

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1369

H.P. 971

House of Representatives, February 18, 1999

**An Act to Transfer Responsibility for Youth Corrections from the
Department of Corrections to the Department of Human Services.**

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative TOWNSEND of Portland.
Cosponsored by Senator PENDLETON of Cumberland and
Representatives: BRENNAN of Portland, CHIZMAR of Lisbon, KANE of Saco, MARTIN of
Eagle Lake, QUINT of Portland, Senators: MICHAUD of Penobscot, PARADIS of
Aroostook, PINGREE of Knox.

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

2
4 **Sec. 1. 15 MRSA §3003, sub-§2-A**, as amended by PL 1987, c. 698, §1, is further amended to read:

6 **2-A. Attendant; attendant care.** "Attendant" means an agent
8 of a county sheriff or of the Department of ~~Corrections~~ Human
10 Services who is authorized to provide temporary supervision of a
12 juvenile alleged to have committed a juvenile crime or of a
14 juvenile adjudicated as having committed a juvenile crime when
16 supervision is appropriate as an interim measure pending the
18 completion of a procedure authorized by law to be taken in regard
20 to such juvenile. Supervision shall must be exercised during
22 that period beginning with receipt of the juvenile by the
24 attendant and ending upon the release of the juvenile to ~~his~~ the
26 juvenile's legal custodian or other responsible adult. This
28 supervision constitutes "attendant care."

20 **Sec. 2. 15 MRSA §3003, sub-§14-B**, as enacted by PL 1985, c. 439, §4, is amended to read:

22 **14-B. Juvenile caseworker.** "Juvenile caseworker" means an
24 agent of the Department of ~~Corrections~~ Human Services authorized:

26 A. To perform juvenile probation functions;

28 B. To provide appropriate services to juveniles committed
30 to the Maine Youth Center who are on leave or in the
32 community on entrustment; and

34 C. To perform all caseworker functions established by this
36 Part for a juvenile alleged to have committed a juvenile
38 crime.

36 **Sec. 3. 15 MRSA §3103, sub-§2**, as amended by PL 1997, c. 752,
38 §6, is further amended to read:

38 **2. Dispositional powers.** All of the dispositional powers of
40 the Juvenile Court provided in section 3314 apply to a juvenile
42 who is adjudicated to have committed a juvenile crime, except
44 that no commitment to a Department of ~~Corrections~~ Human Services
46 juvenile correctional facility or other detention may be imposed
48 for conduct described in subsection 1, paragraphs B and C.

46 **Sec. 4. 15 MRSA §3314, sub-§1, ¶F**, as amended by PL 1997, c. 752, §19, is further amended to read:

48 F. The court may commit the juvenile to a Department of
50 ~~Corrections~~ Human Services juvenile correctional facility.
Whenever a juvenile is committed to a Department of

2 ~~Corrections~~ Human Services juvenile correctional facility,
the court shall determine whether reasonable efforts have
4 been made to prevent or eliminate the need for removal of
the juvenile from the juvenile's home and whether
6 continuation in the juvenile's home would be contrary to the
welfare of the juvenile. This determination does not affect
8 whether the court orders a commitment to a Department of
~~Corrections~~ Human Services juvenile correctional facility,
which continues to be governed by section 3313.

10 **Sec. 5. 15 MRSA §3314, sub-§1, ¶H,** as amended by PL 1997, c.
12 752, §20, is further amended to read:

14 H. The court may commit the juvenile to a Department of
~~Corrections~~ Human Services juvenile correctional facility
16 and order that the disposition be suspended or may commit
the juvenile for a period of detention that may not exceed
18 30 days, with or without an underlying suspended disposition
to a Department of ~~Corrections~~ Human Services juvenile
20 correctional facility, which detention may be served
intermittently as the court may order and must be ordered
22 served in a detention facility approved or operated by the
Department of ~~Corrections~~ Human Services exclusively for
24 juveniles. The court may order such a disposition to be
served as a part of and with a period of probation, which is
26 subject to such provisions of Title 17-A, section 1204 as
the court may order and which must be administered pursuant
28 to Title 34-A, chapter 5, subchapter IV. Revocation of
probation is governed by the procedure contained in
30 subsection 2. Any disposition under this paragraph is
subject to Title 17-A, section 1253, subsection 2, but not
32 to Title 17-A, section 1253, subsection 3-B, 4, 5 or 8.

34 **Sec. 6. 15 MRSA §3314, sub-§4,** as amended by PL 1997, c. 752,
36 §22, is further amended to read:

38 **4. Medical support.** Whenever the court commits a juvenile
to a Department of ~~Corrections~~ Human Services juvenile
40 correctional facility ~~or to the Department of Human Services~~ or
for a period of detention or places a juvenile on a period of
42 probation, it shall require the parent or legal guardian to
provide medical insurance for or contract to pay the full cost of
44 any medical treatment, mental health treatment, substance abuse
treatment and counseling that may be provided to the juvenile
46 while the juvenile is committed, including while on aftercare
status or on probation, unless it determines that such a
48 requirement would create an excessive hardship on the parent or
legal guardian, or other dependent of the parent or legal
50 guardian, in which case it shall require the parent or legal
guardian to pay a reasonable amount toward the cost, the amount
to be determined by the court.

2 **Sec. 7. 15 MRSA §3314, sub-§5**, as amended by PL 1997, c. 752,
§23, is further amended to read:

4
6 **5. Support orders.** Whenever the court commits a juvenile
to the a Department of Human Services, ~~to a Department of~~
8 ~~Corrections~~ juvenile correctional facility or to a relative or
other person, the court may order either or both parents of the
10 juvenile to pay a reasonable amount of support for the juvenile.
The order is enforceable under Title 19-A, section 2603.

12 **Sec. 8. 15 MRSA §3315, sub-§1**, as amended by PL 1997, c. 752,
§24, is further amended to read:

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

30 **Sec. 9. 15 MRSA §3316**, as amended by PL 1997, c. 591, §2 and
c. 752, §25, is repealed and the following enacted in its place:

32 **§3316. Commitment to the Maine Youth Center or the**
34 **Department of Human Services**

36 **1. Sharing of information about a committed juvenile.**
Information regarding a committed juvenile must be shared as set
38 out in this subsection.

40 A. When a juvenile is committed to a Department of Human
Services juvenile correctional facility or the Department of
42 Human Services, the court shall transmit, with the
commitment order, a copy of the petition, the order of
44 adjudication, copies of the social study, any clinical or
educational reports and other information pertinent to the
46 care and treatment of the juvenile.

48 B. The Department of Human Services facility or the
Department of Human Services shall provide the court with
50 any information concerning a juvenile committed to its care
that the court at any time may require.

2 2. Indeterminate commitment. This subsection applies to
4 indeterminate dispositions.

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

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

30 3. Voluntary services. This subsection applies to
 voluntary services agreement provisions.

32 A. This chapter does not prevent a juvenile from receiving
34 services from the Department of Human Services pursuant to a
36 voluntary agreement with the juvenile and the juvenile's
 parents, guardian or legal custodian if the juvenile is not
 emancipated.

38 B. If a juvenile is placed in a residence outside the
40 juvenile's home pursuant to a voluntary services agreement,
42 the Commissioner of Human Services or the commissioner's
44 designee may request the court to make a determination of
46 whether reasonable efforts have been made to prevent or
48 eliminate the need for removal of the juvenile from the
 juvenile's home and whether continuation in the juvenile's
 home would be contrary to the welfare of the juvenile. If
 requested, the court shall make that determination prior to
 the expiration of 180 days from the start of the placement
 and shall review that determination not less than once every
 12 months until the juvenile is no longer residing outside
 the juvenile's home.

2 coordinate activities of the department with each county and any
3 county correctional advisory groups.

4 **§8902. Establishment**

6 The State shall maintain the Maine Youth Center located at
7 South Portland.

8 1. Coeducational. The center is coeducational.

10 2. Separate housing. The center shall fully separate the
12 housing facilities for boys and girls.

14 **§8903. Purposes**

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

18 A. To detain juveniles pending a court proceeding or
20 pending a preliminary hearing under Title 17-A, section 1205;

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

28 C. To rehabilitate juveniles committed to a juvenile
30 correctional facility pursuant to Title 15, section 3314,
32 subsection 1, paragraph F; and

34 D. To protect the public from dangerous juveniles.

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

3. Funding sources. The commissioner may use the following
funding sources.

A. The commissioner may accept for the State any federal
funds appropriated under federal law relating to the
juvenile offender and may do whatever is necessary to carry
out the federal law.

B. The commissioner may accept, from any other agency of
government, person, group or corporation, any funds that may
be available in carrying out this Title.

2 C. The commissioner may apply for and receive federal funds
3 under the United States Housing Act of 1954, Public Law 560,
4 Title 7.

6 4. Lease of Maine Youth Center building. Notwithstanding
7 subsection 5 and Title 5, chapter 154, the commissioner may, with
8 the approval of the Director of the Bureau of General Services,
9 within the Department of Administrative and Financial Services,
10 lease any building that the commissioner determines is no longer
11 needed to be a part of the Maine Youth Center for the purpose of
12 providing services to juveniles under such terms as the
13 commissioner and director determine appropriate.

14 5. Acceptance or conveyance of donated personal property.
15 The commissioner may accept donations of personal property to be
16 used at a correctional facility. If, at a later date, the
17 donated property ceases to be useful to the correctional
18 facility, the commissioner may sell the property and use the
19 proceeds for the benefit of the correctional facility to which
20 the property was originally donated.

21 6. Receipt of adjudicated juveniles. The commissioner's
22 power to accept adjudicated juveniles is as set out in this
23 subsection.

24 A. The commissioner may receive in any juvenile facility
25 juveniles detained by the United States or adjudicated of an
26 offense against the United States and committed for a term
27 of institutionalization to the custody of the Attorney
28 General of the United States if:

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

32 (2) The commissioner approves and agrees to accept and
33 keep the juvenile in a juvenile facility in the State.

34 B. The commissioner may contract with the Attorney General
35 of the United States or an officer designated by the
36 Congress for the care, custody, subsistence, education,
37 treatment, confinement, support and training of any juvenile
38 accepted under this subsection or under federal law in
39 accordance with the 18 United States Code, Sections 706 and
40 707. All sums paid pursuant to contracts authorized by this
41 subsection accrue to the General Fund.

42 7. Inmate benefit welfare account. The commissioner shall
43 provide an accounting of the student welfare fund at the Maine
44 State Prison.

2 Youth Center each fiscal year to the joint standing committee of
3 the Legislature having jurisdiction over corrections matters.
4 The annual accounting must include total income for the year,
5 total expenditures for the year, anticipated capital and
6 operating expenditures from these accounts in the next fiscal
7 year and balances in the accounts. Nothing in this subsection
8 may change the nature of these accounts as internal management
9 tools.

10 **§8904. Confidentiality of information**

12 **1. Limited disclosure.** All orders of commitment, medical
13 and administrative records, applications and reports, and facts
14 contained in them, pertaining to any person receiving services
15 from the department, must be kept confidential and may not be
16 disclosed by any person, except that public records must be
17 disclosed in accordance with Title 1, section 408, criminal
18 history record information may be disseminated in accordance with
19 Title 16, chapter 3, subchapter VIII, and documents, other than
20 those documents pertaining to information obtained by the
21 department for the purpose of evaluating a juvenile's ability to
22 participate in a community-based program or from informants in a
23 correctional facility for the purpose of determining whether
24 facility rules have been violated, or a victim's request for
25 notice of release, may, and must upon request, be disclosed:

26
27 **A.** To any person, if the person receiving services, that
28 person's legal guardian, if any, and, if that person is a
29 minor, that person's parent or legal guardian, gives
30 informed written consent to the disclosure of the documents
31 referred to in this subsection after being given the
32 opportunity to review the documents sought to be disclosed;

33
34 **B.** To any state agency if necessary to carry out the
35 statutory functions of that agency;

36
37 **C.** If ordered by a court of record, subject to any
38 limitation in the Maine Rules of Evidence, Rule 503;

39
40 **D.** To any criminal justice agency if necessary to carry out
41 the administration of criminal justice, the administration
42 of juvenile criminal justice or for criminal justice agency
43 employment;

44
45 **E.** To persons engaged in research if:

46
47 **(1)** The research plan is first submitted to and
48 approved by the commissioner;

49
50 **(2)** The disclosure is approved by the commissioner; and

2 (3) Neither original records nor identifying data are
3 removed from the facility or office that prepared the
4 records.

6 The commissioner and the person doing the research shall
7 preserve the anonymity of the person receiving services from
8 the department and may not disseminate data that refer to
9 that person by name, number or in any other way that might
10 lead to the person's identification; and

12 F. To persons who directly supervise or report on the
13 health, behavior or progress of a juvenile, to the
14 superintendent of a juvenile's school and the
15 superintendent's designees and to agencies that are or might
16 become responsible for the health or welfare of a juvenile,
17 if the information is relevant to and disseminated for the
18 purpose of creating or maintaining an individualized plan
19 for the juvenile's rehabilitation.

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

24 3. Disclosure of confidential information. The disclosure
25 of confidential information as provided by this section is
26 governed by Title 5, section 9057, subsection 6.

28 **§8905. Disciplinary action**

30 The commissioner shall adopt rules describing disciplinary
31 offenses and punishments in juvenile correctional facilities and
32 establishing a fair and orderly procedure for processing
33 disciplinary complaints. The rules must conform to this
34 section. Rules adopted pursuant to this subsection are routine
35 technical rules as defined by Title 5, chapter 375, subchapter
36 II-A.

38 1. Fairness and equity. The rules must ensure the
39 maintenance of a high standard of fairness and equity.

42 2. Corporal punishment. Corporal punishment may not be
43 imposed.

44 3. Punishment. Punishment at the Maine Youth Center may
45 consist of warnings, restitution, labor at any lawful work and
46 loss of privileges.

48 4. Restitution. The imposition of restitution at all
49 juvenile facilities is subject to this subsection.

2 A. Restitution may be imposed for the purpose of replacing
4 or repairing property destroyed or damaged by a juvenile
6 while the juvenile is at the facility. When restitution is
8 imposed at a facility, a juvenile who is subject to that
10 restitution and who is able to generate money from whatever
 source shall pay 25% of that money to the facility where
 the damage occurred. The facility shall collect that money
 and apply it to defray the cost of replacement or repair of
 the items destroyed or damaged.

12 B. Restitution may be imposed for the purpose of paying the
14 cost of medical care incurred as a result of the conduct of
16 a juvenile while the juvenile is at the facility. When
18 restitution is imposed at a facility, a juvenile who is
20 subject to that restitution and who is able to generate
 money from whatever source shall pay 25% of that money to
 the facility where the medical care was provided. The
 facility shall collect that money and apply it to defray the
 cost of medical care.

22 C. A juvenile who is transferred to another facility
24 remains liable for any restitution authorized under this
26 chapter. The facility receiving the juvenile shall collect
 the restitution and transfer it to the facility where the
 damage occurred or where the medical care was provided.

28 D. Restitution is not authorized if its imposition would
30 create an excessive financial hardship, as determined by the
32 department, on the dependents of the juvenile. Payments
 made for the support of the dependents that are required by
 the department may not be used for restitution payments.

34 5. Impartial hearing. If the punishment may affect the term
36 of commitment, or may involve restitution or labor at any lawful
38 work the Superintendent of the Maine Youth Center shall, before
 imposing punishment, provide an impartial hearing at which the
 juvenile has the rights:

40 A. To be informed in writing of the specific nature of the
42 alleged misconduct;

44 B. To the right to be present at the hearing, except that
46 the juvenile may be prevented from attending or be removed
48 if the juvenile's behavior indicates that the juvenile is in
 danger of self-injury or a danger to other persons or
 property;

50 C. To present evidence on the juvenile's behalf;

2 D. To call one or more witnesses, which right may not be
 unreasonably withheld or restricted;

4 E. To question any witness who testifies at the hearing,
 which right may not be unreasonably withheld or restricted;

6 F. To be represented by counsel substitute as prescribed in
8 the rules adopted by the commissioner under this section; and

10 G. The juvenile is entitled to appeal the final
12 disposition, before imposition of punishment, to the
 Superintendent.

14 A record must be maintained of all disciplinary complaints,
16 hearings, proceedings and dispositions. If, at any stage of the
18 proceedings, the juvenile is cleared of the charges in a
 complaint or the complaint is withdrawn, all documentation
 relating to the complaint must be expunged.

20 **§8906. Observation**

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

34 2. Conditions. Placing a juvenile under observation is
36 subject to this subsection.

38 A. Placement under observation must first be approved by
 the Superintendent of the Maine Youth Center.

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

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

2 D. When placement under observation exceeds 12 hours, the
4 Superintendent of the Maine Youth Center shall direct the
6 Maine Youth Center physician or a member of the Maine Youth
8 Center medical staff to visit the juvenile immediately and
10 at least once in each succeeding 24-hour period that the
12 juvenile remains under observation to examine the juvenile's
14 state of health.

16 (1) The Superintendent of the Maine Youth Center shall
18 give full consideration to recommendations of the
20 physician or medical staff member concerning the
22 juvenile's dietary needs and the conditions of the
24 juvenile's confinement required to maintain the
26 juvenile's health. If the recommendations of the
28 physician or medical staff member are not carried out,
30 the superintendent shall immediately convey the reasons
32 and circumstances for this decision to the commissioner
34 for review and final disposition.

36 (2) Placement under observation must be discontinued
38 if the Superintendent of the Maine Youth Center on the
40 advice of the physician determines that placement under
42 observation is harmful to the mental or physical health
44 of the juvenile, except that placement under
46 observation may be continued if the behavior of the
48 juvenile presents a high likelihood of imminent
50 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.

34 E. When placement under observation exceeds 24 hours, the
36 Superintendent of the Maine Youth Center shall direct
38 appropriate staff to develop a plan for the further care of
40 the juvenile. The plan must be revised as needed to meet
42 the changing needs of the juvenile.

44 F. Placement under observation may not exceed 72 hours
46 without the commissioner's approval, which must:

48 (1) Be in writing;

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

(3) Be kept on file.

G. If the recommendations of the physician or medical staff
member regarding the juvenile's dietary or other health

2 needs while under observation are not carried out, the
3 Superintendent of the Maine Youth Center shall send a
4 written justification to the commissioner.

6 H. A juvenile held under observation must be under sight
7 and sound supervision by the Maine Youth Center staff, which
8 must be constant if necessary to prevent imminent harm to
9 the juvenile.

10 **§8907. Commissioner's guardianship powers**

12 1. Juveniles. The commissioner has all the power over a
13 juvenile that a guardian has over a ward and that a parent has
14 over a child with regard to allowable property that the juvenile
15 has at the Maine Youth Center, earnings that the juvenile
16 receives during the juvenile's stay at the Maine Youth Center and
17 the rehabilitation of every juvenile. If a juvenile is or becomes
18 18 years of age while still under commitment, the statutory
19 guardianship of the commissioner over the juvenile terminates,
20 but the juvenile remains subject to the control of the
21 commissioner, staff and rules of the center until the expiration
22 of the period of commitment or until discharge from the center.

24 2. Juvenile detainee. The commissioner has all the power
25 over a juvenile detainee that a guardian has over a ward and that
26 a parent has over a child with regard to necessary medical care.
27 If a juvenile detainee is or becomes 18 years of age while still
28 detained, the statutory guardianship of the commissioner over the
29 juvenile detainee terminates, but the juvenile remains subject to
30 the control of the commissioner, staff and rules of the center
31 until release from the center.

32 **§8908. Power of center employees**

34 The Maine Youth Center employees have the same power as
35 sheriffs in their respective counties to search for and apprehend
36 escapees from the center, when authorized to do so by the
37 Superintendent of the Maine Youth Center.

38 **§8909. Transportation**

40 All court-ordered and court-related transportation of
41 juvenile detainees to and from the Maine Youth Center is the
42 responsibility of the sheriff of the county in which the court is
43 located.

44 **§8911. Arthur R. Gould School**

46 1. Purpose. The Arthur R. Gould School, located at the
47 Maine Youth Center, is devoted to the education and instruction
48 of persons residing at the center.
49

2 2. Responsibility for maintaining school. The State,
3 through the department, has the responsibility and expense of
4 maintaining the school in compliance with all elementary and
5 secondary state education requirements for public schools and
6 private schools approved for tuition purposes established in
7 Title 20-A.

8
9 3. School privileges. A person residing at the Maine Youth
10 Center is eligible to attend the Arthur R. Gould School and
11 receive education, vocational education, special education and
12 alternative education services in accordance with all state and
13 federal requirements.

14 **§8911. Juvenile caseworker**

15
16 1. Departmental employees. A juvenile caseworker is an
17 employee of the department.

18
19 2. Juvenile caseworker's functions. A juvenile
20 caseworker's functions are:

- 21
22 A. To serve as a juvenile probation officer;
23
24 B. To carry out all functions of a juvenile caseworker
25 delineated in Title 15, Part 6; and
26
27 C. To provide appropriate services to juveniles committed
28 to the Maine Youth Center who are in the community on
29 aftercare status.

30
31 3. Juvenile caseworker's duties. A juvenile caseworker
32 shall:

- 33
34 A. When directed, provide information to the Maine Youth
35 Center on juveniles committed to the Maine Youth Center;
36
37 B. Make such investigations as the Juvenile Court may
38 direct and keep written records of the investigations as the
39 Juvenile Court may direct;
40
41 C. Use all suitable means, including counseling, to aid
42 each juvenile under the caseworker's supervision and perform
43 such duties in connection with the care and custody of
44 juveniles as the Juvenile Court may direct;
45
46 D. Keep informed as to the condition and conduct of each
47 juvenile placed under the caseworker's supervision and
48 report on the condition and conduct to the court and to the
49 department as the court or department may direct;
50

2 B. Supervise and control the juvenile detainees at the
3 facility in accordance with department rules.

4
5 3. Powers. In addition to other powers granted in this
6 Title, the director may appoint one assistant director, subject
7 to the Civil Service Law. The assistant director has the powers,
8 duties, obligations and liabilities of the director when the
9 director is absent or unable to perform the director's duties.

10 **§8924. Detention**

11
12 1. Eligibility. Only a juvenile, as defined in Title 15,
13 section 3003, subsection 14, who is 11 years of age or older at
14 the time of detention may be detained at the facility pursuant to
15 this subchapter and Title 15, Part 6.

16
17 2. Limitations. A person may not be detained at the
18 facility who is blind or who is a proper subject for any
19 residential services provided by or through the Department of
20 Mental Health, Mental Retardation and Substance Abuse Services.

21
22 3. Certification. When a person is detained at the
23 facility, the court ordering the detention shall certify on the
24 mittimus the person's birthplace, parentage and legal residence.

25 **§8925. Juvenile detainees generally**

26
27 All juvenile detainees at the facility must be detained in
28 accordance with the orders of the court and the rules of the
29 department.

30 **§8926. Powers of employees**

31
32 Employees of the facility have the same power as sheriffs in
33 their respective counties to search for and apprehend escapees
34 from the facility, when authorized to do so by the director.

35 **§8927. Transportation**

36
37 All court-ordered and court-related transportation of
38 juvenile detainees to and from the facility is the responsibility
39 of the sheriff of the county in which the court is located.

40 **§8928. Observation**

41
42 1. Generally. When the behavior of a juvenile residing at
43 the facility presents a high likelihood of imminent harm to that
44 juvenile or to others, presents a substantial and imminent threat
45 of destruction of property or demonstrates a proclivity to be
46

2 absent from the facility without leave as evidenced by a stated
3 intention to escape from the facility or by a recent attempted or
4 actual escape from any detention or correctional facility, the
5 juvenile may be placed under observation if the juvenile
6 demonstrates that anything less restrictive would be ineffectual
7 for the control of the juvenile's behavior.

8 2. Conditions. Placing a juvenile under observation is
9 subject to this subsection.

10 A. Placement under observation must first be approved by
11 the director.

12 B. The conditions under which a juvenile is placed under
13 observation must conform with all applicable federal and
14 state standards relating to the health and safety of clients
15 in detention facilities.

16 C. Placement under observation may not exceed the period of
17 time necessary to alleviate and prevent the reoccurrence of
18 the behavior described in subsection 1 and it may not be
19 used as punishment.

20 D. When placement under observation exceeds 12 hours, the
21 director shall direct the facility physician or a member of
22 the facility medical staff to visit the juvenile immediately
23 and at least once in each succeeding 24-hour period that the
24 juvenile remains under observation to examine the juvenile's
25 state of health.

26 (1) The director shall give full consideration to
27 recommendations of the physician or medical staff
28 member concerning the juvenile's dietary needs and the
29 conditions of the juvenile's confinement required to
30 maintain the juvenile's health. If the recommendations
31 of the physician or medical staff member are not
32 carried out, the director shall immediately convey the
33 reasons and circumstances for this decision to the
34 commissioner for review and final disposition.

35 (2) Placement under observation must be discontinued
36 if the director, on the advice of the physician,
37 determines that placement under observation is harmful
38 to the mental or physical health of the juvenile,
39 except that placement under observation may be
40 continued if the behavior of the juvenile presents a
41 high likelihood of imminent physical harm to that
42 juvenile or others and there is no less restrictive
43 setting in which that juvenile's safety or that of
44 others can be ensured. If placement under observation
45 is discontinued, the director shall immediately
46 convey the reasons and circumstances for this decision
47 to the commissioner for review and final disposition.
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50

2 is continued, the physician or a member of the medical
3 staff shall visit the juvenile at least once every 12
4 hours.

5 E. When placement under observation exceeds 24 hours, the
6 director shall direct appropriate facility staff to develop
7 a plan for the further care of the juvenile. The plan must
8 be revised as needed to meet the changing needs of the
9 juvenile.

10 F. Placement under observation may not exceed 72 hours
11 without the commissioner's approval, which must:

12 (1) Be in writing;

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

14 (3) Be kept on file.

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

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

22 **§8929. Limit on number of juveniles**

23 The population of the facility may not exceed 40 juveniles,
24 unless there is no other appropriate housing available for
25 juveniles. Exceeding 40 juveniles in an emergency situation may
26 be done only for the length of time necessary to resolve the
27 emergency.

28 **§8930. Powers of commissioner**

29 The commissioner has all the power over a juvenile detainee
30 that a guardian has over a ward and that a parent has over a
31 child with regard to necessary medical care. If a juvenile
32 detainee is or becomes 18 years of age while still detained, the
33 statutory guardianship of the commissioner over the juvenile
34 detainee terminates, but the juvenile remains subject to the
35 control of the commissioner, staff and rules of the facility
36 until release from the facility.

37 **Sec. 13. 34-A MRSA §1403, sub-§2, ¶C,** as amended by PL 1995,
38 c. 502, Pt. F, §18, is further amended to read:

2 C. The commissioner shall appoint the following officials
to serve at the pleasure of the commissioner:

4 (1) Associate Commissioner for Adult Services;

6 ~~(1-A) -- Associate Commissioner for Juvenile Services;~~

8 (2) Assistant to the Commissioner; and

10 (3) Director, Policy, Legislative and Information
Services.

12 **Sec. 14. 34-A MRSA §1403, sub-§4, ¶A,** as enacted by PL 1983,
14 c. 459, §6, is repealed.

16 **Sec. 15. 34-A MRSA §1403, sub-§5-A,** as enacted by PL 1995, c.
18 502, Pt. F, §20, is repealed.

20 **Sec. 16. 34-A MRSA §1403, sub-§8,** as repealed and replaced by
PL 1989, c. 127, §3, is amended to read:

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

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

32 (1) The Attorney General of the United States
designates a Maine correctional facility as the place
34 of confinement for the prisoner; and

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

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

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

48 ~~(2) -- The commissioner approves and agrees to accept and
50 keep the juvenile in a Maine juvenile facility.~~

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

10 **Sec. 17. 34-A MRSA §1403, sub-§10**, as enacted by PL 1993, c.
682, §1, is amended to read:

12 **10. Inmate benefit welfare account.** The commissioner shall
14 provide an accounting of all inmate benefit welfare accounts and
~~of the student welfare fund at the Maine Youth Center~~ each fiscal
16 year to the joint select standing committee of the Legislature
18 having jurisdiction over corrections matters. The annual
20 accounting must include total income for the year, total
22 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.

24 **Sec. 18. 34-A MRSA §3003, sub-§1**, as amended by PL 1997, c.
714, §2, is further amended to read:

26 **1. Limited disclosure.** All orders of commitment, medical
28 and administrative records, applications and reports, and facts
30 contained in them, pertaining to any person receiving services
32 from the department, must be kept confidential and may not be
disclosed by any person, except that public records must be
disclosed in accordance with Title 1, section 408, criminal
34 history record information may be disseminated in accordance with
Title 16, chapter 3, subchapter VIII, and documents, other than
36 those documents pertaining to information obtained by the
department for the purpose of evaluating a client's ability to
38 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:

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

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

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

4 D. To any criminal justice agency if necessary to carry out
6 the administration of criminal justice, the administration
of juvenile criminal justice or for criminal justice agency
employment; and

8 E. To persons engaged in research if:

10 (1) The research plan is first submitted to and
12 approved by the commissioner;

14 (2) The disclosure is approved by the commissioner; and

16 (3) Neither original records nor identifying data are
18 removed from the facility or office that prepared the
records.

20 The commissioner and the person doing the research shall
22 preserve the anonymity of the person receiving services from
the department and may not disseminate data that refer to
24 that person by name, number or in any other way that might
lead to the person's identification, and .

26 ~~F. To persons who directly supervise or report on the
28 health, behavior or progress of a juvenile, to the
superintendent of a juvenile's school and the
30 superintendent's designees and to agencies that are or might
become responsible for the health or welfare of a juvenile,
32 if the information is relevant to and disseminated for the
purpose of creating or maintaining an individualized plan
34 for the juvenile's rehabilitation.~~

36 ~~Notwithstanding any other provision of law, the department may
release the names, dates of birth and social security numbers of
38 juveniles receiving services from the department and, if
applicable, eligibility numbers and the dates on which these
40 juveniles received services to the Department of Human Services
for the sole purpose of determining eligibility and billing for
42 services under federally funded programs administered by the
Department of Human Services and provided by or through the
44 department. The department may also release to the Department of
Human Services information required for, and to be used solely
46 for, audit purposes, consistent with federal law, for those
services provided by or through the department. Department of
48 Human Services personnel must treat this information as
confidential in accordance with federal and state law and must
50 return the records when their purpose has been served.~~

2 **Sec. 19. 34-A MRSA §3032, sub-§3**, as amended by PL 1989, c.
127, §6, is further amended by amending the first paragraph to
read:

4
6 **3. Segregation.** The imposition of segregation at all
correctional facilities, ~~except the Maine Youth Center,~~ shall be
subject to the following conditions.

8
10 **Sec. 20. 34-A MRSA §3032, sub-§5**, as amended by PL 1991, c.
314, §37, is further amended to read:

12 **5. Specific facilities.** Punishment at specific
14 correctional facilities is governed as follows.

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

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

24 **Sec. 21. 34-A MRSA §3032, sub-§5-A**, as amended by PL 1995, c.
197, §2, is further amended to read:

26 **5-A. Restitution.** The imposition of restitution at all
28 facilities is subject to the following conditions.

30 A. Restitution may be imposed for the purpose of replacing
or repairing property destroyed or damaged by the prisoner
32 ~~or juvenile~~ while the prisoner ~~or juvenile~~ is at the
institution. When restitution is imposed at a facility, a
34 prisoner ~~or a juvenile~~ who is subject to that restitution
and who is able to generate money from whatever source shall
36 pay 25% of that money to the facility where the damage
occurred. The facility shall collect that money and apply
38 it to defray the cost of replacement or repair of the items
destroyed or damaged.

40 A-1. Restitution may be imposed for the purpose of paying
42 the cost of medical care incurred as a result of the conduct
of a prisoner ~~or juvenile~~ while the prisoner ~~or juvenile~~ is
44 at the institution. When restitution is imposed at a
facility, a prisoner ~~or a juvenile~~ who is subject to that
46 restitution and who is able to generate money from whatever
source shall pay 25% of that money to the facility where the
48 medical care was provided. The facility shall collect that
money and apply it to defray the cost of medical care.

50

2 B. A prisoner ~~or--juvenile~~ who is transferred to another
3 facility remains liable for any restitution authorized under
4 this chapter. The facility receiving the prisoner ~~or~~
5 juvenile shall collect the restitution and transfer it to
6 the facility where the damage occurred or where the medical
care was provided.

8 C. Restitution is not authorized if its imposition would
9 create an excessive financial hardship, as determined by the
10 department, on the dependents of the prisoner. Any payments
11 made for the support of the dependents that are required by
12 the Department of Human Services may not be used for
13 restitution payments.

14 **Sec. 22. 34-A MRSA c. 3, sub-c. III** as amended, is repealed.

16 **Sec. 23. 34-A MRSA c. 3, sub-c. V**, as amended, is repealed.

18 **Sec. 24. 34-A MRSA §5602**, as amended by PL 1997, c. 464, §16,
20 is repealed.

22 **Sec. 25. 34-B MRSA §6205, sub-§1**, as amended by PL 1995, c.
24 560, Pt. K, §72, is further amended to read:

26 **1. Department authority.** The department may provide
27 consultation services to any juvenile with mental retardation
28 committed to the Maine Youth Center if those services are
29 requested by the Commissioner of ~~Corrections~~ Human Services.
30 Consultation services may include participation by appropriate
31 department professionals on the Clinical Services Committee of
32 the Maine Youth Center in order to assist in the design of
33 individual treatment plans to provide habilitation, education and
34 skill training to juveniles with mental retardation in residence
at the Maine Youth Center.

36

38

SUMMARY

40 This bill amends current law to transfer responsibility for
41 the Maine Youth Center and the Northern Maine Regional Juvenile
42 Detention Facility from the Department of Corrections to the
43 Department of Human Services. It retains the current structure
44 of the facilities and their relationships with the other
departments and with the federal Department of Justice.