

MAINE STATE LEGISLATURE

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



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



114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1189

H.P. 857

House of Representatives, April 13, 1989

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

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

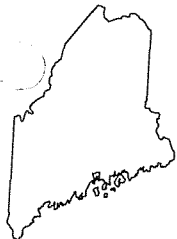
Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Representative CARTER of Winslow, Representative McHENRY of Madawaska and Senator BERUBE of Androscoggin.

STATE OF MAINE

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

An Act to Transfer Jurisdiction over County Jails from County
Government to the Department of Corrections.



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

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

5
7 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
9 reimbursing ~~counties~~ paying for costs associated with operations
of the jail system.

11
13 3. Payment. Monthly, the Treasurer of State shall make
payments from this fund to ~~each county in direct proportion to~~
15 ~~the amount of revenue obtained from all courts within each~~
~~county, provided a county may not receive an amount greater than~~
17 ~~the prior year's expenditures on its jail~~ the Department of
Corrections. The amount of total payments made ~~to counties~~ shall
19 equal 2% of the total fines, forfeitures and penalties, including
this surcharge, received by the Treasurer of State. The balance
21 remaining in the Jail Operations Surcharge Fund at the end of
each month shall accrue to the General Fund.

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§1, is repealed.

25
27 Sec. 3. 15 MRSA §224, sub-§4, as enacted by PL 1977, c. 66, is
amended to read:

29 4. Expenses for rendition of escaped prisoners. Expenses
for rendition of prisoners who have escaped from custody shall be
31 paid by the State of Maine if the escape occurred while the
prisoner was committed to or being held at a state institution or
33 while the prisoner was in the custody of a state officer, ~~shall~~
~~be paid by the sheriff if the escape occurred while the prisoner~~
35 ~~was committed to or being held at a county jail~~ or while in the
custody of a county officer or shall be paid by a municipality if
37 the escape occurred while the prisoner was being held at a lockup
or in the custody of a municipal officer. Escape and custody
39 shall have the same meaning as defined in Title 17-A.

41 Sec. 4. 15 MRSA §453, as amended by PL 1969, c. 506, §1, is
further amended to read:

43 **§453. Detention at State Prison of dangerous persons**

45
47 When a verdict of guilty is rendered against any person for
an offense punishable by imprisonment in the State Prison, and
49 such the person is committed to jail pending decision by the
Supreme Judicial Court on appeal or otherwise, or is committed to
jail to await action of a grand jury after a finding of probable
51 cause, or to await trial after indictment, ~~the sheriff of the~~

1 county jailer of the jail in which such the person is committed
2 to jail may certify, in writing, to any Justice of the Superior
3 or Supreme Judicial Court that in his the justice's opinion such
4 the person is dangerous and liable to attempt to escape from such
5 the jail. Thereupon ~~such~~ The justice may order, after hearing,
6 that said the person be transferred and committed to the State
7 Prison for safekeeping to await the final decision from the
8 Supreme Judicial Court. ~~The county committing such person to the~~
9 ~~State Prison for safekeeping shall be liable to the State for~~
10 ~~each such person, a proportional amount of the overall inmate per~~
11 ~~capita cost per day based on previous year.~~

13 **Sec. 5. 15 MRSA §1023, sub-§5**, as enacted by PL 1987, c. 870,
14 §3, is amended to read:

15 **5. Fees.** A bail commissioner shall receive a fee not to
16 exceed \$17 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 jailer of the jail~~ in which the defendant is detained
21 may create a fund for the distribution by the ~~sheriff~~ jailer or
22 the ~~sheriff's~~ jailer's designee for the payment in whole or in
23 part of the \$17 bail commissioner fee for those defendants who do
24 not have the financial ability to pay that fee.

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

29 **Sec. 7. 15 MRSA §1710**, as amended by PL 1981, c. 493, §§2 and
30 3, is repealed.

33 **Sec. 8. 15 MRSA §2211-A**, as amended by PL 1987, c. 402, Pt.
34 A, §112, is further amended to read:

35 **§2211-A. Persons confined in county jail -- hospitalization for**
36 **mental illness**

39 When the ~~sheriff or keeper of a county jail~~ jailer believes
40 that any person confined in the county jail is mentally ill
41 requiring hospitalization, he the jailer shall apply, in writing,
42 for the admission of any such person to either state hospital for
43 the mentally ill, giving his reasons therefor. The application
44 and certification shall be in accordance with the requirements of
45 Title 34, section 2333.

47 Any such person ~~with respect to~~ for whom such an application
48 and certification are made may be admitted to either state
49 hospital for the mentally ill. Except as otherwise specifically

1 provided in this section, Title 34, chapter 191, subchapters I
and III, except section 2373 shall be applicable to any such
3 person as if the admission of such the person were applied for
under Title 34, section 2333.

5
6 Admission to a hospital under this section shall have no
7 effect upon a sentence then being served, upon an existing
commitment on civil process, or upon detention pending any stage
9 of a criminal proceeding in which any such person is the
defendant, and the court having jurisdiction shall retain it.
11 Such The sentence shall continue to run and any such commitment
or detention shall remain in force, unless terminated in
13 accordance with law.

15 A copy of the document by which any such person is held in
the county jail, attested by the ~~sheriff or jail keeper~~ jailer,
17 shall accompany the application for admission. Following
admission to a state hospital for the mentally ill under this
19 section, a copy of the application and certification similarly
attested shall be filed with the court having jurisdiction over
21 any case, civil or criminal, in which any such person is the
defendant. The clerk of the court when a criminal proceeding is
23 pending against any such person shall forward a copy of the
application and certification to the attorney for the defendant
25 and the attorney for the State.

27 If the sentence being served at the time of admission has
not expired or commitment on civil process or detention has not
29 been terminated in accordance with law at the time any such
person is ready for discharge from hospitalization, he the person
31 shall be returned by the sheriff of the county from which
admitted, or any of his the sheriff's deputies, to the county
33 jail from which admitted.

35 ~~All expenses incident to transportation of any person
between the hospital and county jail under this section shall be
37 paid from the treasury of the county wherein county jail
incarceration originated.~~

39
40 Admission to a hospital under this section shall not be used
41 to effect the examination or observation of any person for the
purpose of a criminal proceeding pending in either the District
43 Court or the Superior Court. The Superior Court prior to trial of
any defendant admitted for hospitalization under this section
45 may, at any time upon motion of the defendant's attorney,
attorney for the State or upon the court's own motion, hold a
47 hearing with respect to the competence of any such person to
stand trial as provided in section 101-B, and appropriate
49 disposition may be made thereunder. The court's order following
hearing in such the case may terminate the admission effected
51 under this section.

1
3 In addition to the authority given by this section to apply
5 for the involuntary admission to a state hospital for the
7 mentally ill of a person confined in the county jail, a person
9 confined in a county jail, when such hospitalization is
11 recommended by a licensed physician or licensed psychologist,
13 shall be allowed to apply for informal admission to a state
15 hospital for the mentally ill under Title 34, section 2290. In
17 the event of any such application, all other provisions of this
19 section as to notice of status as an inmate of a county jail,
notice to the court and counsel, transportation and expenses
thereof, and the continuation and termination of sentence,
commitment or detention, shall apply. Except as otherwise
provided in this section, the provisions of law applicable to
persons admitted to a state hospital for the mentally ill under
Title 34, section 2290, shall apply to any person confined in a
county jail admitted to a state hospital for the mentally ill
under said that section.

21 **Sec. 8. 17-A MRSA §1253, sub-§1,** as repealed and replaced by
PL 1985, c. 821, §11, is amended to read:

23 1. The sentence of any person committed to the custody of
25 the Department of Corrections shall commence to run on the date
27 on which that person is received into the correctional facility
29 designated as the initial place of confinement by the
Commissioner of Corrections pursuant to section 1258. That day
is counted as the first full day of the sentence.

31 ~~The sentence of any person committed to the custody of a sheriff~~
33 ~~shall commence to run on the date on which that person is~~
35 ~~received into the county jail specified in the sentence. That day~~
37 ~~is counted as the first full day of the sentence if the term of~~
imprisonment, or the initial unsuspended portion of a split
sentence, is over 30 days; otherwise, credit is accorded only for
the portion of that day for which the person is actually in
execution of the sentence.

39 **Sec. 9. 17-A MRSA §1253, sub-§1-A,** as repealed and replaced by
41 PL 1985, c. 282, §6, is repealed.

43 **Sec. 10. 17-A MRSA §1341, sub-§1,** as enacted by PL 1985, c.
752, §1, is amended to read:

45 1. **Assessment.** When a person is sentenced to incarceration
47 in a county jail, the sentencing court shall consider and may
49 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
51 exceed the cost of incarcerating the offender or \$20 per day,
whichever is less. ~~Any reimbursement fee assessed shall be~~
53 ~~collected by the county treasurer of the county in which the~~
~~offender is incarcerated and paid into the treasury of that~~
county.

1 **Sec. 11. 19 MRSA §483**, as amended by PL 1971, c. 544, §62, is
3 repealed.

5 **Sec. 12. 19 MRSA §775**, as enacted by PL 1979, c. 668, §6, is
7 repealed.

9 **Sec. 13. 25 MRSA §1502, last ¶**, is repealed.

11 **Sec. 14. 30-A MRSA §121, sub-§1**, as enacted by PL 1987, c.
13 737, Pt. A, §2, and Pt. C, §106, and amended by PL 1989, c.c. 6
15 and 9, is further amended to read:

17 **1. Buildings.** ~~The county commissioners, in the county seat~~
19 ~~of their county, may provide a jail and shall keep it in proper~~
21 ~~repair.~~ The county commissioners, in the county seat of their
23 county, shall provide and keep in repair:

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

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

- 37 (1) The register of deeds;
- 39 (2) The register of probate;
- 41 (3) The register of insolvency; and
- 43 (4) The clerk of courts; and

45 C. Any other necessary buildings.

47 **Sec. 15. 30-A MRSA §353**, as enacted by PL 1987, c. 737, Pt.
49 A, §2, and Pt. C, §106, and amended by PL 1989, c.c. 6 and 9, is
51 further amended to read:

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

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

1 **Sec. 16. 30-A MRSA §373, sub-§1, ¶¶ B and C**, as enacted by PL
2 1987, c. 737, Pt. A, §2, and Pt. C, §106, and as amended by PL
3 1989, c.c.6 and 9, are repealed.

5 **Sec. 17. 30-A MRSA §373, sub-§2**, as enacted by PL 1987, c.
6 737, Pt. A, §2, and Pt. C, §106, and amended by PL 1989, c.c. 6
7 and 9, is further amended to read:

9 **2. Expenses allowed.** The county commissioners shall allow
10 and pay from the county treasuries all actual and necessary
11 expenses for travel and hotel bills within their respective
12 counties and necessary incidental expenses as are just and
13 proper, incurred in the performance of the sheriffs' public
14 duties, ~~including all necessary expense for aid in keeping the~~
15 ~~jails.~~

17 **Sec. 18. 30-A MRSA §424**, as enacted by PL 1987, c. 737, Pt.
18 A, §2, and Pt. C, §106, and amended by PL 1989, c.c. 6 and 9, is
19 repealed.

21 **Sec. 19. 30-A MRSA §451, sub-§§4 and 8**, as enacted by PL 1987,
22 c. 737, Pt. A, §2, and Pt. C, §106, and amended by PL 1989, c.c.
23 6 and 9, are repealed.

25 **Sec. 20. 30-A MRSA §454**, as enacted by PL 1987, c. 737, Pt.
26 A, §2, and Pt. C, §106, and amended by PL 1989, c.c. 6 and 9, is
27 repealed.

29 **Sec. 21. 30-A MRSA §701, sub-§2**, as enacted by PL 1987, c.
30 737, Pt. A, §2, and Pt. C, §106, and amended by PL 1989, c.c. 6
31 and 9, is further amended to read:

33 **2. Preparation of estimates.** In order to assess a county
34 tax, the county commissioners, prior to November 7th in each
35 year, shall prepare estimates of the sums necessary to pay the
36 expenses which have accrued or may probably accrue for the coming
37 year, including the building and repairing of ~~jails~~, courthouses
38 and appurtenances, with the debts owed by their counties.

39
40 The estimates must be drawn so as to authorize the appropriations
41 to be made to each department or agency of the county government
42 for the year. The estimates must provide specific amounts for
43 personal services, contractual services, commodities, debt
44 service and capital expenditures.

45 **Sec. 22. 30-A MRSA c. 13**, as enacted by PL 1987, c. 737, Pt.
46 A, §2, and Pt. C, §106, and amended by PL 1989, c.c. 6 and 9, is
47 repealed.

49 **Sec. 23. 34-A MRSA §1001, sub-§§1 and 6**, as enacted by PL
50 1983, c. 459, §6, are amended to read:

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47
49
51

1. Chief administrative officer of a correctional facility.
"Chief administrative officer of a correctional facility" means the head of a correctional facility, including, but not limited to:

- A. The Warden of the Maine State Prison;
- B. The Superintendent of the Maine Correctional Center;
- C. The Director of the Charleston Correctional Facility; and
- D. The Superintendent of the Maine Youth Center; and
- E. The jailer of each jail.

6. Correctional facility. "Correctional facility" means the Maine State Prison, Maine Correctional Center, Charleston Correctional Facility, Maine Youth Center, each county jail or any other entity which falls under the jurisdiction of the department, but does not include a ~~county-jail~~, holding facility or short-term detention area.

Sec. 24. 34-A MRSA §3063, as repealed and replaced by PL 1983, c. 581, §§28 and 59, is repealed.

Sec. 25. 34-A MRSA c. 3, sub-c. VII, is enacted to read:

SUBCHAPTER VII

JAILS

§3951. Establishment

There are established county jails located at the several county seats for pretrial detention and the confinement and rehabilitation of persons who have been duly sentenced and committed to the Department of Corrections.

§3952. Purposes

The purposes of the county jails shall be to provide pretrial detention and confinement of convicted persons, and when appropriate, may include vocational and academic education and work which may involve public restitution.

§3953. Jailer

1. Chief administrative officer. The chief administrative officer of each jail is called the jailer and is responsible to the commissioner.

1
2. Duties. In addition to other duties set out in this
3 Title, each jailer has the following duties.

5 A. The jailer shall exercise proper supervision over the
7 employees, grounds, buildings and equipment at the jail.

9 B. The jailer shall supervise and control the prisoners at
the jail in accordance with departmental rules.

11 3. Powers. In addition to other powers granted in this
13 Title, the jailer may appoint one assistant jailer, subject to
15 the Civil Service Law, and the assistant jailer has the powers,
is absent or unable to perform the jailer's duties.

17 **§3954. Prisoners generally**

19 1. Confinement. All prisoners at each jail shall be
21 detained and confined in accordance with the sentences of the
court and the rules of the department.

23 2. Employment. The commissioner may authorize the
25 employment of prisoners of jails on public works with any
27 department, agency or entity of the State, county or local
29 government and may authorize the use of prisoners to provide
31 assistance in the improvement of property owned by nonprofit
33 organizations.

35 A. The commissioner shall promulgate such rules as the
37 commissioner deems proper to ensure the care and treatment
39 of the prisoners and the safe working conditions of
41 prisoners and departmental employees.

43 B. The purpose of the employment authorized in this
45 subsection is to provide training to the prisoner and to be
47 a form of public restitution for the crime or crimes
49 committed by the prisoner.

51 C. The commissioner may request that nonprofit
organizations pay for the transportation of the prisoners
and pay the per diem compensation of correctional officers
or instructors who must accompany the prisoners or oversee
the work to be performed.

3. Escape. Any prisoner who escapes from the a jail, or
from any assignment beyond the grounds of a jail, including
community rehabilitative programs, is guilty of escape under
Title 17-A, section 755.

§3955. Jail employees

1
3
5
7
9
11
13
15
17
19
21
23
25
27
29
31
33
35
37
39
41
43
45
47

Employees of each jail have the same power as sheriffs in their respective counties to search for and apprehend escapees from the jail, when authorized to do so by the jailer.

Sec. 26. 37-B MRSA §412, as enacted by PL 1983, c. 460, §3, is amended to read:

§412. Receiving prisoners

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

Sec. 27. 37-B MRSA §413, as enacted by PL 1983, c. 460, §3, is amended to read:

§413. Report of persons held

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

Sec. 28. Effective date. This Act shall take effect on January 1, 1990.

Sec. 29. Transition. All debts, bonds, notes or obligations of each of the counties solely related to the jail facilities shall become obligations of the State on the effective date. When an obligation is for a building containing the jail and other county facilities, the State's share of that obligation shall be established by the Commissioner of Corrections on the basis of prorated square footage.

All employees of the county who perform duties in the jail shall be eligible for appointment to similar duties in the jail under the Civil Service Law on or after the effective date of this Act.

1

STATEMENT OF FACT

3

5

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