

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1235

H.P. 880

House of Representatives, April 6, 1995

An Act to Transfer Juvenile Correctional Functions to the Department of Human Services.

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative BRENNAN of Portland.

Cosponsored by Representatives: FITZPATRICK of Durham, MORRISON of Bangor.

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

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PART A

Sec. A-1. 5 MRSA §12004-I, sub-§15-A, as enacted by PL 1991, c. 764, §1, is amended to read:

15-A.	Policy	Not	34-A-MRSA
Education:	Review	Authorized	§3815
Arthur R.	Council		<u>22 MRSA</u>
Gould School			<u>§9435</u>

Sec. A-2. 5 MRSA §12004-I, sub-§52-A is enacted to read:

52-A.	<u>Board of</u>	<u>Expenses</u>	<u>22 MRSA</u>
<u>Juvenile</u>	<u>Visitors</u>	<u>Only</u>	<u>§9481</u>
<u>Corrections</u>			

Sec. A-3. 15 MRSA §3006, as enacted by PL 1989, c. 925, §3, is repealed.

Sec. A-4. 15 MRSA §3314, sub-§1, ¶H, as amended by PL 1993, c. 354, §8, is further amended to read:

H. The court may commit the juvenile to the Maine Youth Center and order that the disposition be suspended or may commit the juvenile for a period of detention that may not exceed 30 days, with or without an underlying suspended disposition to the Maine Youth Center, which detention may be served intermittently as the court may order and must be ordered served in a detention facility approved or operated by the Department of ~~Corrections~~ Human Services exclusively for juveniles. The court may order such a disposition to be served as a part of and with a period of probation, which is subject to such provisions of Title 17-A, section 1204 as the court may order and which must be administered pursuant to Title 34-A 22, chapter ~~5~~, ~~subchapter-IV~~ 1704. Revocation of probation is governed by the procedure contained in subsection 2. Any disposition under this paragraph is subject to Title 17-A, section 1253, subsection 2, but not to Title 17-A, section 1253, subsection 3-B, 4 or 5. Any disposition under this paragraph ordering a period of detention to be served in a county-operated detention facility by a juvenile from another county is governed by section 1705.

Sec. A-5. 15 MRSA §3314, sub-§4, as amended by PL 1993, c. 354, §9, is further amended to read:

2 **4. Medical support.** Whenever the court commits a juvenile
3 to the ~~Maine Youth Center or to the~~ Department of Human Services
4 or places a juvenile on a period of probation, it may require the
5 parent or legal guardian to provide medical insurance for or
6 contract to pay the full cost of any medical treatment, mental
7 health treatment, substance abuse treatment and counseling that
8 may be provided to the juvenile while the juvenile is committed,
including while on entrustment or on probation.

10 **Sec. A-6. 15 MRSA §3315, sub-§1,** as amended by PL 1983, c.
11 480, Pt. B, §20, is further amended to read:

12 **1. Right to review.** Every disposition pursuant to section
13 3314, other than unconditional discharge, and every disposition
14 made pursuant to the law in effect prior to July 1, 1978 shall
15 must be reviewed not less than once in every 12 months until the
16 juvenile is discharged. The review shall must be made by a
17 ~~representative--of--the--Department--of--Corrections--unless--the~~
18 ~~juvenile--was--committed--to~~ the Department of Human Services, ~~in~~
19 ~~which case such review shall be made by a representative of the~~
20 ~~Department of Human Services.~~ A report of the review shall must
21 be made in writing to the juvenile's parents, guardian or legal
22 custodian. A copy of the report shall must be forwarded to the
23 program or programs which that were reviewed, and the department
24 whose personnel made the review shall retain a copy of the report
25 in their its files. The written report shall must be prepared in
26 accordance with subsection 2.

28 **Sec. A-7. 15 MRSA §3316,** as amended by PL 1993, c. 354, §11,
29 is further amended to read:

31 **§3316. Commitment to the Department of Human Services**

33 **1. Sharing of information about a committed juvenile.**

35 A. When a juvenile is committed to the ~~Department--of--~~
36 ~~Corrections--or--the~~ Department of Human Services, the court
37 shall transmit, with the commitment order, a copy of the
38 petition, the order of adjudication, copies of the social
39 study, any clinical or educational reports and other
40 information pertinent to the care and treatment of the
41 juvenile; and

43 B. The ~~Department--of--Corrections--or--the~~ Department of Human
44 Services shall provide the court with any information
45 concerning a juvenile committed to its care which that the
46 court at any time may require.

48 **2. Indeterminate sentence.**

2 A. A commitment of a juvenile to the Department of
Corrections Human Services, including a commitment to the
4 Maine Youth Center, pursuant to section 3314, must be for an
indeterminate period not to extend beyond the juvenile's
6 18th birthday unless the court expressly further limits or
extends the indeterminate commitment, as long as the court
8 does not limit the commitment to less than one year nor
extend the commitment beyond a juvenile's 21st birthday and
10 as long as an order does not result in a commitment of less
than one year, unless the commitment is for an indeterminate
12 period not to extend beyond the juvenile's 21st birthday.
Nothing in this Part may be construed to prohibit the
14 provision to a juvenile following the expiration of the
juvenile's term of commitment of services voluntarily
16 accepted by the juvenile and the juvenile's parents,
guardian or legal custodian if the juvenile is not
18 emancipated; except that these services may not be extended
beyond the juvenile's 21st birthday.

20 ~~B.---A-commitment-of-a-juvenile-to-the-Department-of-Human
Services--pursuant--to--section--3314--shall--be--for--an
22 indeterminate-period-not-to-extend-beyond-the-juvenile's
18th-birthday-unless-the-court-expressly-further-limits-the
24 commitment.~~

26 ~~3.---Provision-of-services.--Nothing-in-this-chapter-may
prevent-juveniles-in-the-custody-of-the-Department-of-Corrections
28 from-receiving-services-from-the-Department-of-Human-Services.~~

30 **Sec. A-8. 15 MRSA §3317**, as amended by PL 1991, c. 493, §25,
is further amended to read:

32 **§3317. Disposition after return to Juvenile Court**

34 In instances of commitment of a juvenile to the Department
36 of Human Services ~~or~~, including the Maine Youth Center, or when
the juvenile is under a specified period of probation, the
38 commissioner of the department, the superintendent of the youth
center or the ~~Director~~ Division of Probation and ~~Parele~~ following
40 the commitment may for good cause petition the Juvenile Court
having original jurisdiction in the case for a judicial review of
42 the disposition, including extension of the period of commitment
or period of probation. In all cases in which a juvenile is
44 returned to a Juvenile Court, the Juvenile Court may make any of
the dispositions otherwise provided in section 3314. When
46 reviewing a commitment to the Department of Human Services, the
court shall consider efforts made by the ~~Department--of~~
48 ~~Corrections--and--the~~ Department of Human Services to reunify the
juvenile with the juvenile's parents or custodians, shall make a
50 finding regarding those efforts and shall return custody of the

juvenile to a parent or legal custodian if the return of the juvenile is not contrary to the welfare of the juvenile. A petition for judicial review of a disposition committing the child to the Department of Human Services must be served on the parents at least 7 days prior to the hearing.

Sec. A-9. 15 MRSA §3502, as amended by PL 1985, c. 439, §§19 and 20, is further amended to read:

§3502. The Department of Human Services 24-hour referral services

1. Emergency placement decisions. Placement referral services shall must be provided by the ~~Department of Corrections~~ and Department of Human Services as follows.

A. The Department of ~~Corrections~~ Human Services shall provide for a placement referral service, staffed by juvenile caseworkers for 24 hours a day. This referral service shall make emergency detention or conditional release decisions pursuant to chapter 505 and emergency placement decisions pursuant to this chapter for all juveniles referred to the department by law enforcement officers.

~~B. The Department of Human Services shall provide for a placement referral service, staffed by personnel 24 hours a day. This referral service shall make emergency placement decisions pursuant to this chapter for all juveniles referred to the department by law enforcement officers.~~

2. Placement procedures. Emergency placements shall must be arranged by juvenile caseworkers or the Department of Human Services' personnel according to procedures and standards jointly adopted by the ~~Department of Corrections and the Department of Human Services~~ department. Placement may include voluntary care or short-term emergency services under Title 22, sections 4021 to 4023.

Sec. A-10. Effective date. This Part takes effect July 1, 1996.

PART B

Sec. B-1. 22 MRSA c. 1, sub-c. III is enacted to read:

SUBCHAPTER III

OFFICE OF ADVOCACY FOR JUVENILES

§61. Office of Advocacy for Juveniles

2 1. Establishment. The Office of Advocacy for Juveniles,
4 referred to in this subchapter as the "office," is established
6 within the department to investigate the claims and grievances of
8 juvenile clients; to investigate, as appropriate, allegations of
10 child abuse or neglect in correctional facilities and detention
12 facilities; and to advocate for compliance by the department,
14 correctional facilities, detention facilities and contract
16 agencies with all laws, administrative rules and institutional
18 and other policies relating to the rights and dignity of juvenile
20 clients.

22 2. Chief advocate. A chief advocate shall direct and
24 coordinate the program of the office.

26 A. The chief advocate shall report to the commissioner.

28 B. The chief advocate shall, with the approval of the
30 commissioner, select other advocates needed to carry out the
32 intent of this section who shall report to the chief
34 advocate.

36 C. The chief advocate and all other advocates are
38 classified state employees, except that the chief advocate
40 may assign volunteers and interns to duties within the
42 office with the approval of the commissioner.

44 3. Duties. The office, through the chief advocate and the
46 other advocates, shall:

48 A. Receive or refer complaints made by juvenile clients;

50 B. Intercede on behalf of juvenile clients with officials
of the department, a correctional facility, a detention
facility or a contract agency or assist juvenile clients in
the initiation of grievance proceedings established by the
commissioner;

 C. Act as an information source regarding the rights of
juvenile clients by keeping informed about all laws,
administrative rules, institutional policies and other
policies relating to the rights and dignity of juvenile
clients and about relevant legal decisions and other
developments related to the field of corrections, both in
this State and in other parts of the country; and

 D. Make and publish reports necessary to perform the duties
described in this section, except that only the chief
advocate may report any findings of the office to groups
outside the department, such as legislative bodies, advisory
committees to the Governor, boards of visitors, law

2 enforcement agencies and the press. The chief advocate
3 shall report annually to the joint standing committee of the
4 Legislature having jurisdiction over human resource matters
5 regarding the activities of the office. A copy of the
6 report must be provided to the Office of the Executive
7 Director of the Legislative Council.

8 4. Powers. The office, through the chief advocate and the
9 other advocates, may take action only on complaints that it
10 determines are not trivial or moot or for which there is clearly
11 no other remedy available and may have access, limited only by
12 law, to the files, records and personnel of the department, a
13 correctional facility, a detention facility or a contract agency.

14 5. Confidentiality. Requests for action by the office must
15 be treated confidentially as follows.

16 A. A request by a juvenile client for action by the office
17 and all written records or accounts related to the request
18 are confidential as to the identity of the requesting person.

19 B. The records and accounts may be released only as
20 provided in section 9102.

21 6. Protection for advocates. An advocate may not be
22 disciplined or sanctioned for any actions taken on behalf of a
23 juvenile client if the advocate acts within the law and within
24 the rules of the department.

25 7. Protection for employees. An employee of the
26 department may not be disciplined or sanctioned for reporting
27 abuse or suspected abuse to an advocate.

28 8. Budget. When submitting any budget request to the
29 Legislature, the department and the Governor shall provide that
30 all funds for the office be listed in a separate account.

31 Sec. B-2. 22 MRSA §4004-A, sub-§3, as enacted by PL 1993, c.
32 724, §1, is amended to read:

33 3. Additional parties. The Department-of-Corrections, the
34 Department-of-Mental-Health-and-Mental-Retardation, the
35 Department of Education, the Office of Substance Abuse and any
36 other appropriate state agency may be additional parties to the
37 agreement.

38 Sec. B-3. 22 MRSA §4010-A, sub-§1, as amended by PL 1989, c.
39 819, §1, is further amended to read:

1. **Policy development.** Every public or private agency or program that is administered, licensed or funded by the Department of Human Services, or the Department of Mental Health and Mental Retardation ~~or the Department of Corrections~~ and hires staff or selects volunteers and provides care or services for children shall develop a written policy regarding child abuse and neglect.

The policy shall ~~shall~~ must include:

- A. A description of how the program and children shall must be managed to prevent abuse or neglect;
- B. The reporting of suspected abuse or neglect or other violations to the appropriate designated authorities;
- C. The agency's course of action if allegations of abuse or neglect are made against the agency or its staff; and
- D. The agency's grievance procedures for staff, and for children and their parents or guardians regarding alleged abuse or neglect.

Sec. B-4. 22 MRSA c. 1071, sub-c. XIV is enacted to read:

SUBCHAPTER XIV

JUVENILE DELINQUENCY PREVENTION

§4096. Responsibilities of department

The department is responsible for the following:

1. Services. Within the limits of available funding, ensuring the provision of all services necessary to prevent juveniles from coming into contact again with the Juvenile Court;

2. Proposals. Making proposals for meeting the prevention services needs that are not being addressed; and

3. Coordination. Coordinating its efforts in discharging the responsibilities given under this section with those of other state or local agencies in order to effectively use existing resources to the maximum extent possible to achieve the purposes of this subchapter and Title 15, Part 6.

§4097. Powers and duties of department

The department has the following powers and duties with respect to the responsibilities defined in section 4096.

2 1. Services. The department shall provide, directly or
4 through purchase or contract, services to juveniles and their
families, including, but not limited to:

6 A. Providing technical assistance and additional financial
8 resources to assist communities in establishing and
 providing necessary preventive services for juveniles;

10 B. Coordinating its efforts with those of other state and
12 local agencies in order to effectively use all existing
 resources to the maximum extent possible;

14 C. Working with other public and voluntary agencies as
16 resources for the purchase of care and services; and

18 D. Stimulating the creation of voluntary services.

20 2. Planning. The department shall carry out planning for
22 identifying, evaluating and meeting the service needs for
24 prevention of juvenile crime. To ensure that the department's
 efforts to plan for and deliver prevention programs avoid
 duplication of the efforts of other state departments that serve
 juveniles and promote access to services, the commissioner shall:

26 A. Convene an interdepartmental coordinating committee on
28 primary prevention. The commissioner or the commissioner's
30 designee shall chair the committee. The committee must
32 include representation from the Department of Education, the
34 Department of Human Services, the Department of Labor, the
36 Department of Mental Health and Mental Retardation, the
38 Department of Public Safety, the Juvenile Justice Advisory
 Group and any other public or private agencies as the
 commissioner chooses to nominate that have responsibilities
 associated with preventing not only delinquency, but also
 child abuse, substance abuse, running away from home,
 truancy, failing to complete school and other destructive
 behavior that affects juveniles. This interdepartmental
 coordinating committee shall:

40 (1) Develop a state primary prevention plan that
42 provides for the use of state resources in order to
44 strengthen the commitment of local communities to alter
46 conditions that contribute to delinquency and other
48 destructive behaviors affecting juveniles, so that the
50 burden of state-funded treatment and crisis-responsive
 service programs will be reduced. The plan must
 provide for the coordination and consolidation of the
 primary prevention planning efforts of each of the
 state agencies specified in this section. The plan

2 must set forth quantifiable and time-limited goals,
3 objectives and strategies and must include proposals to
4 integrate and build upon successful primary prevention
5 programs;

6 (2) Provide for the evaluation of policies and
7 programs developed and implemented pursuant to the
8 plan; and

10 (3) Prepare, annually by November 1st, an appraisal of
11 the State's primary prevention activities during the
12 previous year and its recommendations for programs and
13 activities relating to primary prevention of juvenile
14 delinquency.

16 **3. Evaluation.** The department shall evaluate prevention and
17 rehabilitation services with regard to, among other things:

18 A. Compliance with all departmental or federal rules and
19 regulations for the use of funds for those services; and

21 B. Quality and cost-effectiveness of those services.

24 **4. Appeals.** The department shall provide a structure for
25 appeals, fair hearings and a review of grievances by juveniles
26 and their parents, guardians or legal custodians regarding the
27 provision of services for which the department has been given
28 responsibility under this chapter, including, but not limited to,
29 protecting the rights of an individual to appeal from denial of
30 or exclusion from the services to which the individual is
31 entitled, actions that preclude the individual's right of choice
32 to specific programs or actions that force involuntary
33 participation in a service program.

34 **5. Training.** The department shall train personnel to
35 perform the functions necessary to implement this chapter,
36 including, but not limited to:

37 A. Meeting the need for professional personnel for juvenile
38 services through in-service training, institutes,
39 conferences and educational leave grants;

41 B. Upgrading the education and competence of professional
42 and other personnel and volunteers; and

44 C. Making training available to staff in contracting
45 agencies or facilities to ensure effective provision of
46 purchased services.
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2 4. Director. "Director" means the Director of the Bureau
of Juvenile Corrections.

4 5. Group. "Group" means the Juvenile Justice Advisory
Group, as established by Executive Order 16 Fiscal Year 1981-82.

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8 6. Juvenile. "Juvenile" means a person under 18 years of
age or a person who is alleged to have committed, while under 18
10 years of age, any offense covered under Title 15, Part 6,
regardless of whether at the time of the court proceeding the
person is 18 years of age or older.

12 **CHAPTER 1703**

14 **ADMINISTRATION**

16 **§9101. Establishment and duties**

18 1. Establishment. There is established, within the
20 Department of Human Services, the Bureau of Juvenile Corrections.

22 2. Policy. The bureau shall provide an efficient,
coordinated, comprehensive system of services to juveniles and
24 their families in order to promote the welfare, support and
rehabilitation of juveniles and to protect the interests of
26 society.

28 3. Principles. In providing this system of services, the
bureau shall adhere to the following principles.

30 A. Services must be responsive to both the treatment and
32 control needs of juveniles.

34 B. The bureau shall use the least restrictive alternative
appropriate to the needs of the individual juvenile and the
36 risk posed by that juvenile to society.

38 C. There may be no depreciation of the seriousness of any
offense a juvenile has committed.

40 D. Efforts must be made to increase a juvenile's respect
42 for the law.

44 E. Procedures must be provided that ensure that the civil
rights of juveniles are recognized and protected.

46 4. Duties. The duties of the bureau are to:
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2 A. Strengthen the capacity of families, communities,
self-help groups and other community resources to support
4 and provide services to juveniles;

6 B. Facilitate the planning, promotion, coordination,
delivery and evaluation of a comprehensive system of
8 services to juveniles and their families that is organized
on a regional basis throughout the State; and

10 C. Administer, supervise and ensure the provision of
12 correctional programs for juveniles adjudicated as having
committed juvenile crimes.

14 **§9102. Confidentiality of information**

16 1. Limited disclosure. All orders of commitment, medical
18 and administrative records, applications and reports, and facts
contained in those documents, pertaining to a person receiving
20 services from the bureau are confidential and may not be
disclosed by any person, except as provided in this section.
22 Criminal history record information is confidential and may not
be disclosed by any person except as provided in this section
24 except that it may be disseminated in accordance with Title 16,
chapter 3, subchapter VIII. Information controlled by this
26 section and documents, other than those documents pertaining to
information obtained by the department for the purpose of
28 evaluating a client's ability to participate in a community-based
program or from informants in a correctional or detention
30 facility for the purpose of determining whether facility rules
have been violated, or a victim's request for notice of release,
32 may be disclosed:

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

40 B. To any state agency if the disclosure is necessary to
42 carry out the statutory functions of that agency;

44 C. If ordered by a court of record, subject to any
limitation in the Maine Rules of Evidence, Rule 503, to the
46 person named in the court order; and

48 D. To any criminal justice agency if the disclosure is
necessary to carry out the administration of criminal
50 justice, the administration of juvenile criminal justice or
for criminal justice agency employment.

2 Notwithstanding any other provision of law, the bureau may
3 release to the Bureau of Medical Services and the Bureau of
4 Income Maintenance the names, dates of birth and social security
5 numbers of juveniles receiving services from the department and,
6 if applicable, the Medicaid eligibility numbers and the dates on
7 which those juveniles received Medicaid services for the sole
8 purpose of determining eligibility and billing for Medicaid
9 services provided by or through the department. The bureau may
10 also release to other bureaus of the department information
11 required for and to be used solely for audit purposes, consistent
12 with federal law, for Medicaid services provided by or through
13 the department. Department personnel shall treat this
14 information as confidential in accordance with federal and state
15 law and return the records when their purpose has been served.

16 **§9103. Allegations of child abuse or neglect in correctional and**
17 **detention facilities**

18 The director shall investigate all reports of suspected
19 child abuse or neglect in correctional and detention facilities.

20 1. Criminal conduct. Investigations of allegations or
21 indications of criminal conduct must be conducted with the
22 Department of the Attorney General.

23 2. Joint working agreements. The director shall negotiate
24 joint working agreements with the Department of the Attorney
25 General concerning procedures and respective responsibilities for
26 conducting investigations of allegations of child abuse or
27 neglect in correctional and detention facilities.

28 **§9104. Transfer**

29 1. Approval. The bureau may transfer a juvenile committed
30 to its care from one facility or program to another, except that,
31 before the juvenile is transferred, the juvenile must be examined
32 and evaluated, and the evaluation must be reviewed and approved
33 by the director.

34 2. Emergency exception. When the director finds that the
35 welfare and protection of a juvenile or of others requires the
36 juvenile's immediate transfer to another facility, the director
37 shall make the transfer prior to the examination and evaluation
38 of the juvenile.

39 3. Restrictive placements. Restrictive placements are
40 governed as follows.

2 A. Notwithstanding subsections 1 and 2, the transfer of a
4 juvenile from a less restrictive placement to a more
6 restrictive placement must be reviewed by the Juvenile Court
that originally ordered the juvenile's placement within 48
hours of the transfer, excluding Saturdays, Sundays and
legal holidays.

8 B. In order to continue the more restrictive placement, a
10 court must find:

12 (1) That it is necessary to protect the juvenile or
the community; and

14 (2) That no other available less restrictive placement
16 will protect the juvenile or the community.

18 C. Notwithstanding paragraph A, the director may not place
20 a juvenile committed to the bureau in an adult correctional
facility.

22 **§9105. Agreements and contracts with public and private agencies**

24 1. Director's power. The director may enter into agreements
or contracts with any governmental unit or agency or private
facility or program cooperating or willing to cooperate in a
26 program to carry out the purposes of this subtitle and Title 15,
Part 6.

28 2. Nature of agreements or contracts. Agreements or
30 contracts entered into under subsection 1 may provide for the
type of work to be performed, the rate of payment for that work
32 and other matters relating to the care and treatment of juveniles.

34 3. Custody. Placement of a juvenile by the bureau in a
public or private facility or program not under the jurisdiction
36 of the bureau does not terminate the bureau's legal custody of
that juvenile.

38 4. Inspection. The bureau may inspect all facilities used
40 by it and may examine and consult with persons in its legal
custody who have been placed in those facilities.

42 **§9106. Administrators of facilities and programs**

44 A chief administrative officer of a facility or program with
46 which the bureau contracts for services shall:

48 1. Report. Report to the director at such times and on such
50 matters as the director may require;

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§9202. Juvenile Justice Advisory Group

1. Responsibilities. The Juvenile Justice Advisory Group shall:

A. Operate as the supervisory board for all planning, administrative and funding functions of the Act;

B. Make grants for planning or for the improvement of juvenile justice consistent with the intent of applicable state and federal legislation;

C. Develop, oversee and evaluate a juvenile justice plan for the State;

D. Implement the 3-year comprehensive state plan required by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 United States Code, Section 5633.

E. Monitor state compliance with the requirements of the Act;

F. Review and approve or disapprove juvenile justice and delinquency prevention grant applications submitted to the group;

G. Develop more effective education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system;

H. Submit to the Governor and the Legislature, at least annually, recommendations with respect to matters related to its functions, including recommendations on state compliance with the requirements of the Act;

I. Review the progress and accomplishments of juvenile justice and delinquency projects funded under the state plan described in paragraph D; and

J. Regularly seek comments and opinions from juveniles currently under the jurisdiction of the juvenile justice system.

2. Membership. The membership of the group is determined as follows.

A. Regular membership of the group must be in accordance with the requirements of the Act.

2 B. Members are appointed by the Governor for a term of 4
4 years, or until a successor is appointed, and are eligible
 for reappointment at the discretion of the Governor.

6 C. A member appointed to fill an unexpired term serves
8 until the expiration date of that term or until a successor
 is appointed.

10 D. The Commissioner of Corrections, the Commissioner of
12 Education, the Commissioner of Human Services, the
14 Commissioner of Mental Health and Mental Retardation and the
 Commissioner of Public Safety are ex officio, voting members
 of the group.

16 E. Neither a majority of the members of the group nor the
18 member serving as chair may be full-time employees of
 federal, state or local government.

20 **§9203. Division of Planning**

22 The Division of Planning, referred to in this section as the
24 "division," is established within the bureau. The duties and
 powers of the division are as follows.

26 1. Supervision of plan. The division is the sole agency
28 responsible for supervising the group in the preparation and
 administration of the federally required comprehensive state plan.

30 2. Fiscal agent. The division serves as the fiscal agent
32 of the group.

34 3. Staff. The division may employ a full-time juvenile
 justice specialist, subject to the approval of the group, and
36 such additional staff as necessary.

38 A. The professional staff must be unclassified.

40 B. Clerical staff must be employed subject to the Civil
 Service Law.

42 4. Grants. The division, at the direction of the group,
44 may make grants to state departments or agencies, local
46 governments and private nonprofit organizations for the
48 development of more effective education, training, research,
 prevention, diversion, treatment and rehabilitation programs in
 the area of juvenile delinquency and programs to improve the
 juvenile justice system.

2 5. Copies. When the group directs that a grant be made to
a department or agency of State Government, the division shall
4 send the following information to the joint standing committee of
the Legislature having jurisdiction over appropriations and
financial affairs:

6 A. A copy of the approved grant application;

8 B. Information on the expected length of programs to be
10 funded by the grant; and

12 C. Information on restrictions or limitations placed on the
14 grant application.

16 6. Acceptance of funds. The division may accept funds for
the purposes of this section from the Federal Government, any
18 political subdivision of the State or any individual, foundation
or corporation and may expend those funds for purposes consistent
with this section, subject to the approval of the group.

20 7. Information. With regard to juveniles who have come
22 into contact with the Juvenile Court, the division shall gather
standardized information on the characteristics of the juveniles
24 and their present and past services needs and shall gather
standardized information on the extent to which those needs are
26 being met.

28 CHAPTER 1707

30 COMMUNITY CORRECTIONS

32 SUBCHAPTER I

34 PROBATION

36 §9301. Establishment

38 The Division of Juvenile Probation is established within the
bureau.

40 §9302. Community conference committee

42 In any district served by an employee of the bureau, the
44 director may appoint a community conference committee composed of
citizen volunteers.

46 1. Membership. A community conference committee consists
48 of 10 to 15 members, 5 of whom constitute a quorum.

2 2. Compensation. Members may not be compensated for their
3 services.

4 3. Alternative diversionary resource. A community
5 conference committee serves as an alternative diversionary
6 resource for juvenile offenders.

8 4. Guidelines. The bureau shall adopt guidelines for the
9 functioning of community conference committees.

10 5. Additional committees. This section does not prohibit
11 the appointment, with the approval of the bureau, of more than
12 one community conference committee within a district served by an
13 employee of the bureau.

14 **§9303. Interagency agreements**

15 The Division of Juvenile Probation may enter into agreements
16 with state agencies, other public agencies and private nonprofit
17 agencies to provide supervision or other services to juveniles
18 placed on probation by the Juvenile Court.

19 1. Terms. The terms of the agreements, including any
20 payments to be made by the Division of Juvenile Probation for the
21 services provided, must be set forth in writing.

22 2. Termination. An agreement made under this section may be
23 terminated upon 90 days' written notice by either party to the
24 agreement.

25 **§9304. Juvenile caseworker**

26 1. Divisional employees. The Division of Juvenile
27 Probation shall employ juvenile caseworkers.

28 2. Juvenile caseworker's functions. A juvenile
29 caseworker's functions are:

30 A. To serve as a juvenile probation officer;

31 B. To carry out all functions of a juvenile caseworker
32 delineated in the Maine Juvenile Code; and

33 C. To provide appropriate services to juveniles committed
34 to the Maine Youth Center who are on leave or in the
35 community on entrustment pursuant to section 9430.

36 3. Juvenile caseworker's duties. A juvenile caseworker
37 shall:

38

2 A. When directed, provide information to the Maine Youth
Center on juveniles committed to the Maine Youth Center;

4 B. Make such investigations as the Juvenile Court may
direct and keep written records of the investigations as the
6 Juvenile Court may direct;

8 C. Use all suitable means, including counseling, to aid
each juvenile under the supervision of the caseworker and
10 perform such duties in connection with the care and custody
of juveniles as the Juvenile Court may direct;

12 D. Keep informed as to the condition and conduct of each
juvenile placed under the supervision of the caseworker and
14 report on the condition and conduct to the Juvenile Court
and to the Division of Juvenile Probation as the court or
16 division may direct;

18 E. When a juvenile is placed under the supervision of the
caseworker, give the juvenile a written statement of the
20 conditions of the juvenile's supervision and fully explain
the conditions to the juvenile; and
22

24 F. Keep complete records of all work done pursuant to this
subsection.

26 4. Juvenile caseworkers' arrest powers. Juvenile
caseworkers have the same arrest powers as other law enforcement
28 officers with respect to juveniles placed under their supervision.
30

32 SUBCHAPTER II

34 AFTERCARE

36 §9321. Division of Juvenile Aftercare

38 1. Establishment. The Division of Juvenile Aftercare is
established within the bureau.
40

42 2. Duties. The Division of Juvenile Aftercare shall
support and rehabilitate juveniles after their discharge from
44 juvenile facilities.

46 CHAPTER 1709

48 FACILITIES

50 SUBCHAPTER I

DIVISION OF JUVENILE CORRECTIONS FACILITIES

2 **§9401. Establishment**

4 The Division of Juvenile Corrections Facilities, referred to
6 in this subchapter as the "division," is established within the
 bureau.

8 **§9402. Receipt of United States adjudicated juveniles**

10 1. Powers. The division's power to accept juveniles
12 detained by the Federal Government or adjudicated for an offense
 against the United States is as follows.

14 A. The division may receive in any juvenile facility a
16 juvenile detained by the Federal Government or adjudicated
 of an offense against the United States and committed for a
18 term of institutionalization to the custody of the Attorney
 General of the United States if:

20 (1) The Attorney General of the United States
22 designates a juvenile facility in the State as the
 place of confinement for the juvenile; and

24 (2) The division approves and agrees to accept and
26 keep the juvenile in a juvenile facility in the State.

28 B. The division may contract with the Attorney General of
30 the United States or an officer designated by the Congress
32 of the United States for the care, custody, subsistence,
 education, treatment and training of any juvenile accepted
 under this section. All sums paid pursuant to contracts
 authorized by this section accrue to the General Fund.

34 2. Punishment. Punishment of a juvenile accepted under
36 this section is limited to warnings, restitution, labor at any
 lawful wage and loss of privileges.

38 **SUBCHAPTER II**

40 **MAINE YOUTH CENTER**

42 **§9421. Establishment**

44 The State shall maintain the Maine Youth Center located at
46 South Portland.

48 1. Coeducational. The Maine Youth Center must be
 coeducational.

2 2. Separate housing. The Maine Youth Center shall fully
2 separate the housing facilities for boys and girls.

4 **§9422. Purposes**

6 1. Statement. The purposes of the Maine Youth Center are:

8 A. To detain juveniles prior to appearances in Juvenile
10 Court on court orders that the juveniles be securely
10 detained;

12 B. To administer court-ordered diagnostic evaluations
14 pursuant to Title 15, section 3309-A and court-ordered
14 examinations pursuant to Title 15, section 3318; and

16 C. To rehabilitate juveniles committed to it on being
18 adjudicated as having committed juvenile crimes under Title
18 15, section 3310, subsection 5.

20 2. Accomplishment. To accomplish the purposes set out in
22 subsection 1, the disciplines of education, casework, group work,
22 psychology, psychiatry, medicine, nursing, vocational training
24 and religion as they are related to human relations and
24 personality development must be employed. Security measures,
26 whether in the form of physically restrictive construction or
26 intensive staff supervision, when appropriate, may be taken to
28 accomplish these purposes.

30 **§9423. Superintendent**

32 The chief administrative officer of the Maine Youth Center
32 is the superintendent.

34 **§9424. Superintendent's appointment powers**

36 The superintendent may appoint 2 assistant superintendents
38 subject to the Civil Service Law.

40 1. Assistant superintendent. An assistant superintendent
42 designated by the superintendent has the powers, duties,
42 obligations and liabilities of the superintendent when the
44 superintendent is absent from the Maine Youth Center or unable to
44 perform the duties of the office.

46 2. Designee. If there are no assistant superintendents,
48 another employee designated by the superintendent has the powers,
48 duties, obligations and liabilities of the superintendent in the
50 circumstances described in subsection 1.

50 **§9425. Commitment**

2 1. Eligibility. Only juveniles 11 years of age or older
and under 18 years of age at the time of commitment may be
4 committed to the Maine Youth Center pursuant to this subchapter
and Title 15, Part 6.

6
7 2. Limitations. A person who is blind or who is a proper
8 subject for any residential services provided by the Department
of Mental Health and Mental Retardation may not be detained at or
10 committed to the Maine Youth Center.

12 3. Certification. When a person is detained at or
committed to the Maine Youth Center, the court making the
14 detention or commitment shall certify on the mittimus the
person's birthplace, parentage and legal residence.

16
17 **§9426. Federal juvenile offenders**

18
19 The director may contract with the Attorney General of the
20 United States for the confinement and support in the Maine Youth
21 Center of juvenile offenders against the laws of the United
22 States in accordance with 18 United States Code, Sections 706 and
23 707.

24
25 **§9427. Human services' custody**

26
27 1. Suspension. When the custody of a juvenile at the time
28 of commitment is in another bureau of the department, that
custody must be temporarily suspended while the juvenile is in
30 the Maine Youth Center.

32 2. Reversion. Upon discharge or placement on aftercare
status from the Maine Youth Center, the custody of the juvenile
34 reverts to the appropriate bureau of the department, if the
juvenile is still under 18 years of age.

36
37 **§9428. Observation**

38
39 1. Generally. When the behavior of a juvenile residing at
40 the Maine Youth Center presents a high likelihood of imminent
harm to that juvenile or to others, presents a substantial and
42 imminent threat of destruction of property or demonstrates a
proclivity of the juvenile to be absent from the facility without
44 leave as evidenced by a stated intention to escape from the
facility or by a recent attempted or actual escape from any
46 detention or correctional facility, the juvenile may be placed
under observation if the juvenile demonstrates that anything less
48 restrictive would be ineffectual for the control of the
juvenile's behavior.

50

2 2. Conditions. Placing a juvenile under observation is
3 subject to the following conditions.

4 A. Placement under observation must first be approved by
5 the superintendent.

6 B. The conditions under which a juvenile is placed under
7 observation must conform with all applicable federal and
8 state standards relating to the health and safety of clients
9 in correctional facilities.

10 C. Placement under observation may not exceed the period of
11 time necessary to alleviate and prevent the reoccurrence of
12 the behavior described in subsection 1 and it may not be
13 used as punishment.

14 D. When placement under observation exceeds 12 hours, the
15 superintendent shall direct the facility physician or a
16 member of the facility medical staff to visit the juvenile
17 immediately and at least once in each succeeding 24-hour
18 period the juvenile remains under observation to examine the
19 juvenile's state of health.

20 (1) The superintendent shall give full consideration
21 to recommendations of the physician or medical staff
22 member concerning the juvenile's dietary needs and the
23 conditions of the juvenile's confinement required to
24 maintain the juvenile's health. If the recommendations
25 of the physician or medical staff member are not
26 carried out, the superintendent shall immediately
27 convey the reasons and circumstances for this decision
28 to the director of the bureau for review and final
29 disposition.

30 (2) Placement under observation must be discontinued
31 if the superintendent on the advice of the physician
32 determines that placement under observation is harmful
33 to the mental or physical health of the juvenile,
34 except that placement under observation may be
35 continued if the behavior of the juvenile presents a
36 high likelihood of imminent physical harm to that
37 juvenile or others and there is no less restrictive
38 setting in which that juvenile's safety or that of
39 others can be ensured. If placement under observation
40 is continued, the physician or a member of the medical
41 staff shall visit the juvenile at least once every 12
42 hours.

43 E. When placement under observation exceeds 24 hours, the
44 superintendent shall direct appropriate facility staff to
45

2 develop a plan for the further care of the juvenile. The
3 plan must be revised as needed to meet the changing needs of
4 the juvenile.

6 F. Placement under observation may not exceed 72 hours
7 without the superintendent's approval, which must:

- 8 (1) Be in writing;
- 10 (2) State the reasons for that approval; and
- 12 (3) Be kept on file.

14 G. If the recommendations of the physician or medical staff
15 member regarding the juvenile's dietary or other health
16 needs while under observation are not carried out, the
17 superintendent shall send a written justification to the
18 director of the bureau.

20 H. A juvenile held under observation must be under constant
21 sight and sound supervision by facility staff.

22 **§9429. Director's guardianship powers**

24 In regard to a juvenile residing at the Maine Youth Center,
25 the director has all the power that a guardian has over a ward
26 and a parent has over a child as to person, allowable property
27 that the juvenile has at the Maine Youth Center and earnings that
28 the juvenile receives during a stay at the Maine Youth Center and
29 any power necessary for the rehabilitation of the juvenile. If a
30 juvenile is or becomes 18 years of age while still under
31 commitment, the statutory guardianship of the director over the
32 juvenile terminates, but the juvenile remains subject to the
33 control of the superintendent, staff and rules of the Maine Youth
34 Center until the expiration of the period of commitment or until
35 discharge from the center.

38 **§9430. Entrustment**

40 1. Director's powers. During a juvenile's commitment to the
41 Maine Youth Center, the superintendent may, at the director's
42 discretion:

- 44 A. Keep the juvenile at the center; or
- 46 B. Upon prior mutual agreement, entrust the juvenile, for a
47 period not exceeding the term of the juvenile's commitment,
48 to the care of:

- 50 (1) Any suitable person or persons;

- 2 (2) The Division of Juvenile Probation;
- 4 (3) Another bureau of the department;
- 6 (4) Another public or private child care agency; or
- 8 (5) The Division of Juvenile Aftercare.

10 **2. Reports.** As often as the director requires, the person
12 or agency to whom the juvenile is entrusted shall report to the
director:

- 14 A. The progress and behavior of the juvenile, whether or
16 not the juvenile remains under the care of the person or
agency; and
- 18 B. If the juvenile is not under the care of the person or
20 agency, where the juvenile is.

22 **3. Center services.** The director shall provide aftercare
and entrustment services to juveniles.

24 **4. Cancellation.** If the director is satisfied at any time
26 that the welfare of the juvenile will be promoted by return to
the Maine Youth Center, the director may cancel the entrustment
28 and resume charge of the juvenile with the same powers as before
the entrustment was made.

30 **§9431. Return to center**

32 When a juvenile who has been placed on entrustment or who
34 has been absent from the Maine Youth Center without leave is
taken into custody by an officer or employee of the center at the
36 direction of the director or by a law enforcement officer at the
request of the director for the purpose of returning the juvenile
38 to the center and the juvenile must be detained overnight because
of the juvenile's distance from the center at the time of being
taken into custody, the following requirements apply.

40 **1. Temporary detention.** The juvenile may be temporarily
42 detained in a county jail.

44 **2. Return.** The juvenile must be returned to the Maine Youth
46 Center on the day after being taken into custody, except that, if
traveling conditions are unsafe, the juvenile must be returned to
48 the center at the earliest possible time.

50 **§9432. Discharge**

1 1. Duty. The superintendent shall cause a juvenile to be
2 discharged from the Maine Youth Center:

4 A. When the juvenile becomes 21 years of age; or

6 B. When the superintendent determines that the juvenile has
7 benefited optimally from the services and facilities of the
8 center.

10 2. Power. The superintendent may discharge a juvenile from
11 the Maine Youth Center when the superintendent determines that
12 discharge is in the best interest of the juvenile.

14 **§9433. Power of center employees**

16 Employees of the Maine Youth Center have the same power as
17 sheriffs in their respective counties to search for and apprehend
18 escapees from the center, when authorized to do so by the
19 superintendent.

20 **§9434. Transportation**

22 All court-ordered and court-related transportation of
23 juvenile detainees to and from the Maine Youth Center is the
24 responsibility of the sheriff of the county in which the court is
25 located.

28 **§9435. Arthur R. Gould School**

30 1. Purpose. The Arthur R. Gould School, located at the
31 Maine Youth Center, is devoted to the education and instruction
32 of persons residing at the center.

34 2. Responsibility for maintaining school. The State,
35 through the department, has the responsibility and expense of
36 maintaining the Arthur R. Gould School in compliance with all
37 elementary and secondary state education requirements for public
38 schools and private schools approved for tuition purposes
39 established in Title 20-A.

40 3. School privileges. A person residing at the Maine Youth
41 Center is eligible to attend the Arthur R. Gould School and
42 receive education, vocational education, special education and
43 alternative education services in accordance with all state and
44 federal requirements.

46 4. Policy review council. The commissioner and the
47 Commissioner of Education shall appoint a 7-member policy review
48 council, as authorized by Title 5, section 12004-I, subsection
49 15-A, for 3-year terms. The council is the successor to the
50

2 policy review council established pursuant to Title 34-A, former
3 section 3815, subsection 4. Members of the former council serve
4 on the successor council until the expiration of the time for
5 their terms on the former council.

6 A. Replacements for council members who do not complete
7 their term of office are for the remainder of the unexpired
8 term.

10 B. A Legislator may not serve on the council while serving
11 as a Legislator.

12 C. The council members must be representative of a broad
13 range of professionals, parents and citizens interested in
14 the education of students at the Arthur R. Gould School and
15 include the parents of a current or former Arthur R. Gould
16 School student. In addition, council members may include:

17 (1) Professionals not employed by the Arthur R. Gould
18 School who serve or have served students in a
19 corrections setting;

20 (2) Representatives of advocacy groups for children
21 with special needs;

22 (3) School administrative unit administrators or
23 special education directors; and

24 (4) Interested citizens.

25 D. The council must have access to the school, but may not
26 participate in the administration of the day-to-day
27 operations of the school.

28 E. The duties of the council include, but are not limited
29 to:

30 (1) Making annual recommendations to the
31 superintendent and sending copies of the
32 recommendations to the members of the joint standing
33 committee of the Legislature having jurisdiction over
34 education matters;

35 (2) Making policy recommendations to the
36 superintendent, the Commissioner of Education and the
37 commissioner;

38 (3) Reviewing policy development by the superintendent;

39 (4) Reviewing the implementation of policy;

2 A. The director shall exercise supervision over the
3 employees, grounds, buildings and equipment at the Northern
4 Maine Regional Juvenile Detention Facility.

6 B. The director shall supervise and control the juvenile
7 detainees at the Northern Maine Regional Juvenile Detention
8 Facility in accordance with department rules.

10 3. Powers. In addition to the powers granted in this
11 subchapter, the Director of the Northern Maine Regional Juvenile
12 Detention Facility may appoint one assistant director, subject to
13 the Civil Service Law. The assistant director has the powers,
14 duties, obligations and liabilities of the director when the
15 director is absent or unable to perform the director's duties.

16 **§9454. Detention**

18 1. Eligibility. Only juveniles 11 years of age or older
19 and under 18 years of age at the time of detention may be
20 detained at the Northern Maine Regional Juvenile Detention
21 Facility pursuant to this subchapter and Title 15, Part 6.

22 2. Limitations. A person who is blind or who is a proper
23 subject for any residential services provided by the Department
24 of Mental Health and Mental Retardation may not be detained at
25 the Northern Maine Regional Juvenile Detention Facility.

26 3. Certification. When a person is detained at the
27 Northern Maine Regional Juvenile Detention Facility, the court
28 ordering the detention shall certify on the mittimus the person's
29 birthplace, parentage and legal residence.

30 **§9455. Juvenile detainees generally**

31 All juvenile detainees at the Northern Maine Regional
32 Juvenile Detention Facility must be detained in accordance with
33 the orders of the court and the rules of the bureau.

34 **§9456. Powers of employees**

35 Employees of the Northern Maine Regional Juvenile Detention
36 Facility have the same power as sheriffs in their respective
37 counties to search for and apprehend escapees from the facility,
38 when authorized to do so by the director of the facility.

39 **§9457. Transportation**

40 All court-ordered and court-related transportation of
41 juvenile detainees to and from the Northern Maine Regional

2 Juvenile Detention Facility is the responsibility of the sheriff
3 of the county in which the court is located.

4 **§9458. Observation**

6 1. Generally. When the behavior of a juvenile residing at
7 the Northern Maine Regional Juvenile Detention Facility presents
8 a high likelihood of imminent harm to that juvenile or to others,
9 presents a substantial and imminent threat of destruction of
10 property or demonstrates a proclivity of the juvenile to be
11 absent from the facility without leave as evidenced by a stated
12 intention to escape from the facility or by a recent attempted or
13 actual escape from any detention or correctional facility, the
14 juvenile may be placed under observation if the juvenile
15 demonstrates that anything less restrictive would be ineffectual
16 for the control of the juvenile's behavior.

18 2. Conditions. Placing a juvenile under observation is
19 subject to the following conditions.

20 A. Placement under observation must first be approved by
21 the Director of the Northern Maine Regional Juvenile
22 Facility.

24 B. The conditions under which a juvenile is placed under
25 observation must conform with all applicable federal and
26 state standards relating to the health and safety of clients
27 in detention facilities.

30 C. Placement under observation may not exceed the period of
31 time necessary to alleviate and prevent the reoccurrence of
32 the behavior described in subsection 1 and it may not be
33 used as punishment.

34 D. When placement under observation exceeds 12 hours, the
35 Director of the Northern Maine Regional Juvenile Detention
36 Facility shall direct the facility physician or a member of
37 the facility medical staff to visit the juvenile immediately
38 and at least once in each succeeding 24-hour period the
39 juvenile remains under observation to examine the juvenile's
40 state of health.

42 (1) The director shall give full consideration to
43 recommendations of the physician or medical staff
44 member concerning the juvenile's dietary needs and the
45 conditions of the juvenile's confinement required to
46 maintain the juvenile's health. If the recommendations
47 of the physician or medical staff member are not
48 carried out, the director shall immediately convey the
49 reasons and circumstances for this decision to the
50 juvenile.

director of the bureau for review and final disposition.

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(2) Placement under observation must be discontinued if the director, on the advice of the physician, determines that placement under observation is harmful to the mental or physical health of the juvenile, except that placement under observation may be continued if the behavior of the juvenile presents a high likelihood of imminent physical harm to that juvenile or others and there is no less restrictive setting in which that juvenile's safety or that of others can be ensured. If placement under observation is continued, the physician or a member of the medical staff shall visit the juvenile at least once every 12 hours.

18
20
22
E. When placement under observation exceeds 24 hours, the Director of the Northern Maine Regional Juvenile Detention Facility shall direct appropriate facility staff to develop a plan for the further care of the juvenile. The plan must be revised as needed to meet the changing needs of the juvenile.

24
26
F. Placement under observation may not exceed 72 hours without the approval of the Director of the Northern Maine Regional Juvenile Detention Facility, which must:

28
(1) Be in writing;

30
(2) State the reasons for that approval; and

32
(3) Be kept on file.

34
36
38
40
G. If the recommendations of the physician or medical staff member regarding the juvenile's dietary or other health needs while under observation are not carried out, the Director of the Northern Maine Regional Juvenile Detention Facility shall send a written justification to the director of the bureau.

42
H. A juvenile held under observation must be under constant sight and sound supervision by facility staff.

44
§9459. Limit on number of juveniles

46
48
The population of the Northern Maine Regional Juvenile Detention Facility may not exceed 40 juveniles, unless there are no other appropriate beds available for housing juveniles.

2 Exceeding 40 juveniles in such an emergency situation may be done
3 only for the length of time necessary to resolve the emergency.

4 **§9460. State responsible for detention**

6 Notwithstanding any other provision of law, on the date that
7 the Northern Maine Regional Juvenile Detention Facility begins
8 operating, the State is responsible for all physically
9 restrictive juvenile detention statewide, except that the
10 detention provided under Title 15, section 3203-A, subsection 1
11 remains the responsibility of the counties.

14 **SUBCHAPTER IV**

16 **YOUTH CORRECTIONS BOARD OF VISITORS**

18 **§9481. Board of visitors**

20 1. Appointment. There is established, pursuant to Title 5,
21 section 12004-I, subsection 52-A, a board of visitors for each of
22 the correctional facilities administered by the bureau. The
23 board consists of 7 members, 4 appointed by the Governor and 3
24 appointed jointly by the President of the Senate and the Speaker
25 of the House of Representatives. Each appointing officer shall
26 make appointments that provide representation to all areas of the
27 State. The board of visitors is the successor to the board of
28 visitors of the Maine Youth Center established pursuant to Title
29 34-A, section 3002. Members of the former board of visitors
30 serve on the successor board of visitors until the expiration of
31 their terms on the former board of visitors.

32
33 A. The terms of the members of the board of visitors are
34 for one calendar year. Appointing authorities shall
35 complete their appointments by January 1st of the year for
36 which the members are appointed.

37
38 B. A member of the board of visitors is eligible for
39 reappointment at the expiration of the member's term, except
40 that a member may not be reappointed who has failed to
41 attend 1/2 or more of the board's meetings in the previous
42 year. A member may not continue to serve after the member's
43 term has expired unless reappointed.

44
45 C. A member of the Legislature may not serve on the board
46 of visitors while serving as a Legislator.

47
48 D. Each member of the board of visitors is entitled to
49 compensation according to Title 5, section 12004-I,
50 subsection 52-A.

1-A. **Client.** "Client" means any person in the custody or
2 under the supervision of the department, including, but not
3 limited to, a prisoner, ~~juvenile--client,~~ contract client,
4 probationer, or parolee, ~~--juvenile--detainee--and--an--informally~~
5 ~~adjusted--juvenile.~~

6
7 **Sec. C-2. 34-A MRSA §1001, sub-§8-A,** as enacted by PL 1991, c.
8 314, §6, is repealed.

9
10 **Sec. C-3. 34-A MRSA §1001, sub-§§10 and 11,** as enacted by PL
11 1983, c. 459, §6, are repealed.

12
13 **Sec. C-4. 34-A MRSA §1001, sub-§11-A,** as enacted by PL 1991,
14 c. 314, §6, is repealed.

15
16 **Sec. C-5. 34-A MRSA §1001, sub-§21,** as enacted by PL 1987, c.
17 633, §1, is repealed.

18
19 **Sec. C-6. 34-A MRSA §1202, first ¶,** as enacted by PL 1983, c.
20 459, §6, is amended to read:

21
22 There is established a Department of Corrections to be
23 responsible for the direction and general administrative
24 supervision, guidance and planning of adult ~~and--juvenile~~
25 correctional facilities and programs within the State.

26
27 **Sec. C-7. 34-A MRSA §1203, sub-§1,** as amended by PL 1991, c.
28 314, §10, is further amended to read:

29
30 **1. Establishment.** The Office of Advocacy is established
31 within the department to investigate the claims and grievances of
32 clients, to investigate, in conjunction with the Department of
33 Human Services, as appropriate, allegations of adult ~~and--child~~
34 abuse or neglect in correctional facilities and detention
35 facilities and to advocate for compliance by the department, any
36 correctional facility, any detention facility or any contract
37 agency with all laws, administrative rules and institutional and
38 other policies relating to the rights and dignity of clients.

39
40 **Sec. C-8. 34-A MRSA §1206, sub-§1, ¶D,** as enacted by PL 1983,
41 c. 459, §6, is amended to read:

42
43 D. "Human service" means any alcoholism, ~~children's~~
44 ~~community----action,~~ corrections, criminal justice,
45 developmental disability, donated food, education, elderly,
46 food stamp, income maintenance, health, ~~juvenile,~~ law
47 enforcement, legal, medical care, mental health, mental
48 retardation, poverty, public assistance, rehabilitation,
49 social, substance abuse, transportation, or welfare ~~or--youth~~
50 service operated by a community agency under an agreement

2 financially supporting the service, wholly or in part, by
funds authorized for expenditure for the department.

4 **Sec. C-9. 34-A MRSA §1209**, as amended by PL 1989, c. 700,
Pt. A, §160, is repealed.

6 **Sec. C-10. 34-A MRSA §1402, sub-§8**, as amended by PL 1991, c.
8 314, §20, is repealed.

10 **Sec. C-11. 34-A MRSA §1403, sub-§4, ¶A**, as enacted by PL 1983,
c. 459, §6, is repealed.

12 **Sec. C-12. 34-A MRSA §1403, sub-§7**, as enacted by PL 1983, c.
14 724, is amended to read:

16 **7. Establishment of farm programs at correctional**
facilities. The commissioner may establish a farm program at
18 each correctional facility for the purposes of producing
agricultural and farm products and teaching prisoners and
20 ~~juvenile-elients~~ cultivation and gardening techniques.

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

24 (1) Sold or distributed to other state, county or
26 local governmental entities;

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

30 (3) Sold to or exchanged with private Maine businesses
32 in the State.

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

40 C. These funds in this special account may be expended to
42 implement farm programs in correctional facilities. These
expenditures include, but are not limited to, the purchase
44 of necessary materials and equipment, construction,
administrative costs and employee salaries.

46 **Sec. C-13. 34-A MRSA §1403, sub-§8**, as repealed and replaced
48 by PL 1989, c. 127, §3, is amended to read:

2 **8. Receipt of United States prisoners.** The commissioner's
power to accept United States prisoners ~~or adjudicated juveniles~~
is as follows.

4
6 A. The commissioner may receive in any correctional
facility prisoners detained by the United States or
8 convicted of an offense against the United States and
committed for a term of imprisonment to the custody of the
Attorney General of the United States if:

10 (1) The Attorney General of the United States
12 designates a Maine correctional facility in the State
as the place of confinement for the prisoner; and

14 (2) The commissioner approves and agrees to accept and
16 keep the prisoner in a Maine correctional facility in
the State.

18 ~~B. The commissioner may receive in any juvenile facility~~
20 ~~juveniles detained by the United States or adjudicated of an~~
~~offense against the United States and committed for a term~~
22 ~~of institutionalization to the custody of the Attorney~~
~~General of the United States if:~~

24 ~~(1) The Attorney General of the United States~~
26 ~~designates a Maine juvenile facility as the place of~~
~~confinement for the juvenile; and~~

28 ~~(2) The commissioner approves and agrees to accept and~~
30 ~~keep the juvenile in a Maine juvenile facility.~~

32 C. The commissioner may contract with the Attorney General
of the United States or officer designated by the Congress
34 for the care, custody, subsistence, education, treatment and
training of any prisoner ~~or juvenile~~ accepted under this
36 section. All sums paid pursuant to contracts authorized by
this section shall accrue to the General Fund.

38 **Sec. C-14. 34-A MRSA §1403, sub-§10,** as enacted by PL 1993, c.
40 682, §1, is amended to read:

42 **10. Inmate benefit welfare account.** The commissioner shall
provide an accounting of all inmate benefit welfare accounts and
44 ~~of the student welfare fund at the Maine Youth Center~~ each fiscal
year to the joint select standing committee of the Legislature
46 having jurisdiction over corrections matters. The annual
accounting must include total income for the year, total
48 expenditures for the year, anticipated capital and operating
expenditures from these accounts in the next fiscal year and

balances in the accounts. Nothing in this subsection may change the nature of these accounts as internal management tools.

Sec. C-15. 34-A MRSA §3003, sub-§1, as amended by PL 1993, c. 354, §14, is further amended to read:

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

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

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

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

D. To any criminal justice agency if the disclosure is necessary to carry out the administration of criminal justice, ~~the administration of juvenile criminal justice~~ or for criminal justice agency employment.

~~Notwithstanding any other provision of law, the department may release the names, dates of birth and social security numbers of juveniles receiving services from the department and, if applicable, the Medicaid eligibility numbers and the dates on which these juveniles received Medicaid services to the Bureau of Medical Services and the Bureau of Income Maintenance within the Department of Human Services for the sole purpose of determining eligibility and billing for Medicaid services provided by or through the department. The department may also release to the Department of Human Services information required for, and to be used solely for, audit purposes, consistent with federal law, for Medicaid services provided by or through the department.~~

2 Department of Human Services personnel must treat this
information as confidential in accordance with federal and state
4 law and must return the records when their purpose has been
served.

6 **Sec. C-16. 34-A MRSA §3032, sub-§5**, as amended by PL 1991, c.
314, §37, is further amended to read:

8
10 **5. Specific facilities.** Punishment at specific
correctional facilities is governed as follows.

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

16
18 B. Punishment at ~~the Maine Youth Center~~ and any detention
facility may consist of warnings, restitution, labor at any
lawful work and loss of privileges.

20
22 **Sec. C-17. 34-A MRSA §3032, sub-§5-A, ¶B**, as amended by PL
1991, c. 314, §38, is further amended to read:

24 B. A prisoner ~~or juvenile~~ who is transferred to another
26 facility remains liable for any restitution authorized under
this chapter. The facility receiving the prisoner ~~or~~
28 ~~juvenile~~ must collect the restitution and transfer it to the
facility where the damage occurred.

30
32 **Sec. C-18. 34-A MRSA §3035, sub-§§1 and 2**, as amended by PL
1991, c. 314, §40, are further amended to read:

34 **1. Work release and restitution.** The chief administrative
officer may permit any client under sentence to the department
36 ~~and any juvenile client considered to be worthy of trust~~ to
participate in activities outside the facility under the
following conditions.

38 A. Activities may include training and employment.

40 B. Activities are subject to rules ~~premulgated~~ adopted by
42 the commissioner.

44 C. Activities must, in the judgment of the chief
administrative officer, contribute to the reformation of the
46 client and assist in preparing the client for eventual
release.

48 D. Transportation to work release job sites must be
50 arranged by the commissioner.

2 (1) Clients participating in the work release program
4 must be assessed an equitable share of the cost of the
transportation.

6 (2) Funds received from clients for work release
8 transportation must be placed in the General Fund.

10 E. Every client participating in the work release program
is liable for the cost of board in the facility.

12 (1) The reasonable cost of board for a client in a
14 facility is fixed by the commissioner. In fixing the
reasonable cost of the board to be paid, the
16 commissioner shall take into consideration other state
laws or judicial determinations that affect the
18 client's income.

20 (2) Funds received from clients for the board must be
placed in the General Fund.

22 **2. Furlough.** Subject to subsection 5, the commissioner may
24 grant to a client under sentence to the department ~~and-a-juvenile~~
~~client~~ furlough from the facility in which the client is confined
under the following conditions.

26 A. Furlough may only be granted subject to rules adopted by
28 the commissioner.

30 B. Furlough may be granted for not more than 10 days at one
time for a visit to a dying relative, for attendance at the
32 funeral of a relative, for the contacting of prospective
employers or for any other reason consistent with the
34 rehabilitation of a client.

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

40 **Sec. C-19. 34-A MRSA c. 3, sub-c. V,** as amended, is repealed.

42 **Sec. C-20. 34-A MRSA c. 3, sub-c. VIII,** as amended, is repealed.

44 **Sec. C-21. 34-A MRSA §5401, sub-§2,** as enacted by PL 1983, c.
459, §6, is amended to read:

46 **2. Employees.** The division consists of field probation and
48 parole officers, ~~---juvenile---easeworkers~~ and ~~ef~~ such other

2 administrative employees as may be necessary in carrying out its
functions.

4 **Sec. C-22. 34-A MRSA §5402, sub-§2, ¶A**, as amended by PL 1985,
c. 821, §28, is further amended to read:

6 A. ~~Promulgate~~ Adopt and enforce rules for the field
8 probation and parole service, ~~juvenile--caseworkers--and~~
10 parole officers in correctional facilities and ~~for~~ Intensive
Supervision Program officers;

12 **Sec. C-23. 34-A MRSA §5402, sub-§2, ¶F**, as enacted by PL 1983,
c. 459, §6, is amended to read:

14 F. Cooperate closely with the board, the criminal and
16 ~~juvenile~~ courts, the chief administrative officers of
18 correctional facilities and other correctional facility
personnel;

20 **Sec. C-24. 34-A MRSA §5402, sub-§2, ¶K**, as amended by PL 1989,
c. 417, §1, is further amended to read:

22 K. Provide instruction and training courses for probation
24 and parole officers, and for Intensive Supervision Program
26 officers ~~and-for-juvenile-caseworkers~~;

28 **Sec. C-25. 34-A MRSA §5402, sub-§3, ¶A**, as enacted by PL 1983,
c. 459, §6, is repealed.

30 **Sec. C-26. 34-A MRSA c. 5, sub-c. IV**, as amended, is repealed.

32 **Sec. C-27. 34-A MRSA c. 6**, as enacted by PL 1989, c. 591, §3,
is repealed.

34 **Sec. C-28. 34-A MRSA c. 7**, as amended, is repealed.

36 **Sec. C-29. Effective date.** This Part takes effect July 1, 1996.

38 PART D

40 **Sec. D-1. Funding level.** In the first 2 years for which the
42 Department of Human Services is responsible for juvenile
44 corrections, the Governor shall submit a budget that reduces the
46 appropriation for staffing to the Maine Youth Center by 25% in
48 the first fiscal year and 25% more in the 2nd fiscal year from
the level in fiscal year 1995-1996. The amount of the reduction
must be appropriated for the Bureau of Juvenile Corrections to be
used to contract with providers of community services for youths

2 to increase efforts in delinquency prevention, probation and
aftercare.

4 **Sec. D-2. Transition provisions.** The following provisions apply
to the reassignment of the duties and responsibilities formerly
6 held by the Department of Corrections and now assigned by this
Act to the Department of Human Services.

8
10 1. The Department of Human Services is the successor in
every way to the powers, duties and functions of the Department
of Corrections relating to juveniles.

12
14 2. Notwithstanding the provisions of the Maine Revised
Statutes, Title 5, all accrued expenditures, assets, liabilities,
16 balances or appropriations, allocations, transfers, revenues or
other available funds in an account or subdivision of an account
of the Department of Corrections attributable to functions
18 transferred in this Act to the Department of Human Services must
be transferred to the proper accounts of the Department of Human
20 Services by the State Controller upon the request of the State
Budget Officer and with the approval of the Governor.

22
24 3. All rules of the Department of Corrections attributable
to the functions transferred to the Department of Human Services
26 in this Act that are in effect on July 1, 1996 remain in effect
until rescinded, revised or amended.

28 4. All contracts, agreements and compacts of the Department
of Corrections that are attributable to functions transferred to
30 the Department of Human Services that are in effect on July 1,
1996 remain in effect until they expire or are altered by the
32 parties involved in the contracts, agreements or compacts.

34 5. All records of the Department of Corrections
attributable to the functions transferred in this Act to the
36 Department of Human Services must be transferred to the
Department of Human Services.

38
40 6. All property and equipment of the Bureau of Juvenile
Corrections and any division or program of the Department of
42 Corrections attributable to the functions transferred in this Act
to the Department of Human Services are transferred to the
Department of Human Services.

44
46 7. Any position dealing with juveniles that is authorized
for the Department of Corrections may continue to be authorized
48 within the Department of Human Services. Employees of the
Department of Corrections who are transferred to the Department
of Human Services pursuant to this Part retain all their employee
50 rights, privileges and benefits, including sick leave, vacation

2 and seniority, provided under the Civil Service Law or collective
3 bargaining agreements. The Bureau of Human Resources within the
4 Department of Administrative and Financial Services shall assist
with the orderly implementation of this subsection.

6 **Sec. D-3. Report.** The Department of Human Services shall
7 review the juvenile correctional laws and programs and report by
8 December 1, 1995 to the joint standing committee of the
9 Legislature having jurisdiction over human resource matters
10 concerning any legislation needed to correct references and
11 accomplish the purposes of this Act.

12 **Sec. D-4. Effective date.** This Part takes effect July 1, 1996.

14 **PART E**

16 **Sec. E-1. Budget development.** The Bureau of the Budget shall
17 work with the Department of Corrections and the Department of
18 Human Services to estimate the funds necessary for the functions
19 of the Department of Human Services transferred by this Act from
20 the Department of Corrections.

22 **Sec. E-2. Transitional activities.** With the approval of their
23 respective commissioners, personnel from the Department of
24 Corrections and the Department of Human Services may engage in
25 any activities necessary to implement this Act in a timely
26 manner. The Commissioner of Corrections and the Commissioner of
27 Human Services shall cooperate to ensure that any federal
28 approval required to implement any part of this Act is requested
29 and received. If either commissioner determines that federal
30 approval will not be obtained for any part of this Act, that
31 commissioner shall immediately notify the joint standing
32 committee of the Legislature having jurisdiction over human
33 resource matters and the Executive Director of the Legislative
34 Council.

36 **Sec. E-3. Committee bill.** By January 1, 1996, the Joint
37 Standing Committee on Human Resources shall submit legislation to
38 correct errors, inconsistencies and unintended policy changes
39 that result from this Act. The Legislative Council shall provide
40 staff assistance to the committee for the preparation of the
41 legislation.

44 **Sec. E-4. Effective date.** This Part takes effect on November 1,
45 1995.

STATEMENT OF FACT

2

4 Parts A, B and C of this bill transfer all juvenile
corrections functions from the Department of Corrections to the
Department of Human Services.

6

8 The Office of Advocacy is retained in the Department of
Corrections to investigate adult abuse or neglect in correctional
facilities and a similar office for juvenile corrections is
10 established in the Department of Human Services. Provisions
concerning juvenile delinquency prevention are limited to youths
12 who are not alleged to have committed crimes and are placed in
the chapter dealing with child and family services in the Maine
14 Revised Statutes, Title 22. The remainder of the juvenile
corrections functions are placed in the Bureau of Juvenile
16 Corrections, which is moved from the Department of Corrections to
the Department of Human Services. Divisions are created for
18 planning, probation, aftercare and facilities. The Juvenile
Justice Advisory Group is given the total planning function for
20 juvenile corrections and clarification is made that the group's
implementation authority and the bureau's supervisory authority
22 over planning is limited to the 3-year comprehensive state plan
required by federal law and that the bureau's expenditure
24 authority relative to outside funds is subject to the group's
approval.

26

28 The bill requires that the funding to the Maine Youth Center
from the Department of Human Services be reduced by 25% in the
30 first fiscal year and 25% in the second fiscal year from the
level of funding in fiscal year 1995-1996 and that the department
32 expend the resulting funds on community services for youths to
increase efforts in delinquency prevention, probation and
aftercare.

34

36 Part D of the bill transfers from the Department of
Corrections to the Department of Human Services all expenditures,
38 assets, liabilities, appropriations and allocations, rules,
contracts and agreements, records, property and employees to the
extent they are attributable to functions transferred in the
40 bill. It directs the Department of Human Services to review
juvenile corrections and report to the Joint Standing Committee
42 on Human Resources by December 1, 1995. It directs transitional
activities concerning the budget and the functions of the
44 departments involved. It directs the Joint Standing Committee on
Human Resources to submit legislation needed to correct errors
46 and inconsistencies.