

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)

M
K of S

L.D. 2315

DATE: 2/25/2000

(Filing No. S-512)

CRIMINAL JUSTICE

Reported by:

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 896, L.D. 2315, Bill, "An Act to Amend the Department of Corrections Statutes"

Amend the bill by inserting after the enacting clause and before section 1 the following:

Sec. 1. 14 MRSA §5545, 2nd ¶, as amended by PL 1989, c. 722, §4 and PL 1995, c. 560, Pt. K, §82 and affected by §83, is further amended to read:

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

COMMITTEE AMENDMENT

2 **2. Limitations.** No A person may not be detained at or
3 committed to the ~~center~~ facility who is blind or who is a proper
4 subject for any residential services provided by or through the
5 Department of Mental Health, Mental Retardation and Substance
6 Abuse Services.

8 **3. Certification.** When a person is detained at or
9 committed to the ~~center~~ facility, the court making the detention
10 or commitment shall certify on the mittimus the person's
11 birthplace, parentage and legal residence.

12 **Sec. 29. 34-A MRSA §3809-A**, as amended by PL 1999, c. 401,
13 Pt. J, §4 and c. 510, §5, is further amended to read:

16 **§3809-A. Commissioner's guardianship powers**

18 **1. Juvenile client.** The commissioner has all the power
19 over a juvenile client that a guardian has over a ward and that a
20 parent has over a child with regard to person, allowable property
21 that the juvenile client has at the Southern Maine Juvenile
22 Facility, earnings that the juvenile client receives during the
23 juvenile client's stay at the Southern Maine Juvenile Facility
24 and the rehabilitation of every juvenile client. If a juvenile
25 client is or becomes 18 years of age while still under
26 commitment, the statutory guardianship of the commissioner over
27 the juvenile client terminates, but the juvenile client remains
28 subject to the control of the commissioner, staff and rules of
29 the ~~center~~ facility until the expiration of the period of
30 commitment or until discharge from the ~~center~~ facility.

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

40 **Sec. 30. 34-A MRSA §3810, sub-§1**, as amended by PL 1997, c.
41 464, §14, is further amended to read:

44 **1. Commissioner's powers.** During a juvenile client's
45 commitment to the ~~center~~ facility, the commissioner may, at the
46 commissioner's discretion:

48 A. Keep the juvenile client at the ~~center~~ facility; or

R. O. S.

COMMITTEE AMENDMENT "A" to S.P. 896, L.D. 2315

2 B. Place the juvenile client on aftercare status for a
period not exceeding the term of the juvenile's commitment.

4 **Sec. 31. 34-A MRSA §3810, sub-§4**, as amended by PL 1997, c.
464, §14, is further amended to read:

6
8 **4. Cancellation.** If the commissioner is satisfied at any
time that the welfare of the juvenile client will be promoted by
10 return to the ~~center~~ facility, the commissioner may cancel the
aftercare status and resume charge of the client with the same
powers as before the placement on aftercare status was made.

12
14 **Sec. 32. 34-A MRSA §3811**, as amended by PL 1997, c. 464, §15,
is further amended to read:

16 **§3811. Return to facility**

18 When a juvenile client who has been placed on aftercare
status, who has been granted a furlough or work or education
20 release or who has been absent from the ~~center~~ facility without
leave is taken into custody for the purpose of return to the
22 ~~center~~ facility by an officer or employee of the ~~center~~ facility,
at the direction of the commissioner, or by a law enforcement
24 officer, at the request of the commissioner, and because of the
juvenile client's distance from the ~~center~~ facility at the time
26 of being taken into custody, it becomes necessary to detain the
client overnight:

28
30 **1. Temporary detention.** The juvenile client may be
temporarily detained in a county jail; and

32 **2. Return.** The juvenile client shall must be returned to
the ~~center~~ facility on the day after being taken into custody,
34 except that, if traveling conditions are unsafe, the client shall
must be returned to the ~~center~~ facility at the earliest possible
36 time.

38 **Sec. 33. 34-A MRSA §3812**, as amended by PL 1995, c. 502, Pt.
F, §29, is further amended to read:

40 **§3812. Discharge**

42
44 **1. Duty.** The superintendent shall cause a juvenile client
to be discharged from the ~~center~~ facility:

46 A. When the client becomes 21 years of age or otherwise
reaches the end of the period of the Juvenile Court's
48 commitment.

2. **Power.** The superintendent may cause a juvenile client to be discharged from the ~~center~~ facility when the superintendent determines that discharge is in the best interest of the client or that the client has benefited optimally from the services and facilities of the ~~center~~ facility.

Sec. 34. 34-A MRSA §3813, as enacted by PL 1987, c. 585 and amended by PL 1999, c. 401, Pt. J, §4, is further amended to read:

§3813. Power of facility employees

The Southern Maine Juvenile Facility employees have the same power as sheriffs in their respective counties to search for and apprehend escapees from the ~~center~~ facility, when authorized to do so by the superintendent.

Sec. 35. 34-A MRSA §3815, sub-§1, as enacted by PL 1991, c. 764, §2 and amended by PL 1999, c. 401, Pt. J, §4, is further amended to read:

1. **Purpose.** The Arthur R. Gould School, located at the Southern Maine Juvenile Facility, is devoted to the education and instruction of persons residing at the ~~center~~ facility.'

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

Sec. 32. 34-A MRSA §5602, as amended by PL 1997, c. 416, §16 and PL 1999, c. 401, Pt. J, §4, is further amended to read:

§5602. Juvenile community corrections officer

1. **Departmental employees.** A juvenile ~~employee~~ community corrections officer is an employee of the Department of Corrections.

2. **Juvenile community corrections officer's functions.** A juvenile ~~employee's~~ community corrections officer's functions are:

A. To serve as a juvenile probation officer;

B. To carry out all functions of a juvenile ~~employee~~ community corrections officer delineated in the Maine Juvenile Code, Title 15, Part 6; and

C. To provide appropriate services to juveniles committed to ~~the Maine Youth Center~~ a juvenile correctional facility who are in the community on aftercare status.

Page

2 3. Juvenile community corrections officer's duties. A juvenile ~~caseworker~~ community corrections officer shall:

4 A. When directed, ~~provided~~ provide information to the ~~Southern-Maine-Juvenile-Facility~~ a juvenile correctional facility on juveniles committed to the ~~Southern-Maine Juvenile-Facility~~ juvenile correctional facility;

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

8 C. Use all suitable means, including counseling, to aid each juvenile under ~~his~~ the juvenile community corrections officer's supervision and shall perform such duties in connection with the care and custody of juveniles as the court may direct;

10 D. Keep informed as to the condition and conduct of each juvenile placed under ~~his~~ the juvenile community corrections officer's supervision and shall report on the condition and conduct to the court and to the department as the court or department may direct;

12 E. When a juvenile is placed under ~~his~~ the juvenile community corrections officer's supervision, give the juvenile a written statement of the conditions of ~~his~~ the supervision and shall fully explain the conditions to ~~him~~ the juvenile; and

14 F. Keep complete records of all work done.

16 4. Juvenile community corrections officer's powers. Juvenile ~~caseworkers~~ community corrections officers have the same arrest powers as other law enforcement officers with respect to juveniles placed under their supervision.

18 **Sec. 33. Report.** The Department of Corrections shall report its progress in implementing the recommendations of the study group to review procedures and consider improvements in juvenile and adult probation services to the joint standing committee of the Legislature having jurisdiction over corrections matters by April 15, 2001.'

20 Further amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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

11 of 8

2
4
6
8
10
12
14
16
18
20
22
24

FISCAL NOTE

The additional costs associated with the required progress report can be absorbed by the Department of Corrections utilizing existing budgeted resources.'

SUMMARY

This amendment eliminates an outdated provision, whose subject matter is covered comprehensively in the Maine Revised Statutes, Title 30-A, section 1656. The amendment clarifies the relationship between the Department of Corrections confidentiality statute and other confidentiality provisions. The amendment provides for consistency of references to juvenile correctional facilities.

This amendment incorporates recommended reporting requirements by the Department of Corrections as proposed in the report of the study group to review procedures and consider improvements in juvenile and adult probation services.

The amendment also adds a fiscal note to the bill.