections officer, a basic training course
6 of not less than 80 hours as approved by the Maine Criminal
7 Justice Academy. The board of trustees, under extenuating and
8 emergency circumstances in individual cases, may extend the
9 period allowed for training for not more than 90 days. In
10 addition, the board of trustees may, in individual cases, waive
11 basic training requirements when the facts indicate that an
12 equivalent course has been successfully completed in another
13 state or federal jurisdiction within the last 2 years. This
14 paragraph shall apply to any person employed as a full-time
15 corrections officer as of the effective date of this paragraph,
16 except that full-time corrections officers shall be exempt from
17 the 12-months' requirement but shall successfully complete the
18 basic training on or before January 1, 1980. Administrators of
19 facilities where there are corrections officers who are not
20 full-time, as defined in subsection 2, paragraph C, are
21 encouraged to develop an orientation program for those persons.

22 **Sec. 16. 30-A MRSA §121, sub-§1**, as enacted by PL 1987, c.
23 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6;
24 and c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended
25 to read:

26
27 **1. Buildings.** ~~The county commissioners, in the county seat~~
28 ~~of their county, may provide a jail and shall keep it in proper~~
29 ~~repair.~~ The county commissioners, in the county seat of their
30 county, shall provide and keep in repair:

31
32 A. Courthouses pursuant to Title 4, section 115, with a
33 suitable room in each for the county law library;

34
35 B. Fireproof buildings of brick or stone, with separate
36 fireproof rooms and suitable alcoves, cases or boxes for
37 each office, for the safekeeping of records and papers
38 belonging to the offices of:

- 39
40 (1) The register of deeds;
- 41
42 (2) The register of probate;
- 43
44 (3) The register of insolvency; and
- 45
46 (4) The clerk of courts; and

47
48 C. Any other necessary buildings.

49
50 **Sec. 17. 30-A MRSA §353**, as enacted by PL 1987, c. 737, Pt.
51 A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6; and c. 9,

1 §2; and c. 104, Pt. A, §8 and Pt. C, §§8 and 10, is further
amended to read:

3
5 **§353. Officer not to act as attorney or draw papers; employee
of jailer not to act as judge or attorney**

7 No officer may appear before any court as attorney or
8 adviser of any party in an action or draw any writ, complaint,
9 declaration, citation, process or plea for any other person; all
10 such acts are void. ~~No person employed by the keeper of a jail
11 in any capacity may exercise any power or duty of a magistrate or
12 act as attorney for any person confined in the jail; all such
13 acts are void.~~

15 **Sec. 18. 30-A MRSA §373, sub-§1, ¶¶B and C**, as enacted by PL
16 1987, c. 737, Pt. A, §2 and Pt. C, §106; and as amended by PL
17 1989, c. 6; and c. 9, §2; and c. 104, Pt. C, §§8 and 10, are
repealed.

19 **Sec. 19. 30-A MRSA §373, sub-§2**, as enacted by PL 1987, c.
20 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6;
21 and c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended
22 to read:

25 **2. Expenses allowed.** The county commissioners shall allow
26 and pay from the county treasuries all actual and necessary
27 expenses for travel and hotel bills within their respective
28 counties and necessary incidental expenses as are just and
29 proper, incurred in the performance of the sheriffs' public
30 duties, ~~including all necessary expense for aid in keeping the
31 jails.~~

33 **Sec. 20. 30-A MRSA §424**, as enacted by PL 1987, c. 737, Pt.
34 A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6; and c. 9,
35 §2; and c. 104, Pt. C, §§8 and 10, is repealed.

37 **Sec. 21. 30-A MRSA §451, sub-§§4 and 8**, as enacted by PL 1987,
38 c. 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c.
39 6; and c. 9, §2; and c. 104, Pt. C, §§8 and 10, are repealed.

41 **Sec. 22. 30-A MRSA §454**, as enacted by PL 1987, c. 737, Pt.
42 A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6; and c. 9,
43 §2; and c. 104, Pt. C, §§8 and 10, is repealed.

45 **Sec. 23. 30-A MRSA §701, sub-§2**, as enacted by PL 1987, c.
46 737, Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6;
47 and c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended
to read:

49 **2. Preparation of estimates.** In order to assess a county
50 tax, the county commissioners, prior to November 7th in each

1 year, shall prepare estimates of the sums necessary to pay the
2 expenses which have accrued or may probably accrue for the coming
3 year, including the building and repairing of jails, courthouses
4 and appurtenances, with the debts owed by their counties.

5 The estimates must be drawn so as to authorize the appropriations
6 to be made to each department or agency of the county government
7 for the year. The estimates must provide specific amounts for
8 personal services, contractual services, commodities, debt
9 service and capital expenditures.

11 **Sec. 24. 30-A MRSA c. 13**, as as enacted by PL 1987, c. 737,
12 Pt. A, §2 and Pt. C, §106; and as amended by PL 1989, c. 6; and
13 c. 9, §2; and c. 104, Pt. C, §§8 and 10; and c. 146, is repealed.

15 **Sec. 25. 34-A MRSA §1001, sub-§1, ¶¶C and D**, as enacted by PL
16 1983, c. 459, §6, are amended to read:

- 17 C. The Director of the Charleston Correctional Facility; and
- 18
- 19 D. The Superintendent of the Maine Youth Center;
- 20

21 **Sec. 26. 34-A MRSA §1001, sub-§1, ¶¶E and F** are enacted to read:

- 22 E. Director of the Downeast Correctional Facility; and
- 23
- 24 F. The jail administrators of the several regional,
- 25 district or county jails.
- 26

27 **Sec. 27. 34-A MRSA §1001, sub-§6**, as enacted by PL 1983, c.
28 459, §6, is amended to read:

29 6. Correctional facility. "Correctional facility" means
30 the Maine State Prison, Maine Correctional Center, Charleston
31 Correctional Facility, Downeast Correctional Facility, Maine
32 Youth Center or any other entity which falls under the
33 jurisdiction of the department, but does not include a county
34 jail, or a county or municipal holding facility or short-term
35 detention area.

36 **Sec. 28. 34-A MRSA §1001, sub-§§8-A and 10-A** are enacted to
37 read:

38 8-A. Detainee. "Detainee" means a person being held
39 pursuant to an arrest or a court order other than a judgment and
40 commitment order.

41 10-A. Jail. "Jail" means a facility used for the detention
42 of detainees and prisoners serving sentences of 12 months or
43 less. A jail may be a county, regional or district jail.

51

1 **Sec. 29. 34-A MRSA §1001, sub-§14**, as enacted by PL 1983, c.
2 459, §6, is amended to read:

3
4 **14. Prisoner.** "Prisoner" means an adult person committed to
5 any correctional facility, ~~county~~ jail, holding facility or
6 short-term detention area, except the Maine Youth Center.

7
8 **Sec. 30. 34-A MRSA §1201**, as enacted by PL 1983, c. 459, §6,
9 is amended to read:

11 **§1201. Legislative intent**

13 Recognizing the need to firmly control all of the state's
14 State's correctional facilities, and jails; provide for the
15 safety of guards and, committed offenders, and detainees;
16 undertake appropriate programming for the classification,
17 education, rehabilitation and maintenance of committed offenders;
18 and assure an effective system for the supervision of parolees
19 and probationers, it is the intent of the Legislature to create a
20 Department of Corrections to improve the administration of
21 correctional facilities, jails, programs and services for
22 committed offenders and detainees.

23
24 **Sec. 31. 34-A MRSA §1202, first ¶**, as enacted by PL 1983, c.
25 459, §6, is amended to read:

27 There is established a Department of Corrections to be
28 responsible for the direction and general administrative
29 supervision, guidance and planning of adult and juvenile
30 correctional facilities, jails and programs within the State.

31
32 **Sec. 32. 34-A MRSA §1203, sub-§1**, as amended by PL 1987, c.
33 744, §10, is further amended to read:

35 **1. Establishment.** The Office of Advocacy is established
36 within the department to investigate the claims and grievances of
37 committed offenders, informally adjusted juveniles, detainees and
38 contract clients, to investigate, in conjunction with the
39 Department of Human Services, as appropriate, allegations of
40 adult and child abuse or neglect in correctional facilities and
41 to advocate for compliance by the department, any correctional
42 facility, jail or any contract agency with all laws,
43 administrative rules and institutional and other policies
44 relating to the rights and dignity of committed offenders,
45 informally adjusted juveniles, detainees and contract clients.

47 **Sec. 33. 34-A MRSA §1203, sub-§3, ¶¶A to C**, as enacted by PL
48 1983, c. 459, §6, are amended to read:

49
50 A. Receive or refer complaints made by committed offenders,
51 informally adjusted juveniles, detainees and contract
52 clients;

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B. Intercede on behalf of these persons with officials of the department, any correctional facility, jail or any contract agency or assist these persons in the initiation of grievance proceedings established by the commissioner under section 1402, subsection 5;

C. As an information source regarding the rights of these persons, keep informed about all laws, administrative rules and standards, institutional and other policies relating to the rights and dignity of these persons and about relevant legal decisions and other developments related to the field of corrections, both in this State and in other parts of the country; and

Sec. 34. 34-A MRSA §1203, sub-§4, ¶B, as enacted by PL 1983, c. 459, §6, is amended to read:

B. Have access, limited only by the law, to the files, records and personnel of the department, any correctional facility, jail or any contract agency.

Sec. 35. 34-A MRSA §1203, sub-§5, ¶A, as enacted by PL 1983, c. 459, §6, is amended to read:

A. Any request by a committed offender, detainee, informally adjusted juvenile or contract client for action by the office and all written records or accounts related to the request shall be confidential as to the identity of the requesting person.

Sec. 36. 34-A MRSA §1205, sub-§3, ¶B, as enacted by PL 1983, c. 459, §6, is amended to read:

B. No funds appropriated or received under this section may be used for the construction of new facilities or jails or for the reconstruction, renovation or expansion of any existing facilities or jails, except that the funds may be used for minor renovations necessary to meet state or local licensing requirements or standards.

Sec. 37. 34-A MRSA §1205, sub-§3, ¶C, as enacted by PL 1987, c. 445, §1, is repealed.

Sec. 38. 34-A MRSA §1208, first ¶, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

The commissioner shall establish standards, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for county and municipal jails, holding facilities and short-term detention areas, ~~referred to in this section as county and municipal detention facilities~~, as follows and shall enforce them.

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Sec. 39. 34-A MRSA §1208, sub-§2, ¶¶B and D, as enacted by PL 1983, c. 581, §§10 and 59, are amended to read:

B. The commissioner shall conduct ~~no fewer than 3~~ at least 1 additional ~~inspections~~ inspection of each county and municipal detention facility during the period between each comprehensive inspection, in order to determine continued compliance with standards.

D. The commissioner shall prepare a written report of each inspection and shall send a copy of the report to appropriate county or municipal officials within ~~15~~ 30 days after the inspection.

- (1) The report shall summarize inspection findings.
- (2) The report shall list the standards with which the facility does not comply and set forth the reasons for noncompliance.

Sec. 40. 34-A MRSA §1208, sub-§6, ¶B, as enacted by PL 1983, c. 581, §§10 and 59, is amended to read:

B. The terms of members of this committee shall be ~~one-year~~ 3 years.

Sec. 41. 34-A MRSA §1210, as amended by PL 1989, c. 127, §§1 and 2, is repealed.

Sec. 42. 34-A MRSA §1402, sub-§§1, 2, 3 and 5, as enacted by PL 1983, c. 459, §6, are amended to read:

1. **General.** The commissioner shall have general supervision, management and control of the research and planning, grounds, buildings, property, officers, employees and 1 committed offenders and detainees of any correctional facility ~~or 1~~ correctional program or jail.

2. **Enforcement of laws.** The commissioner shall enforce all laws concerning correctional facilities and jails, unless specific law enforcement duties are given by law to other persons.

3. **Rules.** Rules shall be established as follows.

A. The commissioner shall establish, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, such rules as ~~he~~ the commissioner determines appropriate or necessary for the care and management of the property of all correctional facilities and jails, for the production and distribution of industrial products of ~~the~~ correctional facilities or jails and for the execution of the statutory

1 purposes and functions of correctional facilities, jails or
2 correctional programs.

3
4 B. The central principle underlying all rules, regulations,
5 standards, procedures and practices relating to committed
6 offenders and detainees is that the committed offenders and
7 detainees shall retain all rights of an ordinary citizen,
8 except those expressly or by necessary implication taken
9 from them by law.

11 5. **Grievance procedures.** The commissioner shall establish
12 procedures for hearing grievances of committed offenders,
13 informally adjusted juveniles, detainees and contract clients as
14 described in section 1203.

15 **Sec. 43. 34-A MRSA §1402, sub-§7,** as enacted by PL 1987, c.
16 744, §11, is amended to read:

17
18 7. **Abuse allegations in correctional facilities and jails.**
19 The commissioner shall be responsible for ensuring appropriate
20 intervention and remediation in cases of substantiated abuse and
21 neglect in correctional facilities and jails. The commissioner
22 shall ensure, through inspection at least every 2 years, that all
23 correctional facilities and jails meet applicable federal and
24 established state standards for correctional facilities and jails
25 relating to the administration, operation, buildings, health and
26 safety of clients of these facilities.

27
28 **Sec. 44. 34-A MRSA §1403, sub-§1,** as enacted by PL 1983, c.
29 459, §6, is amended to read:

30
31 1. **General powers.** The commissioner may perform any legal
32 act relating to the care, custody, treatment, relief and
33 improvement of committed offenders and detainees or may purchase
34 residential services when the department's correctional
35 facilities or jails do not provide the appropriate services for
36 the committed offender or detainee.

37
38 **Sec. 45. 34-A MRSA §1403, sub-§2, ¶C,** as amended by PL 1985,
39 c. 821, §19, is further amended to read:

40
41 C. The commissioner shall appoint the following officials
42 to serve at his the commissioner's pleasure:

43
44 (1) Associate Commissioner;

45
46 (1-A) Associate Commissioner of Community Corrections;

47
48 (1-B) Associate Commissioner of Jail Services;

49
50 (2) Assistant to the Commissioner; and

1 (3) Director, Correctional Program.

3 **Sec. 46. 34-A MRSA §1403, sub-§3**, as amended by PL 1985, c.
5 821, §20, is further amended to read:

7 3. **Delegation.** The commissioner's delegation powers are as follows.

9 A. Unless a specific statute otherwise directs, the
11 commissioner may delegate powers and duties given under this
13 Title to the associate commissioner and to chief
administrative officers of correctional facilities and jails.

15 B. The commissioner may empower the associate commissioner
17 and chief administrative officers of correctional facilities
and jails to further delegate powers and duties delegated to
them by the commissioner.

19 C. The Associate Commissioner of Community Corrections may
21 be designated to assist in the development of community
correctional programs ~~at the county level~~ for jails and to
23 coordinate activities of the department with each county
jail and any county jail correctional advisory groups. The
25 Associate Commissioner may appoint staff to assist in
carrying out this paragraph.

27 **Sec. 47. 34-A MRSA §1403, sub-§5**, as enacted by PL 1983, c.
29 459, §6, is amended to read:

31 5. **Lease of unused buildings.** The commissioner may, with
the approval of the Director of Public Improvements, lease unused
33 buildings at the correctional facilities or jails for the
purposes of providing services to committed offenders and
35 detainees.

37 A. The leases shall be for a period not to exceed one year.

39 B. The commissioner shall submit a plan of the proposed
leases and their impact on the correctional facilities,
41 jails, detainees and committed offenders to the joint
standing committee of the Legislature having jurisdiction
43 over health and institutional services no later than January
31st of each year.

45 **Sec. 48. 34-A MRSA §1403, sub-§6**, as enacted by PL 1983, c.
47 581, §§12 and 59, is amended to read:

49 6. **Acceptance or conveyance of donated personal property.**
The commissioner may accept donations of personal property to be
used at a correctional facility or jail. If, at a later date,
51 the donated property ceases to be useful to the correctional
facility or jail, the commissioner may sell the property and use

1 the proceeds for the benefit of the correctional facility or jail
2 to which the property was originally donated.

3

4 **Sec. 49. 34-A MRSA §1403, sub-§7**, as enacted by PL 1983, c.
5 724, is amended to read:

6
7 **7. Establishment of farm programs at correctional**
8 **facilities or jails.** The commissioner may establish a farm
9 program at each correctional facility or jail for the purposes of
10 producing agricultural and farm products and teaching prisoners
11 and juvenile clients cultivation and gardening techniques.

12 **A.** Products from those farm programs shall be used by
13 correctional facilities or jails. If a surplus exists, it
14 may be:

15
16 (1) Sold or distributed to other state, county or
17 local governmental entities;

18

19 (2) Exchanged with other state, county or local
20 governmental entities for services or other goods; or

21

22 (3) Sold to or exchanged with private Maine businesses.

23

24 **B.** The revenue generated by the sale of those farm products
25 shall be deposited in a special account. This account shall
26 not lapse at the end of a fiscal year but may be carried
27 forward from year to year. If the amount in the fund exceeds
28 \$100,000, the excess in the account shall be transferred to
29 the General Fund.

30

31 **C.** These funds in this special account may be expended to
32 implement farm programs in correctional facilities or jails.
33 These expenditures include, but are not limited to, the
34 purchase of necessary materials and equipment, construction,
35 administrative costs and employee salaries.

36

37 **Sec. 50. 34-A MRSA §1403, sub-§8, ¶A**, as repealed and replaced
38 by PL 1989, c. 127, §3, is amended to read:

39
40 **A.** The commissioner may receive in any correctional
41 facility or jail prisoners detained by the United States or
42 convicted of an offense against the United States and
43 committed for a term of imprisonment to the custody of the
44 Attorney General of the United States if:

45
46 (1) The Attorney General of the United States
47 designates a Maine correctional facility or jail as the
48 place of confinement for the prisoner; and

49

1 (2) The commissioner approves and agrees to accept and
3 keep the prisoner or detainee in a Maine correctional
facility or jail; and

5 (3) Except for pretrial detention, convicted offenders
7 may not be placed in jails under this subsection if
9 they have more than 9 months remaining to be served on
any sentence.

11 **Sec. 51. 34-A MRSA §1403, sub-§9, ¶¶B to D,** as amended by PL
1989, c. 127, §4, are further amended to read:

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

19 C. All goods manufactured at a correctional facility or
21 jail for sale shall be distinctly labeled or branded with
the words "Manufactured at a Maine State Correctional
23 Facility or Jail", except those goods produced under a
program certified by the United States Department of Justice
under the United States Code, Title 18, Section 1761.

25 D. All revenues from direct sales of goods and services
27 produced by prisoners or detainees at correctional
facilities or jails and all amounts received from a private
29 sector industry participating with the ~~Department--of-~~
~~Corrections~~ department in an industries program certified by
31 the United States Department of Justice under the United
States Code, Title 18, Section 1761, in consideration of
33 lease of industry space, provision of utilities, trash
removal and other services provided to the private industry
35 which are related to the use of industry space at
correctional facilities or jails shall be deposited into the
37 department Industries Accounts, which shall not lapse.

39 **Sec. 52. 34-A MRSA §1403, sub-§10** is enacted to read:

41 10. Use of existing program space in a jail. The
43 commissioner shall not convert jail space designed solely as work
or classroom space for the housing of prisoners or detainees
45 other than on a short-term emergency basis.

47 **Sec. 53. 34-A MRSA c. 3, first 2 lines,** are repealed and the
following enacted in their place:

49 CHAPTER 3

51 CORRECTIONAL FACILITIES AND JAILS

1
2 **Sec. 54. 34-A MRSA §3001, sub-§§1 and 2**, as enacted by PL 1983,
3 c. 459, §6, are amended to read:

4 **1. Appointment.** The commissioner may appoint chief
5 administrative officers of correctional facilities and jails as
6 necessary for the proper performance of the functions of the
7 department.

8
9 A. To be eligible for appointment as a chief administrative
10 officer of a correctional facility or jail, a person must be
11 experienced in the management of the particular type of
12 correctional facility or jail to which he that person is
13 assigned.

14 B. Chief administrative officers of correctional facilities
15 or jails shall report directly to the commissioner.

16
17 **2. Acting chief administrative officer.** Notwithstanding
18 any other provision of law, the commissioner may delegate any
19 employee of the department to serve as the acting chief
20 administrative officer of any correctional facility or jail, if
21 the office of the chief administrative officer of the facility or
22 jail is vacant.

23 A. The acting chief administrative officer shall serve for
24 a period not to exceed 180 days.

25 B. Service as the acting chief administrative officer of a
26 correctional facility or jail is considered a temporary
27 additional duty for the person so delegated.

28
29 **Sec. 55. 34-A MRSA §3003, sub-§1**, as amended by PL 1987, c.
30 633, §§2 and 3, is further amended to read:

31
32 **1. Limited disclosure.** All orders of commitment, medical
33 and administrative records, applications and reports, and facts
34 contained in them, pertaining to any person receiving services
35 from the department, shall be kept confidential and may not be
36 disclosed by any person, except that criminal history record
37 information may be disseminated in accordance with Title 16,
38 chapter 3, subchapter VIII, and documents, other than those
39 documents pertaining to information obtained by the department
40 for the purpose of evaluating a committed offender's or
41 detainee's ability to participate in a community-based program or
42 from informants in a correctional facility or jail for the
43 purpose of determining whether prison or jail rules have been
44 violated, or a victim's request for notice of release, may be
45 disclosed:

46
47 A. To any person, if the person receiving services, his a
48 legal guardian, if any, or, if he-is a minor, his a parent

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1 or legal guardian, gives his informed written consent to the
2 disclosure of the documents referred to in this subsection
3 after being given the opportunity to review the documents
4 sought to be disclosed;

5
6 B. To any state agency if necessary to carry out the
7 statutory functions of that agency;

8 C. If ordered by a court of record, subject to any
9 limitation in the Maine Rules of Evidence, Rule 503; and

10
11 D. To any criminal justice agency if necessary to carry out
12 the administration of criminal justice, the administration
13 of juvenile criminal justice or for criminal justice agency
14 employment.

15
16 **Sec. 56. 34-A MRSA §3004, sub-§§1 and 2**, as enacted by PL 1983,
17 c. 459, §6, are amended to read:

18
19 1. **Contract actions.** Actions founded on any contract made
20 with the State Purchasing Agent, or with any official of the
21 department under the authority granted by the State Purchasing
22 Agent, on behalf of a correctional facility or jail may be
23 brought by the official making the contract or his the official's
24 successor in office.

25
26 2. **Actions for injuries to property.** Actions for injuries
27 to the real or personal property of the State, used by any
28 correctional facility or jail and under the management of an
29 officer of the facility or jail, may be prosecuted in the name of
30 the officer or his the officer's successor in office.

31
32 **Sec. 57. 34-A MRSA §3005, first ¶**, as enacted by PL 1983, c.
33 459, §6, is amended to read:

34
35 When emergency situations are certified by the chief
36 administrative officer to exist at a correctional facility or
37 jail, the commissioner may, with the approval of the Governor,
38 assign personnel as may be necessary from another facility, jail
39 or division of the department to assist in controlling the
40 emergency situation.

41
42 **Sec. 58. 34-A MRSA §3007, first ¶**, as enacted by PL 1983, c.
43 459, §6, is amended to read:

44
45 The chief administrative officer of each correctional
46 facility or jail shall provide in at least one accessible area in
47 each facility or jail an appropriate space for the posting of
48 written political material sent for that purpose to the chief
49 administrative officer by candidates for state office or federal
50 office in this State.

1 **Sec. 59. 34-A MRSA §3008**, as enacted by PL 1983, c. 459, §6,
is amended to read:

3
5 **§3008. Reallocation of correctional facility and jail
appropriations**

7 In administering the policy and purposes of this Title, the
commissioner may expend correctional facility or jail
9 appropriations on committed offenders or detainees participating
in halfway house, prerelease, vocational training, educational,
11 drug treatment or other correctional programs being administered
physically apart from the facilities or jails to which the
13 persons were originally sentenced ~~or~~ committed or detained to
defray the costs of the persons' participation in the programs.

15 **Sec. 60. 34-A MRSA §3009, sub-§2**, as amended by PL 1985, c.
17 785, Pt. B, §153, is further amended to read:

19 **2. Special police officers.** The chief administrative
officers of correctional facilities or jails may appoint and
21 employ, subject to the Civil Service Law, special police officers
for the purpose of enforcing rules promulgated under subsection
23 1.

25 A. The special police officers shall:

27 (1) Patrol all the public ways and parking areas
subject to this section;

29 (2) Enforce rules promulgated under this section; and

31 (3) Arrest and prosecute violators of the rules.

33 B. The State Police, sheriffs, deputy sheriffs, police
35 officers and constables who have jurisdiction over the areas
in which the correctional facilities or jails are located
37 shall, insofar as possible, cooperate with the special
police officers in the enforcement of the rules promulgated
39 under subsection 1.

41 **Sec. 61. 34-A MRSA c. 3, sub-c. I, art. II, first 2 lines**, are repealed
and the following enacted in their place:

43 ARTICLE II

45 COMMITTED OFFENDERS AND DETAINEES GENERALLY

47 **Sec. 62. 34-A MRSA §3031, first ¶**, as enacted by PL 1983, c.
49 459, §6, is amended to read:

51 Any person residing in a correctional facility or jail has a
right to:

1
3 **Sec. 63. 34-A MRSA §3031, sub-§2**, as amended by PL 1987, c.
276, is further amended to read:

5 **2. Medical care.** Adequate professional medical care, not
6 including medical treatment requested by the committed offender
7 or detainee which the correctional facility's or jail's treating
8 physician deems unnecessary. The State may bring a civil action
9 in any court of competent jurisdiction to recover the cost of
10 any medical, dental, psychiatric or psychological expenses
11 incurred by the State on behalf of any committed offender or
12 detainee incarcerated in a correctional facility or jail. The
13 following assets are not subject to judgment under this
14 subsection:

15 A. Joint ownership, if any, that the offender or detainee
16 may have in real property;

17 B. Joint ownership, if any, that the offender or detainee
18 may have in any assets, earnings or other sources of income;
19 and
20

21 C. The income, assets, earnings or other property, both
22 real and personal, owned by the offender's or detainee's
23 spouse or family.
24

25
26 **Sec. 64. 34-A MRSA §3031, sub-§8**, as enacted by PL 1983, c.
27 459, §6, is amended to read:

28 **8. Visitation.** A reasonable opportunity to visit with
29 relatives and friends, in accordance with departmental policies
30 and institutional procedures, provided that the department may
31 restrict or prohibit visits when the restriction or prohibition
32 is necessary for the security of the institution or jail.
33

34 **Sec. 65. 34-A MRSA §3032, first ¶**, as enacted by PL 1983, c.
35 459, §6, is amended to read:

36 The commissioner shall promulgate rules describing
37 disciplinary offenses and punishments in correctional facilities
38 and jails under the general administrative supervision of the
39 department and establishing a fair and orderly procedure for
40 processing disciplinary complaints. The rules shall conform to
41 the following requirements.
42

43 **Sec. 66. 34-A MRSA §3032, sub-§3**, as amended by PL 1989, c.
44 127, §6, is further amended to read:

45 **3. Segregation.** The imposition of segregation at all
46 correctional facilities or jails, except the Maine Youth Center,
47 shall be subject to the following conditions.
48
49
50
51

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1 A. All punishments involving segregation shall be first
2 approved by the chief administrative officer of the
3 correctional facility or jail.

4 B. The prisoner or detainee shall be provided with a
5 sufficient quantity of wholesome and nutritious food.
6

7 C. Adequate sanitary and other conditions required for the
8 health of the prisoner or detainee shall be maintained.
9

10 D. When segregation exceeds 24 hours, the chief
11 administrative officer of the correctional facility or jail
12 shall cause the facility's or jail's physician or a member
13 of the facility's or jail's medical staff to visit the
14 person immediately and, at least once in each succeeding
15 24-hour period of confinement, to examine the person's state
16 of health. When no physician or medical staff member is
17 available within the facility or jail to visit as required
18 by this paragraph, a staff person who has received
19 in-service training appropriate for the duties required by
20 this section from a licensed health professional shall visit
21 in lieu of the visit by the physician or medical staff
22 member the person in confinement. The staff person making
23 the visit shall immediately contact the physician or medical
24 staff member on call if there is reasonable cause to believe
25 the action is necessary.
26

27 (1) The chief administrative officer shall give full
28 consideration to recommendations of the physician or
29 medical staff member as to the person's dietary needs
30 and the conditions of the person's confinement required
31 to maintain that person's health.
32

33 (2) If the recommendations of the physician or medical
34 staff member regarding a person's dietary or other
35 health needs while in segregation are not carried out,
36 the chief administrative officer shall immediately
37 convey the reasons and circumstances for this decision
38 to the commissioner for review and final disposition.
39

40 E. If a person is held in segregation or solitary
41 confinement for more than 5 days, the chief administrative
42 officer shall send a report of the confinement to the
43 commissioner, giving the reasons for the confinement.
44

45 **Sec. 67. 34-A MRSA §3032, sub-§5**, as amended by PL 1985, c.
46 352, §3, is further amended to read:

47 5. **Specific facilities or jails.** Punishment at specific
48 correctional facilities or jails is governed as follows.
49

50

1 A. Punishment at all correctional facilities or jails,
3 except the Maine Youth Center, may consist of warnings, loss
of privileges, restitution, labor at any lawful work,
5 confinement to a cell, segregation or a combination of these.

7 B. Punishment at the Maine Youth Center may consist of
seclusion, in accordance with section 3809, warnings,
9 restitution, labor at any lawful work and loss of privileges.

11 **Sec. 68. 34-A MRSA §3032, sub-§5-A**, as enacted by PL 1985, c.
352, §4, is amended to read:

13 5-A. **Restitution.** The imposition of restitution at all
15 correctional facilities or jails shall be subject to the
following conditions.

17 A. Restitution may be imposed for the purpose of replacing
or repairing property destroyed or damaged by the inmate
19 committed offender, detainee or juvenile while he-is at the
institution or jail. When restitution is imposed as a
21 punishment at a correctional facility or jail, any prisoner,
any detainee, or any juvenile committed to the Maine Youth
23 Center or who is committed to the custody of the Department
~~of--Corrections~~ department and placed at the Maine Youth
25 Center, who is subject to that punishment and who is able to
generate income from whatever source, shall pay 25% of that
27 income to the facility or jail where the damage occurred.
The facility or jail shall collect that income and apply it
29 to defray the cost of replacement or repair of the items
destroyed or damaged. Restitution shall not be authorized
31 if the imposition of that punishment would create an
excessive financial hardship, as determined by the
33 department, on the dependents of the offender or detainee.
Any payments made for the support of the dependents which is
35 required by the Department of Human Services shall not be
available for restitution payments.

37 B. ~~An-inmate~~ A committed offender, detainee or juvenile who
39 is transferred to another facility or jail remains liable
for any restitution authorized under this chapter. The
41 facility or jail receiving the inmate committed offender,
detainee or juvenile shall collect the restitution and
43 transfer it to the facility or jail where the damage
occurred.

45 **Sec. 69. 34-A MRSA §3032, sub-§6**, as amended by PL 1987, c.
47 299, is further amended to read:

49 6. **Impartial hearing.** If the punishment may affect the term
of commitment, sentence or parole eligibility or may involve
51 restitution, labor at any lawful work or segregation, the chief
administrative officer of the facility or jail shall, before

1 imposing punishment, provide an impartial hearing at which the
committed offender or detainee has the following rights.

3
A. He The committed offender or detainee is entitled to be
5 informed in writing of the specific nature of his the
alleged misconduct.

7
B. He The committed offender or detainee is entitled to the
9 right to be present at the hearing, except that he the
committed offender or detainee may be prevented from
11 attending or be removed if his the committed offender's or
detainee's behavior indicates that he the committed offender
13 or detainee is in danger of self-injury or a danger to
himself, other persons or property.

15
C. He The committed offender or detainee is entitled to
17 present evidence on his the committed offender's or
detainee's own behalf.

19
D. He The committed offender or detainee is entitled to
21 call one or more witnesses, which right may not be
unreasonably withheld or restricted.

23
E. He The committed offender or detainee is entitled to
25 question any witness who testifies at the hearing, which
right may not be unreasonably withheld or restricted.

27
F. He The committed offender or detainee is entitled to be
29 represented by counsel substitute as prescribed in the rules.

31
G. A record shall be maintained of all disciplinary
complaints, hearings, proceedings and dispositions.

33
H. He The committed offender or detainee is entitled to
35 appeal the final disposition, before imposition of
punishment, to the chief administrative officer of the
37 correctional facility or jail.

39
I. If, at any stage of the proceedings, he the committed
41 offender or detainee is cleared of the charges in a
complaint, or the complaint is withdrawn, all documentation
relating to the complaint shall be expunged.

43
45 **Sec. 70. 34-A MRSA §3033, sub-§1**, as amended by PL 1989, c.
127, §7, is further amended to read:

47
49 1. **Public works.** The commissioner may authorize the
employment of able-bodied prisoners in correctional facilities or
jails in the construction and improvement of highways or other
public works within the State under such arrangements as may be
51 made with the Department of Transportation or with another
department or commission of the State, county or municipality in
53 charge of these public works, and the commissioner may prescribe

1 whatever rules and conditions the commissioner considers
2 expedient to ensure the proper care and treatment of the
3 prisoners while so employed and to ensure their safekeeping and
4 return.

5
6 **Sec. 71. 34-A MRSA §3033, sub-§2**, as amended by PL 1989, c.
7 127, §8, is further amended to read:

8
9 2. **Fire or disaster.** The commissioner may authorize the
10 training and use of able-bodied prisoners in correctional
11 facilities or jails by the Bureau of Forestry or the Maine
12 Emergency Management Agency, to fight fires or provide assistance
13 during or after a civil disaster.

14 **Sec. 72. 34-A MRSA §3033, sub-§3**, as repealed and replaced by
15 PL 1983, c. 581, §§18 and 59, is amended to read:

16
17 3. **Charitable property improvement.** The commissioner may
18 authorize the use of able-bodied prisoners to provide assistance
19 in the improvement of property owned by charitable, nonprofit
20 organizations.

21
22 A. The commissioner shall promulgate such rules as he deems
23 the commissioner considers proper to ensure the care and
24 treatment of the prisoners and the safe working conditions
25 of prisoners and departmental employees.

26
27 B. The commissioner may request that charitable, nonprofit
28 organizations pay for the transportation of the prisoners
29 and pay the per diem compensation of guards, correctional
30 officers or instructors who must accompany the prisoners or
31 oversee the work to be performed.

32
33 **Sec. 73. 34-A MRSA §3033, sub-§4**, as amended by PL 1989, c.
34 127, §9, is further amended to read:

35
36 4. **Prohibited act.** A person is guilty of escape under Title
37 17-A, section 755, if that person is a prisoner and escapes from
38 any assignments described in this section or from any other
39 assignment beyond the walls or other security restraints
40 surrounding a correctional facility or jail or otherwise off the
41 grounds of an assigned location.

42
43 **Sec. 74. 34-A MRSA §3035**, as amended by PL 1987, c. 729, §§1
44 and 2, is further amended to read:

45
46 **§3035. Rehabilitative programs**

47
48 The commissioner may adopt, implement and establish rules
49 for rehabilitative programs, including work release, restitution
50 and furlough, as authorized by Title 17-A, chapter 54, within the
51

1 correctional facilities or jails under his the commissioner's
2 control.

3
4 1. Work release and restitution. The chief administrative
5 officer of a correctional facility or jail may permit any
6 committed offender considered to be worthy of trust to
7 participate in activities outside the facility or jail under the
8 following conditions.

9 A. Activities may include training and employment.

11 B. Activities are subject to rules promulgated by the
12 commissioner.

15 C. Activities shall, in the judgment of the chief
16 administrative officer, contribute to the reformation of the
17 committed offender and assist in preparing ~~him~~ the committed
18 offender for eventual release.

19 D. Transportation to work release job sites shall be
20 arranged by the commissioner.

23 (1) Prisoners participating in the work release
24 program shall be assessed an equitable share of the
25 cost of the transportation.

27 (2) Funds received from prisoners for work release
28 transportation shall be placed in the General Fund.

29 E. Every prisoner participating in the work release program
30 shall be liable for the cost of his board in the
31 correctional facility or jail.

33 (1) The reasonable cost of board for a prisoner in a
34 correctional facility or jail shall be fixed by the
35 commissioner. In fixing the reasonable cost of the
36 board to be paid, the commissioner shall take into
37 consideration other state laws or judicial
38 determinations which affect the prisoner's income.

41 (2) Funds received from prisoners for the board shall
42 be placed in the General Fund.

43
44 2. Furlough. Subject to subsection 5, the commissioner may
45 grant to a committed offender furlough from the facility or jail
46 in which he the committed offender is confined under the
47 following conditions.

49 A. Furlough may only be granted subject to rules adopted by
50 the commissioner.

51 B. Furlough may be granted for not more than 10 days at one
52 time for a visit to a dying relative, for attendance at the

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1 funeral of a relative, for the contacting of prospective
2 employers or for any other reason consistent with the
3 rehabilitation of a committed offender.

5 C. Furlough may be granted for the obtaining of medical
6 services for a period longer than 10 days if medically
7 required.

9 3. Copy of rules. Copies of rules shall be provided to
10 committed offenders as follows.

11 A. The chief administrative office of a facility or jail
12 adopting a rehabilitative program under this section shall
13 provide, to any committed offender permitted outside a
14 facility or jail under this section, a copy of the rules of
15 the commissioner applicable to the program in which he the
16 committed offender is permitted to participate, or to his
17 the committed offender's furlough.

19 B. The committed offender shall attest to the receipt of
20 the copy of the rules.

23 4. Prohibited acts. Prohibited acts under this section are
24 governed as follows.

25 A. A person who has ~~passed his 17th birthday~~ attained the
26 age of 17 years is guilty of interference with a
27 rehabilitative program or furlough if he that person
28 willfully obstructs, intimidates or otherwise abets any
29 committed offender participating in a program, or on
30 furlough, under this section, and thereby contributes or
31 causes the committed offender to violate the terms of his
32 that committed offender's program participation or furlough,
33 after having been warned by the chief administrative officer
34 of the facility or jail to end the relationship or
35 association with the committed offender.

37 B. Interference with a rehabilitative program or furlough
38 is a Class E crime, except that, notwithstanding Title
39 17-A, the court may sentence a person to imprisonment for
40 not more than 11 months.

43 5. Time served before furlough. No furlough may be granted
44 until the offender has served 50% of the original sentence
45 imposed, after consideration of any good time that the offender
46 has received and retained under Title 17-A, section 1253. This
47 section does not apply to furloughs granted under subsection 2,
48 paragraph B or C.

49 **Sec. 75. 34-A MRSA §3036, sub-§2,** as enacted by PL 1983, c.
51 459, §6, is amended to read:

1 2. Participation. Committed offenders at any correctional
2 facility or ~~at any county~~ jail may be paroled, furloughed,
3 transferred or entrusted to participate in the halfway house
4 program in accordance with applicable provisions of law.

5 **Sec. 76. 34-A MRSA §3038-A, sub-§1,** as amended by PL 1989, c.
6 127, §10, is further amended to read:

7 1. **Commitment of child.** If a committed offender, at the
8 time of commitment to ~~the custody of the Department of~~
9 ~~Corrections~~ a correctional facility or jail, is the parent of and
10 is providing exclusive care for any child who might otherwise be
11 left without proper care or guardianship, the judge committing
12 that offender shall cause the child to be committed to:

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

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

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

18 **Sec. 77. 34-A MRSA §3039,** as repealed and replaced by PL
19 1983, c. 581, §§21 and 59, is amended to read:

20 **§3039. Committed offenders' or detainees' money**

21 When any committed offender or detainee confined in a
22 correctional facility or jail receives money from any source,
23 including compensation for work authorized under other sections
24 of Maine law or by a policy of the department, the money shall be
25 deposited in that correctional facility's or jail's committed
26 offenders' or detainees' account.

27 1. **Accounts.** The chief administrative officer shall
28 promulgate rules for use of the committed offenders' or
29 detainees' account. These rules shall include a provision
30 allowing an inmate to remove his that inmate's money from the
31 ~~committed--offenders'~~ account and place it in any type of
32 investment outside the correctional facility or jail that he the
33 inmate chooses. The chief administrative officer shall keep a
34 record of all money in the committed offenders' or detainees'
35 account and shall be responsible for safekeeping of the money
36 while the committed offender or detainee is in the custody of the
37 department and for the delivery of that money to the committed
38 offender or detainee upon his that committed offender's or
39 detainee's discharge.

40 2. **Interest.** Any interest accruing as a result of the
41 deposit of that money in the committed offenders' or detainees'
42 account may, after first being used to defray expenses of the

1 account, be expended by the chief administrative officer of the
2 correctional facility or jail for the general welfare of all
3 inmates at that facility or jail.

5 3. Use. During ~~his--commitment~~ confinement, any committed
6 offender or detainee may use his money in the ~~committed~~
7 ~~offenders'~~ account by authorizing the ~~warden~~ chief administrative
8 officer to disburse the money in accordance with the rules
9 governing the committed offenders' or detainees' account.

11 Sec. 78. 34-A MRSA §3040, as enacted by PL 1983, c. 459, §6,
12 is amended to read:

13

14 **§3040. Committed offender's or detainee's abandoned property**

15

16 Any property abandoned or unclaimed by a committed offender
17 or detainee in a correctional facility or jail shall be disposed
18 of according to Title 33, chapter 27.

19

20 Sec. 79. 34-A MRSA §3040-A, as enacted by PL 1983, c. 581,
21 §§22 and 59, is amended to read:

22

23 **§3040-A. Property of deceased committed offenders or detainees**

24

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

28

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

44

45 2. Time of payment. Payments or delivery pursuant to
46 subsection 1 shall not be made until 60 days have elapsed
47 following the date of death of the committed offender or detainee.

48

49 3. Liability of payment. For any payment or delivery made
50 pursuant to subsections 1 and 2, the chief administrative officer
51 or his a designee acting under this section may not be held

1 liable to the decedent's personal representative thereafter
2 appointed, or to his the decedent's heirs, successors or assigns.

3
4 4. Alternative payment. Notwithstanding subsection 1, upon
5 presentation of an affidavit under Title 18-A, section 3-1201,
6 the chief administrative officer shall pay the balance of any
7 deposit in the committed effenders' offender's or detainee's
8 account at a correctional facility or jail and deliver his any
9 personal property to the committed effenders' offender's or
10 detainee's successor under Title 18-A, sections 3-1201 and
11 3-1202. The payments under this paragraph shall take precedence
12 over payments under subsection 1 to the extent of the balance of
13 the deposits in the committed effenders' offender's or detainee's
14 account and the personal property remaining in the custody of the
15 chief administrative officer at the time the affidavit is
16 presented.

17
18 **Sec. 80. 34-A MRSA §3042, sub-§§1 and 2**, as enacted by PL 1983,
19 c. 459, §6, are amended to read:

20 1. Notice to prisoner. The commissioner, chief
21 administrative officer or other official having custody of a
22 prisoner serving a term of imprisonment in a correctional
23 facility or jail in this State shall promptly inform the prisoner
24 in writing of:

25
26 A. The source and contents of any untried indictment,
27 information or complaint pending in this State against the
28 prisoner of which the commissioner, warden chief
29 administrative officer or other official has knowledge; and

30
31 B. The prisoner's right to request a final disposition of
32 the untried indictment, information or complaint.

33
34 2. Right to trial. A prisoner serving a term of
35 imprisonment in a correctional facility or jail in this State is
36 entitled to be brought to trial on any untried indictment,
37 information or complaint pending in this State against him the
38 prisoner within 180 days after giving proper notice in accordance
39 with subsections 3 and 4.

40
41 **Sec. 81. 34-A MRSA §3042, sub-§3, ¶C**, as enacted by PL 1983,
42 c. 459, §6, is amended to read:

43
44 C. A certificate of the commissioner, warden chief
45 administrative officer or other official having custody of
46 the prisoner stating:

47
48 (1) The term of commitment under which the prisoner is
49 held;

50
51 (2) The time already served on the sentence;

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- (3) The time remaining to be served;
- (4) The amount of good time earned;
- (5) The time of parole eligibility of the prisoner;
and
- (6) Any decisions of the State Parole Board relating to the prisoner.

Sec. 82. 34-A MRSA §3042, sub-§4, as enacted by PL 1983, c. 459, §6, is amended to read:

4. **Manner of giving proper notice.** The manner of giving proper notice under subsection 2 is as follows.

A. The prisoner shall give or send the written notice of place of imprisonment and the written notice of request for final disposition to the commissioner, warden chief administrative officer or other official having custody of him the prisoner.

B. The commissioner, warden chief administrative officer or other official having custody of the prisoner shall promptly forward the written notices, together with the certificate, to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

Sec. 83. 34-A MRSA §3042, sub-§5, as repealed and replaced by PL 1987, c. 167, §1, is amended to read:

5. **Continuance.** For good cause shown in open court, the prisoner or his the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

Sec. 84. 34-A MRSA §3042, sub-§7, as enacted by PL 1983, c. 459, §6, is amended to read:

7. **Effect of escape.** If a prisoner escapes from custody after his the prisoner's execution of the request for final disposition, his the request is voided.

Sec. 85. 34-A MRSA §3043, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

1. **Notification of immigration officer.** When a person is admitted or committed to a correctional facility, a ~~county~~ jail or any other state, county, city or private institution which is supported wholly or in part by public funds, the chief administrative officer of the facility, jail or institution shall

1 inquire at once into the nationality of the person and, if it
3 appears that the person is an alien, the chief administrative
5 officer shall notify immediately the United States immigration
institution is located, of:

7 A. The date of and the reason for the alien's admission or
commitment;

9 B. The length of time for which the alien is admitted or
11 committed;

13 C. The country of which the alien is a citizen; and

15 D. The date on which and the port at which the alien last
17 entered the United States.

19 **Sec. 86. 34-A MRSA §3044, sub-§1**, as repealed and replaced by
PL 1983, c. 581, §§24 and 59, is amended to read:

21 1. **Escapees.** The commissioner shall take all proper
23 measures for, and may, with the approval of the Governor, offer a
reward for the apprehension and return of any committed offender
25 or detainee in any correctional facility or jail who has escaped
from the control of the department.

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

29 B. Upon satisfactory proof that the terms of the reward
31 offer have been complied with, the Governor may draw his a
warrant upon the Treasurer of State for the payment of the
33 reward.

35 **Sec. 87. 34-A MRSA §3045**, as enacted by PL 1983, c. 459, §6,
is amended to read:

37 **§3045. Unnatural death of committed offender or detainee**

39 When the death of any committed offender or detainee in any
41 correctional facility or jail is not clearly the result of
natural causes, an examination and inquest shall be held as in
43 other cases, and the commissioner or the chief administrative
officer of the facility shall cause a medical examiner to be
45 immediately notified for that purpose.

47 **Sec. 88. 34-A MRSA §3046, first ¶**, as enacted by PL 1983, c.
581, §§25 and 59, is amended to read:

49 At the discretion of and under conditions prescribed by the
51 commissioner, a committed offender or detainee may attend the
funeral of his the committed offender's or detainee's spouse, or
his natural or adoptive mother, father, son, daughter,

1 grandfather or grandmother, grandchild, brother or sister, or may
2 be permitted deathbed visits to any of those persons, if the
3 funeral or visit is held within the State. Detainees shall be
4 escorted by a correctional officer.

5 Sec. 89. 34-A MRSA §3047, as enacted by PL 1983, c. 581, §§25
6 and 59, is amended to read:

7 §3047. Discharge or parole

8 When any committed offender or detainee is paroled or
9 discharged, the commissioner:

10 1. **Clothing.** Shall insure that the offender or detainee is
11 provided with decent clothing;

12 2. **Money.** May give the offender or detainee no more than
13 \$50, except that the commissioner may not give money to a
14 committed offender or detainee who:

15 A. Has, within the 6 months prior to the date of his parole
16 or discharge, transferred from his that committed offender's
17 or detainee's correctional facilities' facility's or jail's
18 account to any person more than \$500, excluding any money
19 transferred for the support of his any dependents; or

20 B. Has, on the date of his parole or discharge, more than
21 \$500 in personal assets; ;

22 3. **Transportation.** Shall furnish transportation to the
23 place where the offender was convicted or arrested, except that:

24 A. If the committed offender's or detainee's home is within
25 the State, transportation shall be furnished to his that
26 home;

27 B. If the committed offender or detainee has secured
28 employment within the State, transportation shall be
29 furnished to the place of employment;

30 C. If the committed offender's or detainee's home is
31 outside the State, or if the committed offender or detainee
32 has secured employment outside the State, transportation
33 shall be furnished to the place on the Maine border nearest
34 the place of employment; or

35 D. If the committed offender or detainee requests a
36 reasonable place nearer the place of incarceration than any
37 of the foregoing, transportation shall be furnished to that
38 place; or

39

1 C. Committed offenders or detainees are entitled to have
2 the time served in jail under this section deducted from
3 their sentences; and

5 D. A prisoner transferred pursuant to this section remains
6 eligible for programs authorized by section 3035 and may
7 apply pursuant to the rules governing the correctional
8 facility or jail from which he the prisoner was transferred.

9
10 **Sec. 93. 34-A MRSA §3069**, as enacted by PL 1983, c. 459, §6,
11 is amended to read:

12 **§3069. Hospitalization for mental illness**

13
14 1. **Involuntary.** When the chief administrative officer of a
15 correctional facility or jail believes that any person in his
16 that facility is mentally ill, requires hospitalization and meets
17 requirements for admission, the chief administrative officer
18 shall make application in accordance with Title 34-B, section
19 3863.

20
21 A. Any person with respect to whom an application and
22 certification under Title 34-B, section 3863 are made may be
23 admitted to either state mental health institute.

24
25 B. Except as otherwise specifically provided in this
26 section, Title 34-B, chapter 3, subchapter IV, Article III,
27 is applicable to the person as if the admission of the
28 person were applied for under Title 34-B, section 3863.

29
30 C. A copy of the document by which the person is held in
31 the correctional facility or jail shall accompany the
32 application for admission.

33
34 D. If the sentence being served at the time of admission
35 has not expired or commitment has not been terminated in
36 accordance with law at the time the person is ready for
37 discharge from hospitalization, he the person shall be
38 returned by the appropriate officers of the correctional
39 facility or jail.

40
41 E. Admission to a hospital under this section has no effect
42 upon a sentence then being served or a commitment then in
43 effect. The sentence continues to run and the commitment
44 remains in force, unless terminated in accordance with law.

45
46 2. **Voluntary.** The chief administrative officer of a
47 correctional facility or jail may permit a person confined in the
48 facility to apply for informal admission to a state mental health
49 institute under Title 34-B, section 3831.

50
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1 A. Except as otherwise provided in this section, the
3 provisions of law applicable to persons admitted to a state
5 mental health institute under Title 34-B, chapter 3,
7 subchapter IV, Article II, shall apply to any person
9 confined in a correctional facility or jail who is admitted
11 to a state mental health institute under that section.

13 B. A copy of the document by which the person is held in
15 the correctional facility or jail shall accompany the
17 application for admission.

19 C. If the sentence being served at the time of admission
21 has not expired or commitment or detention has not been
23 terminated in accordance with law at the time the person is
25 ready for discharge from hospitalization, he the person
27 shall be returned by the appropriate officers of the
29 correctional facility or jail.

31 D. Admission to a mental health institute under this
33 section has no effect upon a sentence then being served or a
35 commitment then in effect. The sentence continues to run
37 and the commitment remains in force, unless terminated in
39 accordance with law.

41 **Sec. 94. 34-A MRSA §3070, sub-§§1 to 3, as enacted by PL 1983,
43 c. 459, §6, are amended to read:**

45 1. **Application.** When the chief administrative officer of a
47 correctional facility or jail believes that any person confined
49 in ~~his~~ that facility is mentally retarded and in need of services
51 available at the Pineland Center and is a proper subject for
admission to the Pineland Center, he the officer shall apply in
writing for the admission of the person.

53 A. A copy of the document by which the person is held in
55 the correctional facility or jail shall accompany the
57 application for admission.

59 B. Admission to the Pineland Center shall be effected in
61 accordance with Title 34-B, sections 5473 to 5478.

63 2. **Unexpired sentence.** If the sentence being served at the
65 time of admission has not expired or commitment or detention has
67 not been terminated in accordance with law at the time the person
69 is ready for discharge from the Pineland Center, he the person
71 shall be returned by the appropriate officers of the correctional
facility or jail.

73 3. **Expired sentence.** If, at the time of expiration of the
75 original sentence or termination of the commitment, it is the
77 opinion of the Superintendent of the Pineland Center that the
patient should remain in residence at the Pineland Center after

1 expiration of sentence or termination of commitment or detention,
2 the patient may be readmitted to the Pineland Center in
3 accordance with Title 34-B, sections 5473 to 5478.

5 **Sec. 95. 34-A MRSA §3071, sub-§§2 and 3**, as enacted by PL 1983,
6 c. 459, §6, are amended to read:

7
8 **2. Contagious diseases.** If a pestilence or contagious
9 disease breaks out among the committed offenders or detainees in
10 any correctional facility or county jail, the commissioner may:

11
12 A. Cause any of the committed offenders or detainees to be
13 removed to some suitable place of security where they shall
14 receive all necessary care and medical attention; and

15
16 B. Cause the committed offender or ~~offenders~~ detainee to
17 be returned as soon as possible to the jail or institution
18 to be confined according to their sentences, if unexpired.

19
20 **3. Tuberculosis.** The commissioner may transfer committed
21 offenders or detainees in any correctional institution or jail
22 who are afflicted with tuberculosis to state sanatoriums.

23
24 A. When a committed offender or detainee in a correctional
25 facility or jail becomes afflicted with tuberculosis so that
26 the welfare of the committed offender or detainee or the
27 safety of the other committed offenders or detainees in the
28 facility requires his the committed offender's or detainee's
29 removal, the commissioner, with the approval of the
30 Governor, may cause the committed offender or detainee to be
31 removed to one of the state sanatoriums to be kept and
32 treated until he the committed offender or detainee may be
33 safely returned to the correctional facility or jail.

34
35 B. The officers of state sanatoriums shall give preference
36 in the admission of new patients to persons transferred
37 under this subsection.

38
39 **Sec. 96. 34-A MRSA §3071, sub-§4**, as enacted by PL 1985, c.
40 752, §4, is amended to read:

41
42 **4. Civil action to recover certain costs.** The State may
43 bring a civil action in any court of competent jurisdiction to
44 recover the cost of any medical, dental, psychiatric or
45 psychological expenses incurred by the State on behalf of a
46 committed offender or detainee under this section. The following
47 assets are not subject to judgment under this subsection:

48
49 A. Joint ownership, if any, that the offender or detainee
50 may have in real property;

1 B. Joint ownership, if any, that the offender or detainee
2 may have in any assets, earnings or other sources of income;
3 and

5 C. The income, assets, earnings or other property, both
6 real and personal, owned by the offender's or detainee's
7 spouse or family.

9 **Sec. 97. 34-A MRSA §3261, sub-§§3 and 4**, as repealed and
10 replaced by PL 1983, c. 581, §§38 and 59, are amended to read:

11 **3. Duties of jail administrator.** When, during the
12 conveyance of a ~~convict~~ committed offender to the prison in
13 pursuance of his a sentence, it is necessary or convenient to
14 lodge him the committed offender for safekeeping in a jail until
15 the remainder of the conveyance can be conveniently performed,
16 the ~~keeper-of-the~~ jail administrator shall:

19 A. Receive and safely keep and provide for the ~~convict,~~
20 ~~reasonable-charges-and-expenses-for-this-service-to-be-paid~~
21 ~~from-the-State-Treasury~~ committed offender; and

23 B. Deliver the ~~convict~~ committed offender to the custody of
24 the person employed to convey him the committed offender,
25 when that person calls for the ~~convict~~ committed offender;
26 and

27 **4. Duties of warden.** The warden shall:

29 A. File the warrant and record, as provided by Title 15,
30 section 1707, with his the warden's return thereon in his
31 the warden's office; and

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

37 **Sec. 98. 34-A MRSA §3407, sub-§3**, as enacted by PL 1983, c.
38 581, §§43 and 59, is amended to read:

39 **3. Duties of jail administrator.** When, during the
40 conveyance of a ~~convict~~ committed offender to the center pursuant
41 to his a sentence, it is necessary or convenient to lodge him the
42 committed offender for safekeeping in a jail until the remainder
43 of the conveyance can be conveniently performed, the ~~keeper-of~~
44 the jail administrator shall:

47 A. Receive and safely keep and provide for the ~~convict~~
48 ~~reasonable-charges-and-expenses-for-this-service-to-be-paid~~
49 ~~from-the-State-Treasury~~ committed offender; and

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B. Deliver the ~~convict~~ committed offender to the custody of the person employed to convey ~~him~~ the committed offender, when that person calls for the ~~convict~~ committed offender; and

Sec. 99. 34-A MRSA c.3, sub-c. VII is enacted to read:

SUBCHAPTER VII

JAILS

§3951. Establishment and purpose of jails

1. Establishment. There are established county jails located at the several county seats which shall be funded, administered and operated by the department for pretrial detention and the confinement of persons who have been sentenced to a jail pursuant to Title 17-A, section 1203 or section 1252. The commissioner may establish regional or district jails that are not required to be located in a county seat. Once secure regional juvenile detention facilities have been established, jails for adults shall not be used for the detention or commitment of persons who have not obtained their 18th birthday, except that a person bound over as an adult may be placed in a jail for adults.

2. Purpose. The purposes of the county, regional or district jails shall be to provide for the safe and secure detention of detainees and the confinement of convicted persons and shall include one or more of the following programs that may involve public restitution or service; community based programs, pretrial release programs or conditional release programs, alternative sentencing programs, residential treatment programs, temporary release programs and vocational and academic education and work programs.

3. Regionalization. The commissioner may administer or operate a jail as part of a regional or district jail system.

§3952. Transition for the transfer of the jurisdiction of county jails from county government to the department

1. Purpose. The purpose of this section is to provide for a smooth transition and continued operation of county jails during the transfer of the jurisdiction of county jails from county government to the department. Any person or persons who obstruct the transfer of the jurisdiction of county jails from county government to the department shall be guilty of a Class D crime.

2. Transitional plan. The commissioner shall plan for the transfer of county jails from county government to the department

1 and hire staff to begin, by July 1, 1990, implementation of
2 transitional plans and central administration of the jail system.

3
4 3. Cost to operate and administer jails. Beginning January
5 1, 1991, the department will assume the cost of administering and
6 operating all county jails, including personnel, contractual,
7 commodities and capital costs. Expenditures for the support of
8 prisoners by county government shall be maintained at least at
9 the funding level budgeted by the county for 1989.

11 4. Debt services. The State shall assume the responsibility
12 for the payment on indebtedness remaining for county jail bonds
13 approved prior to January 1, 1991.

15 5. Transfer of county jail employees to state service. The
16 transfer of county jail employees to state service shall be as
17 follows.

19 A. Beginning January 1, 1991, all permanent county
20 employees employed in a position with a county jail,
21 including positions involving the post-arraignment
22 transportation of prisoners or detainees, shall be state
23 employees and be employed in comparable positions, in terms
24 of duties and responsibilities, by the department. All
25 county employees converted to state service under this
26 section shall be employed and receive compensation at a rate
27 not less than the last pay range while employed by the
28 county. In addition, all employees converted to state
29 service under this section shall complete a 6-month
30 probationary period, except that employees who have obtained
31 permanent employment status with the county as of July 1,
32 1990, may be terminated from state service under this
33 section during the probationary period for just cause or for
34 being unable to meet the qualifications of the position. By
35 July 1, 1990, the sheriff of each county shall provide the
36 commissioner with an up-to-date list of all permanent county
37 employees employed in a position with the county jail,
38 including positions involving the transportation of
39 prisoners or detainees.

41 B. Accrued sick leave credits not compensated at the
42 termination of a county employee as a result of this section
43 shall be transferred to state service.

45 C. Each employee transferred from county service to state
46 service as a result of this section who was a member of the
47 Maine State Retirement System as a county employee shall
48 have that employee's membership in the retirement system
49 transferred from that of a participating local district
50 member to that of a state employee member in accordance with
51 Title 5, section 17656. These members shall not have
52 portability of benefits from participating local district
53 membership to state employee membership.

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6. Ownership and use of jail facilities. The department shall, by January 1, 1991, assume full ownership of all county jail facilities and other related spaces on the grounds or within a county building complex necessary to administer and operate the jail in that county. When a county is already using space within the jail facility or other related spaces for which the State has assumed ownership under this section, in order for the county to meet a statutory responsibility, use of this space by the county shall continue. If necessary, for the efficient administration or operation of a jail, the commissioner shall provide, under mutual agreement with the county commissioners, alternative facilities for space used by the county. If the commissioner and the county commissioners are unable to agree upon the use of this space by a county within the jail facility or other related spaces for which the State has assumed ownership, each party shall select an arbitrator and the 2 arbitrators selected by the parties shall select a 3rd arbitrator. A majority of the arbitrators shall determine use of this space. The arbitrators' decision shall be final and the commissioner and the county commissioners shall be bound by the decision.

7. Transfer of all jail records and capital equipment items to the department. The sheriff, or a designee, as jailer shall, by January 1, 1991, surrender and transfer to the commissioner all jail records and capital equipment necessary to administer and operate the county jail pursuant to this section and other applicable state and federal laws.

A. All active and inactive records and files, whether stored in manual files or electronic media, shall be transferred under this section. At a minimum this shall include, but not be limited to:

- (1) All inmate records and files;
- (2) All jail logs, operational manuals and other operational related documents;
- (3) All court records;
- (4) All jail and inmate financial records and accounts;
- (5) A complete and final financial audit of all funds surrendered;
- (6) A complete inventory of all capital items and equipment surrendered;

1 (7) Personnel records of all personnel transferred to
3 state service; and

5 (8) Any other record pertaining to the jail.

7 B. All capital items and equipment necessary to continue
9 to administer and operate the county jail and related
11 community corrections programs, as well as those capital
13 equipment items necessary for maintaining inmate
15 transportation and jail facility information systems, shall
17 be transferred under this section.

13 §3953. Jail administrator

15 1. Chief administrative officer. The chief administrative
17 officer of each jail is called the jail administrator and is
19 responsible to the commissioner.

21 2. Duties. In addition to other duties set out in this
23 chapter, the jail administrator shall:

25 A. Manage and operate the jail in compliance with the
27 policies and procedures of the department and the standards
29 promulgated under section 1402, subsection 7, by the
31 commissioner; and

33 B. Exercise proper supervision over the employees, grounds,
35 buildings and equipment at the jail and related community
37 corrections programs.

39 3. Powers. In addition to the other powers granted in this
41 chapter, the jail administrator may, with the approval of the
43 commissioner, appoint one assistant jail administrator, subject
45 to the Civil Service Law, and the assistant jail administrator
47 has the powers, duties, obligations and liabilities of the jail
49 administrator when the jail administrator is absent or unable to
51 perform the jail administrator's duties.

39 §3954. Jail Advisory Board

41 The commissioner may appoint a Jail Advisory Board for each
43 jail to advise the commissioner and the jail administrator on the
45 detention or correctional needs of the county, regional or
47 district jail. The advisory board shall consist of at least 9
49 members including a sheriff, a judge, a county commissioner, a
51 representative of the department and one or more citizens.
Members of the Jail Advisory Board shall be appointed for 2-year terms. The jail administrator shall act as staff for the advisory board.

51 §3955. Transportation of committed offenders and detainees

1 The commissioner shall be responsible for providing
2 transportation of all post-arraignment detainees and committed
3 offenders.

5 §3956. Prisoners and detainees generally

7 1. Confinement. All prisoners and detainees at each jail
8 shall be detained or confined in accordance with an order or
9 sentence of the court and the rules of the department.

11 2. Jail administrator to return list of prisoners or
12 detainees at each criminal session of court. Every jail
13 administrator shall return a list of prisoners or detainees in
14 custody to the Superior Court for a count on the first business
15 day of each month and afterwards a list of all those committed
16 during that criminal session of court certifying the cause for
17 which and the person by whom committed, and shall have a calendar
18 of prisoners or detainees in court for inspection. The jail
19 administrator shall also provide lists of prisoners or detainees
20 in custody to the Superior Court or to a District Court upon
21 receipt of a request for an additional or updated list. If the
22 jail administrator fails to comply with this subsection, the
23 court may impose a reasonable fine.

25 3. Record of persons detained or committed. Every jail
26 administrator shall keep in a suitable bound book a true and
27 exact calendar containing the names of all prisoners or detainees
28 detained or committed to the jail under the jail administrator's
29 charge, their residences, the time and date of their detention or
30 commitment, the offense with which they are charged and by what
31 authority they are detained or committed. The jail administrator
32 shall register in that bound book, the name, the date and time
33 when, and the authority by which, any prisoner or detainee is
34 discharged or released and the time and manner of any prisoner's
35 or detainee's escape.

37 4. Official papers filed and delivered to successor. All
38 warrants, mittimuses, process and other official papers by which
39 any prisoner or detainee is detained, committed or released, or
40 attested copies of those papers, shall be regularly filed and
41 safely kept. When vacating the position of jail administrator,
42 the jail administrator or a designee shall deliver those papers
43 to the new jail administrator. The penalty for failing to
44 deliver the papers is a forfeiture of \$220.

47 5. Jail administrator responsible for delivery of prisoners
48 or detainees to successor. Jail administrators or designees are
49 responsible to their successors for the delivery of all prisoners
50 or detainees in custody at the time of their removal.

51 6. Positions of trust for certain prisoners. The jail
52 administrator may grant positions of trust only to a prisoner

1 confined in a jail who was sentenced to serve a term in that
2 particular jail or who was transferred to that particular jail
3 from another jail or correctional facility where the prisoner was
4 servng a sentence.

5
6 7. Prisoner participation in public work-related projects.
7 The jail administrator may permit prisoners under final sentence
8 to that jail to participate in public work-related projects in
9 the county, region or district where the jail is located. Before
10 a prisoner is permitted to participate in this type of project,
11 the judge or justice who originally sentenced the prisoner to the
12 jail must sign an approval to the prisoner's participation.
13 Prisoners participating in public work-related projects shall:

14 A. Have their sentences to the jail reduced at the rate of
15 one day for every 16 hours of participation in the project;
16 and

17
18 B. Not be considered employed under section 3035,
19 subsection 1.

20
21 8. Escape. Any prisoner or detainee who escapes from a
22 jail, or from any assignment beyond the grounds of the jail,
23 including community rehabilitation programs, is guilty of escape
24 under Title 17-A, section 755.

25
26 §3957. Authority of jail employee to search and apprehend
27 escapees

28
29 Employees of each jail have the same authority as sheriffs
30 in their respective counties to search for and apprehend escapees
31 from the jail, when authorized to do so by the jail administrator.

32
33 §3958. Administration of medication by jail employees

34
35 1. Administration of medication by jail administrator or
36 jail employees. The jail administrator of any jail may
37 administer to any prisoner or detainee in custody any oral or
38 topical medication as prescribed by a licensed physician or
39 dentist or, if requested by a prisoner or detainee, any
40 nonprescription medication in accordance with the directions on
41 its container. The jail administrator may delegate the authority
42 to administer medication to medical staff of the jail or, in the
43 absence of medical staff, certified correctional officers who
44 have received training, approved by the jail physician, from
45 medical staff in the proper procedures for administering
46 medication to prisoners.

47
48 2. Insulin injections. This section does not prevent any
49 prisoner from self-administering insulin injections, provided
50 that:

1 A. Self-administration has been authorized by a licensed
2 physician; and

3
4 B. Self-administration takes place in the presence of the
5 jail administrator or a medical or certified correctional
6 officer.

7
8 3. Record of medication administered. The jail
9 administrator or a designee shall maintain a log of all
10 medications administered to prisoners that shall include, the
11 time and date administered, the name of the medication the
12 prescription number and the name of the prisoner administered to
13 whom the medication was administered. The log shall be initialed
14 by the person administering the medication.

15
16 4. Administration of medication not a violation. The
17 administration of medication to prisoners, as provided for in
18 this section, is not a violation of Title 32, section 2102,
19 subsection 2, paragraph D, or Title 32, section 3270, or any
20 other law.

21 §3959. Recovery of medical expenses

22
23 The State may bring a civil action in any court of competent
24 jurisdiction to recover the cost of any medical, dental,
25 psychiatric or psychological expenses incurred by the State on
26 behalf of a prisoner incarcerated in a jail. The following assets
27 are not subject to judgment under this section:

28
29 1. Joint ownership of real property. Joint ownership, if
30 any, that the offender or detainee has in real property;

31
32 2. Joint ownership in sources of income. Joint ownership,
33 if any, that the offender or detainee has in any asset, earnings
34 or other sources of income; and

35
36 3. Assets of the offender's or detainee's spouse or family.
37 Any income, earnings or property, both real and personal, owned
38 by the offender's or detainee's spouse or family.

39 §3960. Damage to property by offenders or detainees; restitution

40
41 Restitution may be imposed by the jail administrator of any
42 jail for the purpose of replacing or repairing property destroyed
43 or damaged by an offender or detainee while at the jail. The jail
44 shall collect the amount provided for in subsection 1 from the
45 offender or detainee and apply it to defray the cost of
46 replacement or repair of the items destroyed or damaged.

47
48 1. Income available. When restitution is imposed, any
49 offender or detainee subject to that punishment who is able to
50 generate income from whatever source shall pay to the jail where
51 generate income from whatever source shall pay to the jail where

1 the damage occurred 25% of that income, up to the cost of
2 replacement or repair of the item destroyed or damaged. Any
3 payments made for the support of dependents which is required by
4 the Department of Human Services shall be subtracted from the
5 prisoner's or detainee's income before the restitution share is
6 calculated under this subsection.

7
8 2. Transfer of prisoner or detainee. Any offender or
9 detainee who is transferred to another facility remains liable
10 for any restitution authorized under this subchapter. The
11 facility receiving the offender or detainee shall collect the
12 restitution and transfer it to the facility where the damage
13 occurred.

14 **§3961. Additional accommodations**

15
16 The commissioner may purchase, lease, contract or enter into
17 agreements for the use of facilities to house minimum security
18 prisoners who have been sentenced to a jail. These facilities may
19 be used for the provision of programs for prisoners. Any
20 facilities used to house prisoners pursuant to the authority
21 granted by this section shall be subject to the standards
22 established by the department pursuant to section 1402,
23 subsection 7.

24
25 **Sec. 100. 37-B MRSA §§412 and 413, as enacted by PL 1983, c.**
26 **460, §3, are amended to read:**

27
28 **§412. Receiving prisoners**

29
30 When an officer of the military forces delivers a prisoner
31 and furnishes a statement of the offense charged against that
32 prisoner to a provost marshal, commander of the guard, warden,
33 keeper, ~~jail administrator~~ or officer of a city or county jail or
34 other correctional center designated under section 408, that
35 official shall commit the prisoner to ~~his~~ the official's charge.

36
37 **§413. Report of persons held**

38
39 Every provost marshal, commander of the guard, warden,
40 keeper, ~~jail administrator~~ or officer of a city or county jail or
41 other correctional center designated under section 408 to whose
42 charge a prisoner is committed shall, within 24 hours after such
43 that commitment or as soon as he ~~the official~~ is relieved from
44 guard, report to ~~his~~ the official's commanding officer the name
45 of the prisoner, the offense charged against ~~him~~ the prisoner and
46 the name of the person who ordered or authorized commitment.

47
48 **Sec. 101. Appropriation.** The following funds are appropriated
49 from the General Fund to carry out the purposes of this Act.

50
51

	1989-90	1990-91
ADMINISTRATION, DEPARTMENT OF		
Public Improvements - Planning and Construction - Administration		
Positions		(1)
Personal Services		\$17,810
All Other		1,500
Capital Expenditures		700
Provides funds for one Civil Engineer II position and related expenses effective January 1, 1991.		
DEPARTMENT OF ADMINISTRATION		
TOTAL		<u>\$20,010</u>
CORRECTIONS, DEPARTMENT OF		
Jail Services		
Positions	(2)	(14)
Personal Services	\$42,297	\$463,850
All Other	2,000	21,000
Capital Expenditures	1,180	8,333
TOTAL	<u>\$45,477</u>	<u>\$493,183</u>
Provides funds for staff and related expenses to begin implementation of transitional plans and central administration of the jail system. The staff includes an associate commissioner and plans coordinator effective January 1, 1990; a secretary, 5 personnel specialists, 5 business managers and an assistant finance director.		
Jail Services		
Positions		(20)
Personal Services		\$230,648
All Other		15,000
Capital Expenditures		12,680

1 TOTAL \$258,328

3 Provides funds for additional
 4 staff for central
 5 administration of the jail
 6 system effective January 1,
 7 1991. Additional staff
 8 includes 17 Account Clerk II
 9 positions, one Accountant I
 10 position, one Accountant II
 11 position and one Advocate.

13 **Jail Services**

15 Positions (577)
 16 Personal Services \$7,801,117
 17 All Other 3,626,693
 18 Capital Expenditures 162,732

19 TOTAL \$11,590,542

21 Provides funds to convert
 22 county corrections personnel
 23 to state correctional system,
 24 for jail operating expenses
 25 and for annual debt service
 26 effective January 1, 1991.

29 **Community-based Corrections**

31 All Other (\$1,545,000)

33 Deappropriates funds no
 34 longer needed as of January
 35 1, 1991, to reimburse
 36 counties for housing state
 37 prisoners.

39	DEPARTMENT OF CORRECTIONS		
40	TOTAL	<u>\$45,477</u>	<u>\$10,797,053</u>
41	TOTAL APPROPRIATIONS	<u>\$45,477</u>	<u>\$10,817,063</u>

43 **Sec. 102. Allocation.** The following funds are allocated from
 44 Other Special Revenue funds to carry out the purposes of this Act.

47 **1990-91**

49 **CORRECTIONS, DEPARTMENT OF**

51 **Jail Services**

1 All Other \$184,407
3
5 Allocates funds to pay for costs associated
with operation of the jail system.

7 **Sec. 103. Effective date.** This Act shall become effective
9 January 1, 1991, except section 99, the Maine Revised Statutes,
Title 34-A, section 3952, which will become effective 90 days
11 after adjournment of the Legislature.

13 **FISCAL NOTE**

15 Costs associated with the administration and operation of
17 the jail system are estimated to be \$25,600,000 annually.'

19
21 **STATEMENT OF FACT**

23 The purpose of this amendment is to transfer jurisdiction
25 over the county jails, including their facilities, debts and
obligations, from the counties to the Department of Corrections.

Reported by the Majority of the Joint Select Committee on Corrections
Reproduced and distributed under the direction of the Clerk of the
House
6/8/89 (Filing No. H-445)