

# MAINE STATE LEGISLATURE

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



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

DATE: 3-20-98

(Filing No. H- 991 )

CRIMINAL JUSTICE

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1629, L.D. 2257, Bill, "An Act to Make Public the Records of the Department of Corrections Relating to Inmate Furloughs and Requests under the Uniform Act for Out-of-State Parolee Supervision"

Amend the bill by striking out everything after the title and before the summary and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Legislature believes that the public has the right to access certain records regarding prisoner furloughs and in-state and out-of-state probationers and parolees in order to help ensure public safety; and

Whereas, the Legislature also believes that to further help ensure public safety, the Department of Corrections should notify members of the law enforcement community of the potential release of a prisoner prior to a furlough and should again notify members of the law enforcement community upon the actual release of the prisoner, and the Department of Corrections should notify members of the law enforcement community regarding the department's consideration of a request to accept an out-of-state parolee for supervision; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

COMMITTEE AMENDMENT

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

2           **Sec. 1. 1 MRSA §402, sub-§3-A** is enacted to read:

4           3-A. Public records further defined. "Public records" also  
6 includes the following criminal justice agency records:

8           A. Records relating to prisoner furloughs to the extent  
10 they pertain to a prisoner's identity, conviction data,  
address of furlough and dates of furlough;

12           B. Records relating to out-of-state probationer or parolee  
14 supervision to the extent they pertain to a probationer's or  
parolee's identity, conviction data, address of residence  
16 and dates of supervision; and

18           C. Records to the extent they pertain to a prisoner's,  
20 adult probationer's or parolee's identity, conviction data  
and current address or location, unless the Commissioner of  
22 Corrections determines that it would be detrimental to the  
welfare of a prisoner to disclose the information.

24           **Sec. 2. 34-A MRSA §3003, sub-§1**, as amended by PL 1997, c.  
26 278, §§3 to 5 and c. 464, §9, is further amended by amending the  
first paragraph to read:

28           **1. Limited disclosure.** All orders of commitment, medical  
30 and administrative records, applications and reports, and facts  
32 contained in them, pertaining to any person receiving services  
34 from the department, must be kept confidential and may not be  
36 disclosed by any person, except that public records must be  
38 disclosed in accordance with Title 1, section 408, criminal  
40 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, and must upon request, be disclosed:

42           **Sec. 3. 34-A MRSA §3003, sub-§2**, as enacted by PL 1983, c.  
44 459, §6, is repealed and the following enacted in its place:

46           **2. Civil violation.** A person who discloses information in  
48 violation of this section commits a civil violation for which a  
forfeiture not to exceed \$1,000 may be adjudged.

50           **Sec. 4. 34-A MRSA §3035, sub-§6** is enacted to read:

6. Notification of law enforcement agencies. A prisoner may not participate in a furlough under subsection 2 unless, in advance of the chief administrative officer's consideration of the request for that furlough, the department notifies:

A. The district attorney for the district in which the prisoner will reside;

B. The sheriff for the county in which the prisoner will reside;

C. The chief of police of any municipality in which the prisoner will reside;

D. The Department of Public Safety; and

E. The district attorney for the district where the prisoner's underlying commitment to the department originated.

If the department grants a prisoner furlough request, the department shall again notify those listed in paragraphs A to E.

A furlough may be granted in an emergency without any prior notification as long as notification is given as soon as practicable.

Sec. 5. 34-A MRSA §9801-A is enacted to read:

**§9801-A. Notification of law enforcement agencies**

The department, in advance of its consideration of a request under this subchapter, shall notify the district attorney for the district in which the person will reside; the sheriff for the county in which the person will reside; the chief of police of any municipality in which the person will reside; and the Department of Public Safety.

**Emergency clause.** In view of the emergency cited in the preamble, this Act takes effect when approved.'

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

The additional costs associated with additional notifications can be absorbed by the Department of Corrections utilizing existing budgeted resources.

2           The Department of the Attorney General will also incur some  
3 minor additional costs to assist the Department of Corrections.  
4 These costs can be absorbed within the department's existing  
5 budgeted resources.

6  
7           This bill reduces the classification of certain violations  
8 of law from Class D crimes to civil violations. If jail  
9 sentences are reduced, the savings to the counties are estimated  
10 to be \$86.45 per day per prisoner. These savings do not affect  
11 reimbursement by the State. The reduction in the number of  
12 prosecutions that would have resulted in a jail sentence and the  
13 resulting savings to the county jail system are expected to be  
14 insignificant.

15           The Judicial Department may realize some minor net  
16 administrative savings from reductions of workload,  
17 administrative costs and indigent defense costs for those cases  
18 where the penalty for a crime is reduced. Reductions in the  
19 collection of fines may decrease General Fund revenue by minor  
20 amounts.'

22

24

#### SUMMARY

26

27           This amendment replaces the bill and adds emergency status.  
28 The amendment makes public records of certain information within  
29 the Department of Corrections and other criminal justice  
30 agencies, thus giving the department or agencies the ability to  
31 inform the public when criminals are being released from prison  
32 on furloughs or transferred into communities from other states  
33 and to inform the public of current addresses or locations of  
34 criminals. This amendment requires that the department give  
35 notice to the law enforcement community prior to granting  
36 furloughs or requests under the Uniform Act for Out-of-State  
37 Parolee Supervision. This amendment also requires the  
38 department, upon request, to share information releasable under  
39 its confidentiality statute. Finally, the amendment  
40 decriminalizes violations of the department's confidentiality  
statute and adds a fiscal note to the bill.