

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

Legislative Document

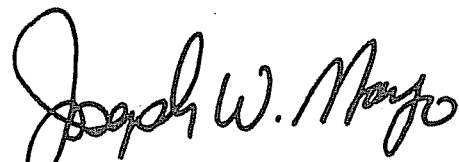
No. 1181

H.P. 872

House of Representatives, April 5, 1993

An Act to Establish a Demonstration Project Transferring County Jail Operations to the State.

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


JOSEPH W. MAYO, Clerk

Presented by Representative PLOURDE of Biddeford.
Cosponsored by President DUTREMBLE of York and
Representatives: AHEARNE of Madawaska, BAILEY of Township 27, CAMERON of
Rumford, CARON of Biddeford, CARR of Sanford, DiPIETRO of South Portland,
DUTREMBLE of Biddeford, FARNUM of South Berwick, GOULD of Greenville, HALE of
Sanford, MARTIN of Eagle Lake, MURPHY of Berwick, NADEAU of Saco, O'GARA of
Westbrook, REED of Dexter, STROUT of Corinth, TARDY of Palmyra, VIGUE of Winslow,
Senators: CIANCHETTE of Somerset, SUMMERS of Cumberland.

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

2
3 **Sec. 1. 4 MRSA §1057, sub-§1**, as amended by PL 1991, c. 303,
4 §1, is further amended to read:

6 **1. Fund established.** There is hereby established a fund to
7 be known as the Government Operations Surcharge Fund. This fund
8 must be maintained by the Treasurer of State for the sole purpose
9 of ~~reimbursing--counties~~ paying for costs associated with
10 operations of the jail system.

12 **Sec. 2. 4 MRSA §1057, sub-§3**, as amended by PL 1991, c. 733,
13 §3, is further amended to read:

14 **3. Reimbursement to counties.** Monthly, the Treasurer of
15 State shall make payments from this fund to each ~~county in the~~
16 ~~same proportion as the total amount paid to that county from the~~
17 ~~total amount deposited into the fund during the fiscal year~~
18 ~~ending June 30, 1991 bears to the total amount deposited into the~~
19 ~~fund during the fiscal year ending June 30, 1991, except that a~~
20 ~~county may not receive an amount greater than the prior year's~~
21 ~~expenditures on its jail~~ the Department of Corrections. The
22 amount of total payments made ~~to counties~~ must equal 2% of the
23 total fines, forfeitures and penalties, including this surcharge,
24 received by the Treasurer of State. The balance remaining in the
25 Government Operations Surcharge Fund at the end of each month
26 must accrue to the General Fund.

28 **Sec. 3. 14 MRSA §5545, second ¶**, as amended by PL 1989, c.
29 722, §4, is further amended to read:

31 Whenever, under this section or under any other section in
32 this chapter, a court issues a writ of habeas corpus ordering
33 before it a prisoner confined in any penal--~~er~~ correctional
34 institution under the control of the Department of Mental Health
35 and Mental Retardation or the Department of Corrections, or
36 confined in any county jail, its order as to the transportation
37 of the prisoner to and from the court shall must be directed to
38 the sheriff of the county in which the court is located. It shall
39 be is the responsibility of the sheriff or any one or more of the
40 sheriff's authorized deputies pursuant to any such order to
41 safely transport a prisoner to and from the court and to provide
42 safe and secure custody of the prisoner during the proceedings,
43 as directed by the court. At the time of removal of a prisoner
44 from an institution, the transporting officer shall leave with
45 the head of the institution an attested copy of the order of the
46 court, and upon return of the prisoner shall note that return on
47 the copy. This paragraph as it relates to the responsibility for
48 transportation shall ~~be~~ is applicable to the transportation of
49 prisoners transferred from the county jail to the State Prison
50 under Title 15, section 453, and to transfers from the county
51 jail to any other county jail or to a state correctional facility
52 under ~~Title 30-A, section 1656~~.

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

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

16 **Sec. 5. 15 MRSA §453**, as amended by PL 1969, c. 506, §1, is
further amended to read:

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

20 When a verdict of guilty is rendered against any person for
22 an offense punishable by imprisonment in the State Prison, and
such the person is committed to jail pending decision by the
24 Supreme Judicial Court on appeal or otherwise, or is committed to
jail to await action of a grand jury after a finding of probable
26 cause, or to await trial after indictment, the ~~sheriff of the~~
~~county~~ in jailer of the jail to which such the person is
28 committed ~~to jail~~ may certify, in writing, to any Justice of the
Superior or Supreme Judicial Court that in ~~his~~ the jailer's
30 opinion such the person is dangerous and liable to attempt to
escape from such the jail. ~~Thereupon such~~ The justice may order,
32 after hearing, that said the person be transferred and committed
to the State Prison for safekeeping to await the final decision
34 from the Supreme Judicial Court. ~~The county committing such~~
~~person to the State Prison for safekeeping shall be liable to the~~
36 ~~State for each such person, a proportional amount of the overall~~
~~inmate per capita cost per day based on previous year.~~

38 **Sec. 6. 15 MRSA §1023, sub-§5**, as amended by PL 1989, c. 185,
40 is further amended to read:

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

2 Sec. 7. 15 MRSA §1705, as repealed and replaced by PL 1985,
c. 242, is repealed.

4 Sec. 8. 15 MRSA §1710, as repealed and replaced by PL 1989,
6 c. 887, §1, is repealed.

8 Sec. 9. 15 MRSA §2211-A, as amended by PL 1987, c. 402, Pt.
A, §112, is further amended to read:

10 **§2211-A. Persons confined in county jail; hospitalization for**
12 **mental illness**

14 When the ~~sheriff--or--keeper--of--a--county--jail~~ jail
16 administrator believes that any person confined in the county
jail is mentally ill requiring hospitalization, he ~~the jail~~ the jail
18 administrator shall apply, in writing, for the admission of any
such person to either state hospital for the mentally ill, giving
his reasons ~~therefor~~ for the hospitalization. The application
20 and certification shall must be in accordance with the
requirements of Title 34 34-B, section 2333 3863.

22 Any such person with ~~respect to~~ for whom such an application
24 and certification are made may be admitted to either state
hospital for the mentally ill. Except as otherwise specifically
26 provided in this section, Title 34 34-B, chapter 491 3,
~~subchapters I and III~~ subchapter IV, except section 2373 3868,
28 shall ~~be~~ is applicable to any such person as if the admission of
such that person were applied for under Title 34 34-B, section
30 2333 3863.

32 Admission to a hospital under this section shall ~~have~~ has no
effect upon a sentence then being served, upon an existing
34 commitment on civil process, or upon detention pending any stage
of a criminal proceeding in which any such person is the
36 defendant, and the court having jurisdiction shall ~~retain~~ retains
it. Such The sentence shall ~~continue~~ continues to run and any
38 such the commitment or detention shall ~~remain~~ remains in force,
unless terminated in accordance with law.

40 A copy of the document by which any such person is held in
42 the county jail, attested by the ~~sheriff--or--jail-keeper,~~ shall
jail administrator, must accompany the application for admission.
44 Following admission to a state hospital for the mentally ill
under this section, a copy of the application and certification
46 similarly attested shall must be filed with the court having
jurisdiction over any case, civil or criminal, in which any ~~such~~
48 the person is the defendant. The clerk of the court, when a
criminal proceeding is pending against any such person, shall
50 forward a copy of the application and certification to the
attorney for the defendant and the attorney for the State.

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

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

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

26 In addition to the authority given by this section to apply
28 for the involuntary admission to a state hospital for the
mentally ill of a person confined in the county jail, a person
30 confined in a county jail, when such hospitalization is
recommended by a licensed physician or licensed psychologist,
32 shall must be allowed to apply for informal admission to a state
hospital for the mentally ill under Title 34, ~~section 2290~~ 34-B,
34 sections 3831 and 3832. In the event of any such application,
all other provisions of this section as to notice of status as an
36 inmate of a county jail, notice to the court and counsel,
transportation and expenses ~~thereof~~, and the continuation and
38 termination of sentence, commitment or detention, shall apply.
Except as otherwise provided in this section, the provisions of
40 law applicable to persons admitted to a state hospital for the
mentally ill under Title 34, ~~section 2290,~~ shall 34-B, sections
42 3831 and 3832 apply to any person confined in a county jail
admitted to a state hospital for the mentally ill under said
44 ~~section~~ those sections.

46 **Sec. 10. 17-A MRSA §1253, sub-§1, as repealed and replaced by**
48 **PL 1985, c. 821, §11, is amended to read:**

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

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

10 Sec. 11. 17-A MRSA §1253, sub-§1-A, as repealed and replaced
11 by PL 1985, c. 282, §6, is repealed.

12 Sec. 12. 17-A MRSA §1253, sub-§§2 and 6-A, as amended by PL
13 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

14 2. Each person sentenced to imprisonment who has previously
15 been detained for the conduct for which the sentence is imposed
16 in any state correctional facility or county institution or
17 facility or in any local lockup awaiting trial, during trial,
18 post-trial awaiting sentencing or post-sentencing prior to the
19 date on which the sentence commenced to run either to await
20 transportation to the place of imprisonment specified, or
21 pursuant to court order, and not in execution of any other
22 sentence of confinement, ~~shall-be~~ is entitled to receive a
23 day-for-day deduction from the total term of imprisonment
24 required under that sentence. Each person ~~shall-be~~ is entitled
25 to receive the same deduction for any such period of detention in
26 any federal, state or county institution, local lockup or similar
27 facility in another jurisdiction, including any detention
28 resulting from being a fugitive from justice, as defined by Title
29 15, section 201, subsection 4, unless he that person is
30 simultaneously being detained for non-Maine conduct.
31

32 For the purpose of calculating the day-for-day deduction
33 specified by this subsection, a "day" means 24 hours.
34

35 The total term required under the sentence of imprisonment shall
36 must be reduced by the total deduction of this subsection prior
37 to applying any of the other deductions specified in this section
38 ~~or in Title 30-A, section 1606.~~
39

40 The attorney representing this State shall furnish the court, at
41 the time of sentencing or within 10 days thereafter, a statement
42 showing the total deductions of this subsection, to that point in
43 time, and the statement ~~shall~~ must be attached to the official
44 records of the commitment.
45

46 The sheriff or other person upon whom the legal duty is imposed
47 to deliver a sentenced person who is entitled to a deduction for
48 a period of detention post-sentencing shall, at the time of
49 delivery, furnish to the custodian a statement showing the length
50

2 of that post-sentencing detention. In addition, the transporter
shall furnish to the sentencing court the same statement, which
shall must be attached to the official records of the commitment.

4
6 **6-A.** When a judgment of conviction involving a term of
imprisonment is vacated or a sentence involving a term of
imprisonment is revised or reviewed and a new sentence involving
8 a term of imprisonment is thereafter imposed upon the person for
the same offense, day-for-day credit shall must be accorded on
10 the new sentence both for each day the person served in execution
of the initial sentence and for all previously earned deductions
12 specified in subsections 4 and 5 and ~~Title 30-A, section 1606.~~
Prior to the day-for-day credit being given on the new sentence,
14 the new sentence shall, after first having been reduced by any
deductions specified in subsection 2 previously or subsequently
16 received, must have applied to it the controlling deduction
specified in either subsection 3 or 3-B.

18
20 **Sec. 13. 17-A MRSA §1330, sub-§1,** as amended by PL 1989, c.
104, Pt. C, §§8 and 10, is further amended to read:

22 **1. Work program; payment of restitution.** No prisoner who
has been ordered to pay restitution may be released pursuant to a
24 work program administered by the Department of Corrections under
Title 34-A, section 3035, ~~or a sheriff under Title 30-A, section~~
26 ~~1605,~~ unless he the prisoner consents to pay at least 25% of his
the prisoner's gross weekly wages to the victim until such time
28 as full restitution has been made. The chief administrative
officer of the correctional facility where the prisoner is
30 incarcerated shall collect and disburse to the victim or victims
that portion of the prisoner's wages agreed to as payment of
32 restitution. If the victim or victims ordered by the court to
receive restitution have died or cannot be located, the
34 correctional facility shall inform the court that ordered
restitution. The court shall determine the distribution of these
36 funds.

38 **Sec. 14. 17-A MRSA §1341, sub-§1,** as amended by PL 1989, c.
375, is further amended to read:

40
42 **1. Assessment.** When a person is sentenced to incarceration
in a county jail, the sentencing court shall consider and may
44 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
46 exceed the cost of incarcerating the offender or \$20 per day,
whichever is less. Any reimbursement fee assessed shall must be
48 collected by the ~~county treasurer~~ jail administrator of the
~~county jail~~ in which the offender is incarcerated, and paid into
the treasury of that ~~county~~ the State and ~~credited to the county~~
50 ~~responsible for paying for the incarceration of the offender.~~

2 **Sec. 15. 19 MRSA §483**, as amended by PL 1971, c. 544, §62, is
repealed.

4 **Sec. 16. 19 MRSA §775**, as enacted by PL 1979, c. 668, §6, is
repealed.

6 **Sec. 17. 25 MRSA §1502, last ¶** is repealed.

8 **Sec. 18. 30-A MRSA §121, sub-§1**, as amended by PL 1989, c.
10 104, Pt. C, §§8 and 10, is further amended to read:

12 **1. Buildings.** ~~The county commissioners, in the county seat~~
14 ~~of their county, may provide a jail and shall keep it in proper~~
repair. The county commissioners, in the county seat of their
16 county, shall provide and keep in repair:

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

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

- 26 (1) The register of deeds;
- 28 (2) The register of probate;
- 30 (3) The register of insolvency; and
- 32 (4) The clerk of courts; and

34 C. Any other necessary buildings.

36 **Sec. 19. 30-A MRSA §353**, as amended by PL 1989, c. 104, Pt.
C, §§8 and 10, is further amended to read:

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

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

50 **Sec. 20. 30-A MRSA §373, sub-§1, ¶¶B and C**, as amended by PL
1989, c. 104, Pt. C, §§8 and 10, are repealed.

2 **Sec. 21. 30-A MRSA §373, sub-§2**, as amended by PL 1989, c.
104, Pt. C, §§8 and 10, is further amended to read:

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

12 **Sec. 22. 30-A MRSA §423**, as amended by PL 1989, c. 104, Pt.
C, §§8 and 10, is further amended to read:

14 **§423. Collection and accounting for fees**

16 The sheriff shall charge and collect, as provided by law,
18 all fees chargeable under the laws for performing any of the
duties described in section 373. The sheriff shall keep an
20 accurate account of those fees, ~~and of those specified in section~~
424, and transmit that account to the county treasurer on the
22 last days of March, June, September and December annually, and
the amount deducted from the quarter's salary for the quarter
24 then ending. If these fees are greater than the amount of salary
then due the sheriff, the sheriff shall pay the excess to the
26 county treasurer. No county treasurer may pay any quarter's
salary until this statement has been filed.

28 **Sec. 23. 30-A MRSA §424**, as amended by PL 1989, c. 104, Pt.
30 C, §§8 and 10, is repealed.

32 **Sec. 24. 30-A MRSA §451, sub-§4**, as amended by PL 1991, c.
493, §26, is repealed.

34 **Sec. 25. 30-A MRSA §451, sub-§8**, as amended by PL 1989, c.
36 104, Pt. C, §§8 and 10, is repealed.

38 **Sec. 26. 30-A MRSA §454**, as amended by PL 1989, c. 104, Pt.
C, §§8 and 10, is repealed.

40 **Sec. 27. 30-A MRSA §701, sub-§2**, as amended by PL 1989, c.
42 104, Pt. C, §§8 and 10, is further amended to read:

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

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

7 **Sec. 28. 30-A MRSA c. 13, as amended, is repealed.**

8 **Sec. 29. 34-A MRSA §1001, sub-§1, as amended by PL 1991, c.**
9 **314, §1, is further amended to read:**

10 **1. Chief administrative officer.** "Chief administrative
11 officer" means the head of a correctional facility, a county jail
12 or a detention facility.

13 **Sec. 30. 34-A MRSA §1001, sub-§6, as amended by PL 1991, c.**
14 **314, §5, is further amended to read:**

15 **6. Correctional facility.** "Correctional facility" means any
16 facility or jail that falls under the jurisdiction of the
17 department, but does not include a county-jail, holding facility,
18 or short-term detention area or a detention-facility.

19 **Sec. 31. 34-A MRSA §1001, sub-§8-B is enacted to read:**

20 **8-B. Detainee.** "Detainee" means a person being held
21 pursuant to an arrest or a court order other than a judgment and
22 commitment order.

23 **Sec. 32. 34-A MRSA §1001, sub-§10-A is enacted to read:**

24 **10-A. Jail.** "Jail" means a facility used for the detention
25 of detainees and prisoners serving sentences of 12 months or
26 less. A jail may be a county, regional or district jail.

27 **Sec. 33. 34-A MRSA §1001, sub-§14, as repealed and replaced by**
28 **PL 1991, c. 314, §7, is amended to read:**

29 **14. Prisoner.** "Prisoner" means an adult person sentenced
30 and committed to any correctional facility, jail, holding
31 facility or short-term detention area, except the Maine Youth
32 Center transferred--to--or--detained--in--the--custody--of--the
33 department,--including,--where--the--context--indicates,--a--person
34 under-intensive-supervision.

35 **Sec. 34. 34-A MRSA §1201, as amended by PL 1991, c. 314, §9,**
36 **is further amended to read:**

37 **§1201. Legislative intent**

38 Recognizing the need to firmly control all of the State's
39 correctional and-detention facilities, and jails; provide for the
40

2 safety of staff--and--clients guards, committed offenders, and
3 detainees; undertake appropriate programming for the
4 classification, education, rehabilitation and maintenance of
5 clients committed offenders and detainees; and assure an
6 effective system for the supervision of parolees and
7 probationers, it is the intent of the Legislature to create a
8 Department of Corrections to improve the administration of
9 correctional facilities, jails, programs and services for clients
10 committed offenders and detainees.

11 **Sec. 35. 34-A MRSA §1202, first ¶,** as enacted by PL 1983, c.
12 459, §6, is amended to read:

13 There is established a Department of Corrections to be
14 responsible for the direction and general administrative
15 supervision, guidance and planning of adult and juvenile
16 correctional facilities, jails and programs within the State.

17 **Sec. 36. 34-A MRSA §1203, sub-§1,** as amended by PL 1991, c.
18 314, §10, is further amended to read:

19 **1. Establishment.** The Office of Advocacy is established
20 within the department to investigate the claims and grievances of
21 clients committed offenders, informally adjusted juveniles,
22 detainees and contract clients, to investigate, in conjunction
23 with the Department of Human Services, as appropriate,
24 allegations of adult and child abuse or neglect in correctional
25 facilities and detention facilities and to advocate for
26 compliance by the department, any correctional facility, any
27 detention facility, jail or any contract agency with all laws,
28 administrative rules and institutional and other policies
29 relating related to the rights and dignity of committed
30 offenders, informally adjusted juveniles, detainees and contract
31 clients.

32 **Sec. 37. 34-A MRSA §1203, sub-§3, ¶¶A, B and C,** as amended by PL
33 1991, c. 314, §11, are further amended to read:

34 **A.** Receive or refer complaints made by committed offenders,
35 informally adjusted juveniles, detainees and contract
36 clients;

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

42 **C.** Act ~~as~~ As an information source regarding the rights of
43 these persons, keep informed about all laws, administrative
44 rules and standards, institutional and other policies
45 relating related to the rights and dignity of these persons

2 and about relevant legal decisions and other developments
3 related to the field of corrections, both in this State and
4 in other parts of the country; and

5 **Sec. 38. 34-A MRSA §1203, sub-§4, ¶B,** as amended by PL 1991,
6 c. 314, §12, is further amended to read:

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

11 **Sec. 39. 34-A MRSA §1203, sub-§5, ¶A,** as amended by PL 1991,
12 c. 314, §13, is further amended to read:

13 A. Any request by a client ~~for action by the office and all~~
14 ~~written--records~~ committed offender, detainee, informally
15 adjusted juvenile or contract client for action by the
16 office and all written records or accounts related to the
17 request are confidential as to the identity of the
18 requesting person.

19 **Sec. 40. 34-A MRSA §1205, sub-§3, ¶B,** as enacted by PL 1983,
20 c. 459, §6, is amended to read:

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

27 **Sec. 41. 34-A MRSA §1205, sub-§3, ¶C,** as amended by PL 1991,
28 c. 314, §15, is repealed.

29 **Sec. 42. 34-A MRSA §1210,** as corrected by RR 1991, c. 2,
30 §127, is repealed.

31 **Sec. 43. 34-A MRSA §1402, sub-§1,** as amended by PL 1991, c.
32 314, §17, is further amended to read:

33 1. **General.** The commissioner has shall have general
34 supervision, management and control of the research and planning,
35 grounds, buildings, property, officers, employees ~~and--clients~~
36 , committed offenders and detainees of any correctional facility,
37 ~~detention-facility-or~~ correctional program or jail.

38 **Sec. 44. 34-A MRSA §1402, sub-§2,** as enacted by PL 1983, c.
39 459, §6, is amended to read:

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

54

2 **Sec. 45. 34-A MRSA §1402, sub-§3**, as amended by PL 1991, c.
314, §18, is further amended to read:

4 **3. Rules.** Rules shall-be are established as follows.

6 A. The commissioner shall establish, in accordance with the
7 Maine Administrative Procedure Act, Title 5, chapter 375,
8 such rules as he the commissioner determines appropriate or
9 necessary for the care and management of the property of all
10 correctional facilities and jails, for the production and
11 distribution of industrial products of the correctional
12 facilities or jails and for the execution of the statutory
13 purposes and functions of correctional facilities, jails or
14 correctional programs.

16 B. The central principle underlying all rules, regulations,
17 standards, procedures and practices relating to clients
18 committed offenders and detainees is that the clients
19 committed offenders and detainees retain all rights of an
20 ordinary citizen, except those expressly or by necessary
21 implication taken from them by law.

22 **Sec. 46. 34-A MRSA §1402, sub-§5**, as amended by PL 1991, c.
23 314, §19, is further amended to read:

24 **5. Grievance procedures.** The commissioner shall establish
25 procedures for hearing grievances of clients committed offenders,
26 informally adjusted juvenile, detainees and contract clients as
27 described in section 1203.

28 **Sec. 47. 34-A MRSA §1402, sub-§7**, as amended by PL 1991, c.
29 314, §20, is further amended to read:

30 **7. Abuse allegations in correctional facilities and jails.**
31 The commissioner is responsible for ensuring appropriate
32 intervention and remediation in cases of substantiated abuse and
33 neglect in correctional and-detention facilities and jails. The
34 commissioner shall ensure, through inspection at least every 2
35 years, that all correctional and-detention facilities and jails
36 meet applicable federal and established state standards for
37 correctional facilities and jails relating to the administration,
38 operation, buildings, health and safety of clients of these
39 facilities.

40 **Sec. 48. 34-A MRSA §1403, sub-§1**, as amended by PL 1991, c.
41 314, §21, is further amended to read:

42 **1. General powers.** The commissioner may perform any legal
43 act relating to the care, custody, treatment, relief and
44 improvement of clients committed offenders and detainees or may
45 purchase residential services when the department's correctional
46 and-detention facilities or jails do not provide the appropriate
47 services for the client committed offender or detainees.

2 **Sec. 49. 34-A MRSA §1403, sub-§2, ¶C**, as amended by PL 1985,
c. 821, §19, is further amended to read:

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

- 6 (1) Associate Commissioner;
- 8 (1-A) Associate Commissioner of Community Corrections;
- 10 (1-B) Associate Commissioner of Jail Services;
- 12 (2) Assistant to the Commissioner; and
- 14 (3) Director, Correctional Program.

16 **Sec. 50. 34-A MRSA §1403, sub-§3**, as amended by PL 1991, c.
18 314, §§22 and 23, is further amended to read:

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

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

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

32 ~~B-1.---Unless---a---specific---statute---otherwise---directs,---the~~
34 ~~commissioner---may---empower---chief---administrative---officers---to~~
~~delegate-powers-and-duties-given-to-them-by-chapter-3.~~

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

44 **Sec. 51. 34-A MRSA §1403, sub-§5**, as amended by PL 1991, c.
46 314, §24, is further amended to read:

48 **5. Lease of unused buildings.** The commissioner may, with
the approval of the Director of Public--Improvements General
50 Services, lease unused buildings at the correctional and
detention facilities or jails for the purposes of providing
52 services to clients committed offenders and detainees.

2 A. The leases must be for a period not to exceed one year.

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

10 Sec. 52. 34-A MRSA §1403, sub-§6, as amended by PL 1991, c.
12 314, §25, is further amended to read:

14 **6. Acceptance or conveyance of donated personal property.**
The commissioner may accept donations of personal property to be
used at a correctional ~~ex-detention~~ facility or jail. If, at a
16 later date, the donated property ceases to be useful to the
correctional ~~ex-detention~~ facility or jail, the commissioner may
18 sell the property and use the proceeds for the benefit of the
correctional ~~ex-detention~~ facility or jail to which the property
20 was originally donated.

22 Sec. 53. 34-A MRSA §1403, sub-§7, as enacted by PL 1983, c.
24 724, is amended to read:

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

30 A. Products from those farm programs shall ~~must~~ be used by
32 correctional facilities or jails. If a surplus exists, it
may be:

34 (1) Sold or distributed to other state, county or
36 local governmental entities;

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

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

44 B. The revenue generated by the sale of those farm products
shall ~~must~~ be deposited in a special account. This account
46 shall ~~must~~ not lapse at the end of a fiscal year but may be
carried forward from year to year. If the amount in the fund
48 exceeds \$100,000, the excess in the account shall ~~must~~ be
transferred to the General Fund.

50 C. These funds in this special account may be expended to
52 implement farm programs in correctional facilities or jails.

2 These expenditures include, but are not limited to, the
purchase of necessary materials and equipment, construction,
4 administrative costs and employee salaries.

6 **Sec. 54. 34-A MRSA §1403, sub-§8, ¶A**, as repealed and replaced
by PL 1989, c. 127, §3, is amended to read:

8 A. The commissioner may receive in any correctional
10 facility or jail prisoners detained by the United States or
convicted of an offense against the United States and
12 committed for a term of imprisonment to the custody of the
Attorney General of the United States if:

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

18 (2) The commissioner approves and agrees to accept and
20 keep the prisoner or detainee in a Maine correctional
facility or jail.

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

26 **Sec. 55. 34-A MRSA §1403, sub-§9, ¶B**, as enacted by PL 1985,
c. 821, §21, is amended to read:

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

36 **Sec. 56. 34-A MRSA §1403, sub-§9, ¶C and D**, as amended by PL
1989, c. 127, §4, are further amended to read:

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

46 D. All revenues from direct sales of goods and services
produced by prisoners or detainees at correctional
48 facilities or jails and all amounts received from a private
sector industry participating with the Department ~~of~~
50 Corrections department in an industries program certified by
the United States Department of Justice under the United
52 States Code, Title 18, Section 1761, in consideration of
lease of industry space, provision of utilities, trash

2 removal and other services provided to the private industry
3 which that are related to the use of industry space at
4 correctional facilities shall or jails must be deposited
5 into the department Industries Accounts, which shall may not
6 lapse.

7 **Sec. 57. 34-A MRSA §1403, sub-§10** is enacted to read:

8
9 **10. Use of existing program space in a jail.** The
10 commissioner may not convert jail space designed solely as work
11 or classroom space for the house of prisoners or detainees other
12 than on a short-term emergency basis.

13 **Sec. 58. 34-A MRSA c. 3, first 2 lines** are repealed and the
14 following enacted in their place:

15
16 **CHAPTER 3**
17
18 **CORRECTIONAL FACILITIES AND JAILS**

19
20 **Sec. 59. 34-A MRSA §3001, sub-§§1 and 2,** as amended by PL 1991,
21 c. 314, §26, are further amended to read:

22
23 **1. Appointment.** The commissioner may appoint chief
24 administrative officers of correctional facilities and jails as
25 necessary for the proper performance of the functions of the
26 department.

27
28 A. To be eligible for appointment as a chief administrative
29 officer of a correctional facility or jail, a person must be
30 experienced in the management of the particular type of
31 facility or jail to which that person is assigned.

32
33 B. Chief administrative officers of correctional facilities
34 or jails shall report directly to the commissioner.

35
36 **2. Acting chief administrative officer.** Notwithstanding any
37 other provision of law, the commissioner may delegate any
38 employee of the department to serve as the acting chief
39 administrative officer of any correctional facility or jail, if
40 the office of the chief administrative officer of the
41 correctional facility or jail is vacant.

42
43 A. The acting chief administrative officer shall serve for
44 a period not to exceed 180 days.

45
46 B. Service as the acting chief administrative officer of a
47 correctional facility or jail is considered a temporary
48 additional duty for the person so delegated.

49
50

2 **Sec. 60. 34-A MRSA §3003, sub-§1**, as amended by PL 1991, c.
314, §27, is further amended to read:

4 **1. Limited disclosure.** All orders of commitment, medical
5 and administrative records, applications and reports, and facts
6 contained in them, pertaining to any person receiving services
7 from the department, must be kept confidential and may not be
8 disclosed by any person, except that criminal history record
9 information may be disseminated in accordance with Title 16,
10 chapter 3, subchapter VIII, and documents, other than those
11 documents pertaining to information obtained by the department
12 for the purpose of evaluating a client's committed offender's or
13 detainee's ability to participate in a community-based program or
14 from informants in a correctional ~~ex-detention~~ facility or jail
15 for the purpose of determining whether correctional facility or
16 jail rules have been violated, or a victim's request for notice
17 of release, may be disclosed:

18 A. To any person, if the person receiving services, that
19 person's legal guardian, if any, or, if that person is a
20 minor, that person's parent or legal guardian, gives
21 informed written consent to the disclosure of the documents
22 referred to in this subsection after being given the
23 opportunity to review the documents sought to be disclosed;

24 B. To any state agency if necessary to carry out the
25 statutory functions of that agency;

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

28 D. To any criminal justice agency if necessary to carry out
29 the administration of criminal justice, the administration
30 of juvenile criminal justice or for criminal justice agency
31 employment.

32 **Sec. 61. 34-A MRSA §3004**, as amended by PL 1991, c. 314, §28,
33 is further amended to read:

34 **§3004. Legal actions**

35 **1. Contract actions.** Actions founded on any contract made
36 with the State Purchasing Agent, or with any official of the
37 department under the authority granted by the State Purchasing
38 Agent, on behalf of a correctional ~~ex-detention~~ facility or jail
39 may be brought by the official making the contract or the
40 official's successor in office.

41 **2. Actions for injuries to property.** Actions for injuries
42 to the real or personal property of the State, used by any

2 correctional ~~er--detention~~ facility or jail and under the
management of an officer of the facility or jail, may be
4 prosecuted in the name of the officer or the officer's successor
in office.

6 **Sec. 62. 34-A MRSA §3005, first ¶**, as amended by PL 1991, c.
314, §29, is further amended to read:

8
10 When emergency situations are certified by the chief
administrative officer to exist at a correctional ~~er--detention~~
12 facility or jail, the commissioner may, with the approval of the
Governor, assign personnel as may be necessary from another
14 facility, jail or division of the department to assist in
controlling the emergency situation.

16 **Sec. 63. 34-A MRSA §3007, first ¶**, as amended by PL 1991, c.
314, §30, is further amended to read:

18
20 The chief administrative officer of each correctional ~~er~~
~~detention~~ facility or jail shall provide in at least one
22 accessible area in each correctional facility or jail an
appropriate space for the posting of written political material
24 sent for that purpose to the chief administrative officer by
candidates for state office or federal office in this State.

26 **Sec. 64. 34-A MRSA §3008**, as enacted by PL 1983, c. 459, §6,
is amended to read:

28
30 **§3008. Reallocation of correctional facility and jail
appropriations**

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

40
42 **Sec. 65. 34-A MRSA §3009, sub-§2**, as amended by PL 1991, c.
314, §32, is further amended to read:

44 **2. Special police officers.** The chief administrative
officers of correctional ~~er--detention~~ facilities or jails may
46 appoint and employ, subject to the Civil Service Law, special
police officers for the purpose of enforcing rules promulgated
48 under subsection 1.

50 A. The special police officers shall:

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

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

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

8 B. The State Police, sheriffs, deputy sheriffs, police
10 officers and constables who have jurisdiction over the areas
in which the correctional ~~ex-detention~~ facilities or jails
12 are located shall, insofar as possible, cooperate with the
special police officers in the enforcement of the rules
14 promulgated under subsection 1.

16 **Sec. 66.** 34-A MRSA c. 3, sub-c. I, art. II, first 2 lines are repealed
and the following enacted in their place:

18 Article II

20 COMMITTED OFFENDERS AND DETAINEES GENERALLY

22 **Sec. 67.** 34-A MRSA §3031, first ¶, as amended by PL 1991, c.
24 314, §34, is further amended to read:

26 Any person residing in a correctional ~~ex-detention~~ facility
or jail has a right to:

28 **Sec. 68.** 34-A MRSA §3031, sub-§2, as amended by PL 1991, c.
30 314, §35, is further amended to read:

32 2. **Medical care.** Adequate professional medical care, not
including medical treatment requested by the elient committed
34 offender or detainee that the correctional facility's or jail's
treating physician ~~determines~~ deems unnecessary. The State may
36 bring a civil action in any court of competent jurisdiction to
recover the cost of any medical, dental, psychiatric or
38 psychological expenses incurred by the State on behalf of any
elient committed offender or detainee incarcerated in a
correctional facility or jail. The following assets are not
40 subject to judgment under this subsection:

42 A. Joint ownership, if any, that the elient committed
offender or detainee may have in real property;

44 B. Joint ownership, if any, that the elient committed
46 offender or detainee may have in any assets, earnings or
other sources of income; and

48 C. The income, assets, earnings or other property, both
50 real and personal, owned by the elient's committed
offender's or detainee's spouse or family.

52

2 **Sec. 69. 34-A MRSA §3031, sub-§8,** as enacted by PL 1983, c.
459, §6, is amended to read:

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

10 **Sec. 70. 34-A MRSA §3032, first ¶,** as amended by 1991, c. 314,
12 §6, is further amended to read:

14 The commissioner shall adopt rules describing disciplinary
16 offenses and punishments in correctional facilities and jails
and establishing a fair and orderly procedure for processing
18 disciplinary complaints. The rules must conform to the following
requirements.

20 **Sec. 71. 34-A MRSA §3032, sub-§3,** as amended by PL 1989, c.
22 127, §6, is further amended to read:

24 **3. Segregation.** The imposition of segregation at all
26 correctional facilities or jails, except the Maine Youth Center,
shall-be is subject to the following conditions.

28 A. All punishments involving segregation shall must be
30 first approved by the chief administrative officer of the
correctional facility or jail.

32 B. The prisoner or detainee shall must be provided with a
sufficient quantity of wholesome and nutritious food.

34 C. Adequate sanitary and other conditions required for the
36 health of the prisoner or detainee shall must be maintained.

38 D. When segregation exceeds 24 hours, the chief
administrative officer of the correctional facility or jail
40 shall cause the correctional facility's or jail's physician
or a member of the correctional facility's or jail's medical
42 staff to visit the person immediately and, at least once in
each succeeding 24-hour period of confinement, to examine
44 the person's state of health. When no physician or medical
staff member is available within the correctional facility
or jail to visit as required by this paragraph, a staff
46 person who has received in-service training appropriate for
the duties required by this section from a licensed health
48 professional shall visit in lieu of the visit by the
physician or medical staff member the person in
50 confinement. The staff person making the visit shall
52 immediately contact the physician or medical staff member on
call if there is reasonable cause to believe the action is
54 necessary.

2 (1) The chief administrative officer shall give full
3 consideration to recommendations of the physician or
4 medical staff member as to the person's dietary needs
5 and the conditions of the person's confinement required
6 to maintain that person's health.

7 (2) If the recommendations of the physician or medical
8 staff member regarding a person's dietary or other
9 health needs while in segregation are not carried out,
10 the chief administrative officer shall immediately
11 convey the reasons and circumstances for this decision
12 to the commissioner for review and final disposition.

13 E. If a person is held in segregation or solitary
14 confinement for more than 5 days, the chief administrative
15 officer shall send a report of the confinement to the
16 commissioner, giving the reasons for the confinement.

17 **Sec. 72. 34-A MRSA §3032, sub-§5,** as amended by PL 1991, c.
18 314, §37, is further amended to read:

19 **5. Specific facilities or jails.** Punishment at specific
20 correctional facilities or jails is governed as follows.

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

25 B. Punishment at the Maine Youth Center ~~and any detention~~
26 ~~facility~~ may consist of observation, in accordance with
27 section 3809, warnings, restitution, labor at any lawful
28 work and loss of privileges.

29 **Sec. 73. 34-A MRSA §3032, sub-§5-A,** as amended by PL 1991, c.
30 314, §38, is further amended to read:

31 **5-A. Restitution.** The imposition of restitution at all
32 correctional facilities or jails is subject to the following
33 conditions.

34 A. Restitution may be imposed for the purpose of replacing
35 or repairing property destroyed or damaged by the ~~prisoner~~
36 committed offender, detainee or juvenile while ~~the prisoner~~
37 ~~or juvenile is~~ at the institution or jail. When restitution
38 is imposed as a punishment at a correctional facility or
39 jail, any prisoner a committed offender, detainee or any a
40 juvenile who is subject to that punishment and committed to
41 the Maine Youth Center or who is committed to the custody of
42 the department and placed at the Maine Youth Center, who is
43 subject to that punishment and who is able to generate
44 income from whatever source, shall pay 25% of that income to

2 the correctional facility or jail where the damage
4 occurred. The correctional facility or jail shall collect
6 that income and apply it to defray the cost of replacement
8 or repair of the items destroyed or damaged. Restitution is
10 not authorized if the imposition of that punishment would
create an excessive financial hardship, as determined by the
department, on the dependents of the elient committed
offender or detainee. Any payments made for the support of
the dependents that is required by the Department of Human
Services is not available for restitution payments.

12 B. A ~~prisoner~~ committed offender, detainee or juvenile who
14 is transferred to another correctional facility or jail
remains liable for any restitution authorized under this
16 chapter. The correctional facility or jail receiving the
~~prisoner~~ committed offender, detainee or juvenile must shall
18 collect the restitution and transfer it to the correctional
facility or jail where the damage occurred.

20 **Sec. 74. 34-A MRSA §3032, sub-§6**, as amended by PL 1991, c.
22 314, §39, is further amended to read:

24 **6. Impartial hearing.** If the punishment may affect the term
of commitment, sentence or parole eligibility or may involve
26 restitution, labor at any lawful work or segregation, the chief
administrative officer of the correctional facility or jail
28 shall, before imposing punishment, provide an impartial hearing
at which the elient committed offender or detainee has the
following rights.

30 A. The elient committed offender or detainee is entitled to
32 be informed in writing of the specific nature of the alleged
misconduct.

34 B. The elient committed offender or detainee is entitled to
36 the right to be present at the hearing, except that the
elient committed offender or detainee may be prevented from
38 attending or be removed if the elient's committed offender's
or detainee's behavior indicates that the elient committed
40 offender or detainee is in danger of self-injury or a danger
to other persons or property.

42 C. The elient committed offender or detainee is entitled to
44 present evidence on the elient's committed offender's or
detainee's own behalf.

46 D. The elient committed offender or detainee is entitled to
48 call one or more witnesses, which right may not be
unreasonably withheld or restricted.

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

54

2 F. The elient committed offender or detainee is entitled to
be represented by counsel substitute as prescribed in the
4 rules.

6 G. A record must be maintained of all disciplinary
complaints, hearings, proceedings and dispositions.

8 H. The elient committed offender or detainee is entitled to
10 appeal the final disposition, before imposition of
punishment, to the chief administrative officer of the
12 correctional facility or jail.

14 I. If, at any stage of the proceedings, the elient
16 committed offender or detainee is cleared of the charges in
a complaint, or the complaint is withdrawn, all
documentation relating to the complaint must be expunged.

18 **Sec. 75. 34-A MRSA §3033**, as amended by PL 1989, c. 127, §7
20 to 9, is further amended to read:

22 **§3033. Work assignments**

24 1. **Public works.** The commissioner may authorize the
employment of able-bodied prisoners in correctional facilities or
26 jails in the construction and improvement of highways or other
public works within the State under such arrangements as may be
28 made with the Department of Transportation or with another
department or commission of the State, county or municipality in
charge of these public works, and the commissioner may prescribe
30 whatever rules and conditions the commissioner considers
expedient to ensure the proper care and treatment of the
32 prisoners while so employed and to ensure their safekeeping and
return.

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

40 3. **Charitable property improvement.** The commissioner may
42 authorize the use of able-bodied prisoners to provide assistance
in the improvement of property owned by charitable, nonprofit
44 organizations.

46 A. The commissioner shall ~~premulgate~~ adopt such rules as he
48 ~~deems~~ the commissioner considers proper to ensure the care
and treatment of the prisoners and the safe working
conditions of prisoners and departmental employees.

50 B. The commissioner may request that charitable, nonprofit
52 organizations pay for the transportation of the prisoners

2 and pay the per diem compensation of guards, correctional
officers or instructors who must accompany the prisoners or
oversee the work to be performed.

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

12 **Sec. 76. 34-A MRSA §3035**, as amended by PL 1991, c. 314, §40,
is further amended to read:

14 **§3035. Rehabilitative programs**

16 The commissioner may adopt, implement and establish rules
18 for rehabilitative programs, including work release, restitution
and furlough, as authorized by Title 17-A, chapter 54, within the
20 correctional facilities or jails under the commissioner's control.

22 **1. Work release and restitution.** The chief administrative
officer of a correctional facility or jail may permit any elient
24 committed offender under--sentence--to--the--department--and--any
juvenile--elient committed offender considered to be worthy of
26 trust to participate in activities outside the correctional
facility or jail under the following conditions.

28 A. Activities may include training and employment.

30 B. Activities are subject to rules promulgated adopted by
32 the commissioner.

34 C. Activities must, in the judgment of the chief
administrative officer, contribute to the reformation of the
36 elient committed offender and assist in preparing the elient
committed offender for eventual release.

38 D. Transportation to work release job sites must be
40 arranged by the commissioner.

42 (1) Elients Committed offenders participating in the
work release program must be assessed an equitable
44 share of the cost of the transportation.

46 (2) Funds received from elients committed offenders
for work release transportation must be placed in the
48 General Fund.

50 E. Every elient committed offender participating in the
work release program is liable for the cost of board in the
52 correctional facility or jail.

54 (1) The reasonable cost of board for a elient

2 committed offender in a correctional facility or jail
3 is fixed by the commissioner. In fixing the reasonable
4 cost of the board to be paid, the commissioner shall
5 take into consideration other state laws or judicial
6 determinations that affect the client's committed
7 offender's income.

8 (2) Funds received from clients committed offenders
9 for the board must be placed in the General Fund.

10 **2. Furlough.** Subject to subsection 5, the commissioner may
11 grant to a client committed offender ~~under--sentence--to--the~~
12 ~~department--and--a--juvenile--client~~ furlough from the correctional
13 facility or jail in which the client committed offender is
14 confined under the following conditions.

15 A. Furlough may only be granted subject to rules adopted by
16 the commissioner.

17 B. Furlough may be granted for not more than 10 days at one
18 time for a visit to a dying relative, for attendance at the
19 funeral of a relative, for the contacting of prospective
20 employers or for any other reason consistent with the
21 rehabilitation of a client committed offender.

22 C. Furlough may be granted for the obtaining of medical
23 services for a period longer than 10 days if medically
24 required.

25 **3. Copy of rules.** Copies of rules must be provided to
26 clients committed offenders as follows.

27 A. The chief administrative office of a facility or jail
28 adopting a rehabilitative program under this section shall
29 provide to any client committed offender permitted outside a
30 facility or jail under this section a copy of the rules of
31 the commissioner applicable to the program in which the
32 client committed offender is permitted to participate or to
33 the client's committed offender's furlough.

34 B. The client committed offender shall attest to the
35 receipt of the copy of the rules.

36 **4. Prohibited acts.** Prohibited acts under this section are
37 governed as follows.

38 A. A person who is 17 years of age or older is guilty of
39 interference with a rehabilitative program or furlough if
40 ~~the~~ that person willfully obstructs, intimidates or
41 otherwise abets any client participating in a program, or on
42 furlough, under this section, and thereby contributes or
43 causes the client committed offender to violate the terms of

2 the-client's that committed offender's program participation
or furlough, after having been warned by the chief
4 administrative officer of the facility or jail to end the
relationship or association with the client committed
6 offender.

8 B. Interference with a rehabilitative program or furlough
is a Class E crime, except that, notwithstanding Title
10 17-A, the court may sentence a person to imprisonment for
not more than 11 months.

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

18 **Sec. 77. 34-A MRSA §3036, sub-§2,** as amended by PL 1991, c.
20 314, §41, is further amended to read:

22 2. **Participation.** Clients Committed offenders at any
correctional ~~or detention~~ facility or ~~at any county~~ jail may be
24 paroled, furloughed, transferred or entrusted to participate in
the halfway house program in accordance with applicable
26 provisions of law.

28 **Sec. 78. 34-A MRSA §3038-A, sub-§1,** as amended by PL 1991, c.
30 314, §44, is further amended to read:

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

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

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

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

46 **Sec. 79. 34-A MRSA §3039,** as amended by PL 1991, c. 314, §45,
48 is further amended to read:

50 **§3039. Committed offenders' or detainees' money**

52 When any client committed offender or detainee confined in a
correctional ~~or detention~~ facility or jail receives money from

any source, including compensation for work authorized under other sections of Maine law or by a policy of the department, the money must be deposited in ~~that facility-eliants'~~ an account maintained by the correctional facility or jail for that committed offender or detainee.

1. **Accounts.** The chief administrative officer shall promulgate adopt rules for use of ~~the--eliants'~~ committed offenders' or detainees' account accounts. These rules must include a provision allowing a elient committed offender or detainee to remove that elient's committed offender's or detainee's money from the eliants' account and place it in any type of investment outside the correctional facility or jail chosen-by-the-elient that the committed offender or detainee chooses. The chief administrative officer shall keep a record of all money in the eliants' committed offender's or detainee's account and is responsible for safekeeping of the money while the elient committed offender or detainee is in the custody of the department and for the delivery of that money to the elient committed offender or detainee upon ~~the-elient's~~ that committed offender's or detainee's discharge.

2. **Interest.** Any interest accruing as a result of the deposit of that money in the eliants' committed offenders' or detainees' account accounts may, after first being used to defray expenses of the account accounts, be expended by the chief administrative officer of the correctional facility or jail for the general welfare of all eliants committed offenders or detainees at that correctional facility or jail.

3. **Use.** During ~~the--elient's~~ confinement, any elient committed offender or detainee may use ~~that-elient's~~ the money in the eliants' committed offender's or detainee's account by authorizing the chief administrative officer to disburse the money in accordance with the rules governing ~~the--eliants'~~ committed offenders' or detainees' account accounts.

Sec. 80. 34-A MRSA §3040, as amended by PL 1991, c. 314, §46, is further amended to read:

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

Any property abandoned or unclaimed by a elient committed offender or detainee in a correctional or-detention facility or jail must be disposed of according to Title 33, chapter 27.

Sec. 81. 34-A MRSA §3040-A, as amended by PL 1991, c. 824, Pt. A., §69, is further amended to read:

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

2 Property remaining in a correctional ~~or-detention~~ facility
or jail as a result of a elient's committed offender's or
4 detainee's death is governed as follows.

6 1. **Payment.** Except as provided in subsection 4, if any
elient committed offender or detainee under the control of the
department dies, leaving on deposit in the elient's committed
8 offender's or detainee's account at a correctional ~~or-detention~~
facility or jail an amount not exceeding \$1,000, and no personal
10 representative of the elient's estate is appointed, the chief
administrative officer may pay the balance of ~~the-elient's~~ that
12 account to the surviving spouse or next of kin in accordance with
the Probate Code, Title 18-A, sections 2-101 to 2-114, to the
14 funeral director having any bill outstanding for the burial of
the decedent or to any other preferred creditor or creditors who
16 may appear to be entitled thereto, and shall deliver personal
property in the chief administrative officer's custody to the
18 surviving spouse or next of kin in accordance with the Probate
Code, Title 18-A, sections 2-101 to 2-114.

20 2. **Time of payment.** Payments or delivery pursuant to
subsection 1 may not be made until 60 days have elapsed following
22 the date of death of the elient committed offender or detainee.

24 3. **Liability of payment.** For any payment or delivery made
pursuant to subsections 1 and 2, the chief administrative officer
26 or ~~the-chief-administrative-officer's~~ a designee acting under
this section may not be held liable to the decedent's personal
28 representative thereafter appointed, or to the decedent's heirs,
30 successors or assigns.

32 4. **Alternative payment.** Notwithstanding subsection 1, upon
presentation of an affidavit under Title 18-A, section 3-1201,
34 the chief administrative officer shall pay the balance of any
deposit in the elient's committed offender's or detainee's
36 account at a correctional ~~or-detention~~ facility or jail and
deliver ~~the-decedent's~~ any personal property to the elient's
38 committed offender's or detainee's successor under Title 18-A,
sections 3-1201 and 3-1202. The payments under this subsection
40 take precedence over payments under subsection 1 to the extent of
the balance of the deposits in the elients' committed offender's
42 or detainee's account and the personal property remaining in the
custody of the chief administrative officer at the time the
44 affidavit is presented.

46 **Sec. 82. 34-A MRSA §3042, sub-§§1 and 2,** as enacted by PL 1983,
c. 459, §6, are amended to read:

48 1. **Notice to prisoner.** The commissioner, chief
50 administrative officer or other official having custody of a
prisoner serving a term of imprisonment in a correctional
52 facility or jail in this State shall promptly inform the prisoner
in writing of:

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

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

8
2. **Right to trial.** A prisoner serving a term of
10 imprisonment in a correctional facility or jail in this State is
entitled to be brought to trial on any untried indictment,
12 information or complaint pending in this State against him the
prisoner within 180 days after giving proper notice in accordance
14 with subsections 3 and 4.

16 **Sec. 83. 34-A MRSA §3042, sub-§3, ¶C,** as enacted by PL 1983,
c. 459, §6, is amended to read:

18
20 C. A certificate of the commissioner, warden chief
administrative officer or other official having custody of
the prisoner stating:

22 (1) The term of commitment under which the prisoner is
24 held;

26 (2) The time already served on the sentence;

28 (3) The time remaining to be served;

30 (4) The amount of good time earned;

32 (5) The time of parole eligibility of the prisoner; and

34 (6) Any decisions of the State Parole Board relating
to the prisoner.

36
38 **Sec. 84. 34-A MRSA §3042, sub-§4,** as enacted by PL 1983, c.
459, §6, is amended to read:

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

42
44 A. The prisoner shall give or send the written notice of
place of imprisonment and the written notice of request for
46 final disposition to the commissioner, warden chief
administrative officer or other official having custody of
him the prisoner.

48
50 B. The commissioner, warden chief administrative officer or
other official having custody of the prisoner shall promptly
52 forward the written notices, together with the certificate,
to the appropriate prosecuting official and court by
54 registered or certified mail, return receipt requested.

2 **Sec. 85. 34-A MRSA §3042, sub-§5**, as repealed and replaced by
PL 1987, c. 167, §1, is amended to read:

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

8 **Sec. 86. 34-A MRSA §3042, sub-§7**, as enacted by PL 1983, c.
10 459, §6, is amended to read:

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

16 **Sec. 87. 34-A MRSA §3043, sub-§1**, as enacted by PL 1983, c.
18 459, §6, is amended to read:

20 **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
22 that is supported wholly or in part by public funds, the chief
administrative officer of the facility, jail or institution shall
24 inquire at once into the nationality of the person and, if it
appears that the person is an alien, the chief administrative
26 officer shall notify immediately the United States immigration
officer in charge of the district in which the facility, jail or
28 institution is located, of:

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

32 B. The length of time for which the alien is admitted or
34 committed;

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

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

40 **Sec. 88. 34-A MRSA §3044, sub-§1**, as amended by PL 1991, c.
42 314, §48, is further amended to read:

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

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

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

6 Sec. 89. 34-A MRSA §3045, as amended by PL 1991, c. 314, §49,
is further amended to read:

8
10 **§3045. Unnatural death of committed offender or detainee**

12 When the death of any ~~elient~~ committed offender or detainee
in any correctional ~~ex-detention~~ facility or jail is not clearly
14 the result of natural causes, an examination and inquest must be
held as in other cases, and the commissioner or the chief
16 administrative officer of the facility shall cause a medical
examiner to be immediately notified for that purpose.

18 Sec. 90. 34-A MRSA §3046, first ¶, as amended by PL 1991, c.
314, §50, is further amended to read:

20 At the discretion of and under conditions prescribed by the
22 commissioner, a ~~elient-confined-in-a-correctional-or-detention~~
~~facility~~ committed offender or detainee may attend the funeral of
24 the ~~elient's~~ committed offender's or detainee's spouse, natural
or adoptive mother, father, son, daughter, grandfather or
26 grandmother, grandchild, brother or sister, or may be permitted
deathbed visits to any of those persons, if the funeral or visit
28 is held within the State. A detainee must be escorted by a
correctional officer.

30
32 Sec. 91. 34-A MRSA §3047, as corrected by RR 1991, c. 1, §48,
is amended to read:

34 **§3047. Discharge or parole**

36 When any ~~prisoner-sentenced-to-the-department~~ committed
offender or detainee is paroled or discharged, the commissioner:

38 1. **Clothing.** Shall ensure that the ~~prisoner~~ committed
40 offender or detainee is provided with decent clothing;

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

46 A. Has, within the 6 months prior to the date of parole or
discharge, transferred from ~~the-elients'~~ that committed
48 offender's or detainee's account to any person more than
\$500, excluding any money transferred for the support of any
50 dependents; or

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

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

8 A. If the prisoner's committed offender's or detainee's
10 home is within the State, transportation must be furnished
to the prisoner's that home;

12 B. If the prisoner committed offender or detainee has
14 secured employment within the State, transportation must be
furnished to the place of employment;

16 C. If the prisoner's committed offender's or detainee's
18 home is outside the State, or if the prisoner committed
20 offender or detainee has secured employment outside the
State, transportation must be furnished to the place on the
22 Maine border nearest the place of employment or the
committed offender's or detainee's home; or

24 D. If the prisoner committed offender or detainee requests
26 a reasonable place nearer the place of incarceration than
any of the foregoing, transportation must be furnished to
that place; or

28 4. **Extreme circumstances.** May, in extreme circumstances, if
30 the prisoner's committed offender's or detainee's home is outside
the State, or if the prisoner committed offender or detainee has
32 secured employment outside the State, furnish transportation to
the prisoner's committed offender's or detainee's home or place
34 of employment.

36 **Sec. 92. 34-A MRSA c. 3, sub-c. I, art. III, first 2 lines** are repealed
and the following enacted in their place:

38 Article III

40 TRANSFER AND REMOVAL OF COMMITTED OFFENDERS OR DETAINEES

42 **Sec. 93. 34-A MRSA §3061, sub-§1,** as amended by PL 1991, c.
44 845, §5, is further amended to read:

46 1. **Transfer.** The commissioner may transfer any client
48 committed offender or detainee from one correctional ~~ex-~~detention
50 facility, jail or program, including prerelease centers, work
52 release centers, halfway houses, ~~supervised community confinement~~
or specialized treatment facilities, to another, ~~except--that~~
provided that no juvenile may be transferred to another facility,
jail or program for adult offenders.

2 **Sec. 94. 34-A MRSA §3063**, as amended by PL 1991, c. 314, §56,
is further amended to read:

4 **§3063. Transfer to jails**

6 1. **Requirements.** The commissioner may authorize the
transfer of ~~prisoners--sentenced--to--the--department~~ committed
8 ~~offenders or detainees~~ to any county jail.

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

14 3. **Return to a correctional facility.** When the commissioner
16 determines that the prisoner committed offender or detainee
should be returned to a correctional facility from a jail, the
18 commissioner shall transfer the prisoner committed offender or
detainee back to such a facility.

20 4. **Applicable rules.** Any person transferred under this
22 section is subject to the general rules of the jail to which the
that person is transferred, except that:

24 A. The term of the original sentence or commitment remains
26 the same unless altered by the court;

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

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

34 D. A prisoner committed offender or detainee transferred
36 pursuant to this section remains eligible for programs
authorized by section 3035 and may apply pursuant to the
38 rules governing the correctional facility or jail from which
the prisoner committed offender or detainee was transferred.

40 **Sec. 95. 34-A MRSA §3069**, as amended by PL 1991, c. 314, §57,
42 is further amended to read:

44 **§3069. Hospitalization for mental illness**

46 1. **Involuntary.** When the chief administrative officer of a
correctional ~~ex--detention~~ facility or jail believes that any
48 person in the that facility is mentally ill, requires
hospitalization and meets requirements for admission, the chief
50 administrative officer shall make application in accordance with
Title 34-B, section 3863.

52

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

4

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

10 C. A copy of the document by which the person is held in
the correctional facility or jail must accompany the
12 application for admission.

14 D. If the sentence being served at the time of admission
has not expired or commitment has not been terminated in
16 accordance with law at the time the person is ready for
discharge from hospitalization, the person must be returned
18 by the appropriate officers of the correctional ~~ex-detention~~
facility or jail.

20

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

26 2. **Voluntary.** The chief administrative officer of a
correctional ~~ex-detention~~ facility or jail may permit a person
28 confined in the facility or jail to apply for informal admission
to a state mental health institute under Title 34-B, section 3831.

30

32 A. Except as otherwise provided in this section, the
provisions of law applicable to persons admitted to a state
mental health institute under Title 34-B, chapter 3,
34 subchapter IV, Article II, apply to any person confined in a
correctional ~~ex-detention~~ facility or jail who is admitted
36 to a state mental health institute under that section.

38 B. A copy of the document by which the person is held in
the correctional facility or jail must accompany the
40 application for admission.

42 C. If the sentence being served at the time of admission
has not expired or commitment or detention has not been
44 terminated in accordance with law at the time the person is
ready for discharge from hospitalization, the person must be
46 returned by the appropriate officers of the correctional ~~ex~~
~~detention~~ facility or jail.

48

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

2 **Sec. 96. 34-A MRSA §3070, sub-§§1 and 2,** as amended by PL 1991,
c. 314, §58, are further amended to read:

4 **1. Application.** When the chief administrative officer of a
correctional ~~ex-detention~~ facility or jail believes that any
6 person confined in the that facility is mentally retarded and in
need of services available at the Pineland Center and is a proper
8 subject for admission to the Pineland Center, the chief
administrative officer shall apply in writing for the admission
10 of the person.

12 A. A copy of the document by which the person is held in
the correctional facility or jail must accompany the
14 application for admission.

16 B. Admission to the Pineland Center must be effected in
accordance with Title 34-B, sections 5473 to 5478.

18 **2. Unexpired sentence.** If the sentence being served at the
20 time of admission has not expired or commitment or detention has
not been terminated in accordance with law at the time the person
22 is ready for discharge from the Pineland Center, the person ~~must~~
shall be returned by the appropriate officers ~~of~~ to the
24 correctional ~~ex-detention~~ facility or jail.

26 **Sec. 97. 34-A MRSA §3070, sub-§3,** as enacted by PL 1983, c.
28 459, §6, is amended to read:

30 **3. Expired sentence.** If, at the time of expiration of the
original sentence or termination of the commitment, it is the
32 opinion of the Superintendent of the Pineland Center that the
patient should remain in residence at the Pineland Center after
expiration of sentence or termination of commitment or detention,
34 the patient may be readmitted to the Pineland Center in
accordance with Title 34-B, sections 5473 to 5478.

36 **Sec. 98. 34-A MRSA §3071, sub-§2,** as amended by PL 1991, c.
38 314, §59, is further amended to read:

40 **2. Contagious diseases.** If a pestilence or contagious
disease breaks out among the ~~elients~~ committed offenders or
42 detainees in any correctional ~~ex-detention~~ facility or ~~county~~
jail, the commissioner may:

44 A. Cause any of the ~~elients~~ committed offenders or
46 detainees to be removed to some suitable place of security
where they will receive all necessary care and medical
48 attention; and

50 B. Cause the ~~elient--ex--elients~~ committed offenders or
52 detainees to be returned as soon as possible to the jail or
institution correctional facility to be confined according
54 to their sentences, if unexpired.

2 programs that may involve public restitution or service:
3 community-based programs, pretrial release programs or
4 conditional release programs, alternative sentencing programs,
5 residential treatment programs, temporary release programs and
6 vocational and academic education and work programs.

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

10 **§3962. Jail administrator**

12 1. Chief administrative officer. The chief administrative
13 officer of each jail is called the jail administrator and is
14 responsible to the commissioner.

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

18 A. Manage and operate the jail in compliance with the
19 policies and procedures of the department and the standards
20 adopted under section 1402, subsection 3, by the
21 commissioner; and

22 B. Exercise proper supervision over the employees, grounds,
23 buildings and equipment at the jail and related community
24 corrections programs.

25 3. Powers. In addition to other powers granted in this
26 chapter, the jail administrator may appoint, with the approval of
27 the commissioner, one assistant jail administrator, subject to
28 the Civil Service Law, and the assistant jail administrator has
29 the powers, duties, obligations and liabilities of the jail
30 administrator when the jail administrator is absent or unable to
31 perform the jail administrator's duties.

32 **§3963. Jail Advisory Board**

33 The commissioner may appoint a Jail Advisory Board for each
34 jail to advise the commissioner and the jail administrator on the
35 detention or correctional needs of the county, regional or
36 district jail. The advisory board consists of at least 9 members
37 including a sheriff, a judge, a county commissioner, a
38 representative of the department and one or more citizens.
39 Members of the Jail Advisory Board are appointed for 2-year
40 terms. The jail administrator shall act as staff for the
41 advisory board.

42 **§3964. Transportation of committed offenders and detainees**

43 The commissioner is responsible for providing transportation
44 of all post-arraignment detainees and committed offenders.

2
3 **§3965. Prisoners and detainees generally**

4 **1. Confinement.** All prisoners and detainees at each jail
5 must be detained and confined in accordance with an order or
6 sentences of the court and the rules of the department.

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

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

31 **4. Official papers filed and delivered to successor.** All
32 warrants, mittimus, process and other official papers by which
33 any prisoner or detainee is detained, committed or released, or
34 attested copies of those papers, must be regularly filed and
35 safely kept. When vacating the position of jail administrator,
36 the jail administrator or a designee shall deliver those papers
37 to the new jail administrator. The penalty for failing to
38 deliver the papers is a forfeiture of \$220.

39 **5. Jail administrator responsible for delivery of prisoners**
40 **or detainees to successor.** Jail administrators or designees are
41 responsible to their successors for the delivery of all prisoners
42 or detainees in custody at the time of their removal.

43 **6. Positions of trust for certain prisoners.** The jail
44 administrator may grant positions of trust only to a prisoner
45 confined in a jail who was sentenced to serve a term in that
46 particular jail or who was transferred to that particular jail
47 from another jail or correctional facility where the prisoner was
48 serving a sentence.

7. Prisoner participation in public work-related projects.

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

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

14 B. May not be considered employed under section 3035,
16 subsection 1.

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

22 **§3966. Authority of jail employee to search and apprehend**
24 **escapees**

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

30 **§3967. Administration of medication by jail employees**

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

44 **2. Insulin injections.** This section does not prevent any
46 prisoner or detainee from self-administering insulin injections,
provided that:

48 A. Self-administration has been authorized by a licensed
50 physician; and

52 B. Self-administration takes place in the presence of the
54 jail administrator or a member of the medical staff or
certified correctional officer.

2 **3. Record of medication administered.** The jail
3 administrator or a designee shall maintain a log of all
4 medications administered to prisoners and detainees that includes
5 the time and date administered, the name of the medication, the
6 prescription number, if applicable, and the name of the person to
7 whom the medication was administered. The log must be initialed
8 by the person administering the medication.

9
10 **4. Administration of medication not a violation.** The
11 administration of medication to prisoners and detainees as
12 provided for in this section is not a violation of Title 32,
13 section 2102, subsection 2, paragraph D, Title 32, section 3270
14 or any other law.

15 **§3968. Additional accommodations**

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
19 may 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 are subject to the standards established
22 by the department pursuant to section 1402, subsection 3.

23 **Sec. 104. 37-B MRSA §§412 and 413,** as enacted by PL 1983, c.
24 460, §3, are amended to read:

25 **§412. Receiving prisoners**

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

32 **§413. Report of persons held**

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

41 **Sec. 105. Transition for the transfer of the jurisdiction of county jails**
42 **from county government to the department.** Taking into account
43 results of the demonstration projects established in section 106,
44 the Commissioner of Corrections shall plan for the
45

2 transfer of county jails from county government to the Department
of Corrections and hire staff to begin, by January 1, 1997,
4 implementation of transitional plans and central administration
of the jail system.

6 **1. Cost to operate and administer jails.** Beginning July 1,
1997, the department will assume the cost of administering and
8 operating all county jails, including personnel, contractual,
commodities and capital costs.

10 **2. Debt service.** The State shall assume the responsibility
12 for the payment on indebtedness remaining for county jail bonds
approved prior to July 1, 1997.

14 **3. Transfer of county jail employees to state service.** The
16 transfer of county jail employees to state service is as follows:

18 A. Beginning July 1, 1997, all permanent county employees
employed in a position with a county jail, including
20 positions involving the post-arraignment transportation of
prisoners or detainees, must be state employees and be
22 employed in comparable positions, in terms of duties and
responsibilities, by the department. All county employees
24 converted to state service under this section must be
employed and receive compensation at a rate not less than
26 the last pay range while employed by the county. In
addition, all employees converted to state service under
28 this section shall complete a 6-month probationary period,
except that employees who have obtained permanent employment
30 status with the county as of January 1, 1997, may be
terminated from state service under this section during the
32 probationary period for just cause or for being unable to
meet the qualifications of the position. By January 1,
34 1997, the sheriff of each county shall provide the
commissioner with an up-to-date list of all permanent county
36 employees employed in a position with the county jail,
including positions involving the transportation of
38 prisoners or detainees.

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

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

2 **4. Ownership and use of jail facilities.** Between January
3 1, 1997 and July 1, 1997, the commissioner shall negotiate with
4 the county commissioners of each county for the use of county
5 jail facilities and other related spaces on the grounds or within
6 a county building complex necessary to administer and operate the
7 jail in that county. When a county is already using space within
8 the jail facility or other related spaces, in order for the
9 county to meet a statutory responsibility, continued use of this
10 space by the county may be negotiated. If necessary for the
11 efficient administration or operation of a jail, the commissioner
12 shall provide, under mutual agreement with the county
13 commissioners, alternative facilities for space used by the
14 county. If the commissioner and the county commissioners are
15 unable to agree upon issues related to the use of the jail
16 facility or other related spaces as provided in this subsection,
17 each party shall select an arbitrator and the 2 arbitrators
18 selected by the parties shall select a 3rd arbitrator. A
19 majority of the arbitrators shall determine issues related to use
20 of the space. The arbitrators' decision is final and the
21 commissioner and the county commissioners are bound by the
22 decision.

23 **5. Transfer of all jail records and capital equipment items**
24 **to the department.** The sheriff, or a designee, as jailer shall,
25 by July 1, 1997, surrender and transfer to the commissioner all
26 jail records and capital equipment necessary to administer and
27 operate the county jail pursuant to this section and other
28 applicable state and federal laws.

29 A. All active and inactive records and files, whether
30 stored in manual files or electronic media, must be
31 transferred under this section. At a minimum, this
32 includes, but is not limited to:

- 33 (1) All inmate records and files;
- 34 (2) All jail logs, operational manuals and other
35 operational-related documents;
- 36 (3) All court records;
- 37 (4) All jail and inmate financial records and accounts;
- 38 (5) A complete and final financial audit of all funds
39 surrendered;
- 40 (6) A complete inventory of all capital items and
41 equipment surrendered;
- 42 (7) Personnel records of all personnel transferred to
43 state service; and
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(8) Any other record pertaining to the jail.

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

6. Penalty. Any person who obstructs the transfer of the jurisdiction of county jails from county government to the department is guilty of a Class D crime.

Sec. 106. Demonstration projects. The Commissioner of Corrections shall establish demonstration projects as provided in this section to test the transfer of the jurisdiction over county jails from county government to the Department of Corrections as provided in this Act. Notwithstanding the effective date of the other sections of this Act, the commissioner shall take the steps necessary in establishing the demonstration projects to ensure that those projects are operated as if the provisions of this Act directing the department to operate county jails were in effect. For purposes of the demonstration projects, county jail employees remain county employees with all benefits paid by the department.

1. Selection of projects. The commissioner shall select up to 3 counties that volunteer to participate as demonstration projects. Project sites must be selected based on criteria and a process established by rule of the commissioner. In adopting criteria for selection and in choosing demonstration project sites, the commissioner shall attempt to achieve balanced representation in county population, jail size and geographical location.

2. Costs of providing county jail services. The commissioner shall enter into agreements with counties participating in the demonstration projects to assume on behalf of the State the costs of operating county jail facilities, including current operational costs, debts and other obligations, while those counties are participating as demonstration sites as follows:

A. For fiscal year 1994-95, the department shall pay 50% of the cost of jail operations in participating counties;

B. For fiscal year 1995-96, the department shall pay 75% of the cost of jail operations in participating counties; and

C. For fiscal year 1996-97, the department shall pay 100% of the cost of jail operations in participating counties.

