

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)



119th MAINE LEGISLATURE

SECOND REGULAR SESSION-1999

Legislative Document

No. 2315

S.P. 896

In Senate, December 27, 1999

An Act to Amend the Department of Corrections Statutes.

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Received by the Secretary of the Senate on December 27, 1999. Referred to the Committee on Criminal Justice and ordered printed pursuant to Joint Rule 308.2

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MURRAY of Penobscot.
Cosponsored by Representatives: McALEVEY of Waterboro, POVICH of Ellsworth.

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

2
3 **Sec. 1. 34-A MRSA §1403, sub-§10**, as enacted by PL 1993, c.
4 682, §1 and amended by PL 1999, c. 401, Pt. J, §4, is further
5 amended to read:

6
7 **10. Client benefit welfare account.** The commissioner shall
8 provide an accounting of all inmate client benefit welfare
9 accounts ~~and-of-the-student-welfare-fund-at-the-Southern-Maine~~
10 ~~Juvenile-Facility~~ each fiscal year to the joint select committee
11 of the Legislature having jurisdiction over corrections matters.
12 The annual accounting must include total income for the year,
13 total expenditures for the year, anticipated capital and
14 operating expenditures from these accounts in the next fiscal
15 year and balances in the accounts. Nothing in this subsection
16 may change the nature of these accounts as internal management
17 tools.

18 **Sec. 2. 34-A MRSA §1403, sub-§11** is enacted to read:

19
20 **11. Contracting agent.** The chief administrative officer is
21 the contracting agent for all sales of articles from a
22 correctional facility and for all other contracts made on behalf
23 of the correctional facility except those made by the State
24 Purchasing Agent.

25 A. All contracts must be made in the manner prescribed by
26 the commissioner.

27 B. A contract may not be accepted by the chief
28 administrative officer, unless the contractor gives
29 satisfactory security for its performance.

30 C. An employee of the correctional facility may not be
31 directly or indirectly interested in any contract.

32
33 **Sec. 3. 34-A MRSA §3001, sub-§1**, as amended by PL 1991, c.
34 314, §26, is further amended to read:

35
36 **1. Appointment.** The commissioner may appoint chief
37 administrative officers as necessary for the proper performance
38 of the functions of the department, subject to the Civil Service
39 Law.

40 A. To be eligible for appointment as a chief administrative
41 officer, a person must be experienced in the management of
42 the particular type of facility to which that person is
43 assigned.

2 B. Chief administrative officers shall report directly to
the commissioner or to an associate commissioner if so
4 directed by the commissioner.

6 **Sec. 4. 34-A MRSA §3008**, as enacted by PL 1983, c. 459, §6,
is repealed.

8 **Sec. 5. 34-A MRSA §3031, sub-§2**, as amended by PL 1995, c.
462, Pt. D, §6, is further amended by adding at the end a new
10 blocked paragraph to read:

12 A person who has not attained 18 years of age but who is residing
14 in a correctional facility pursuant to a conviction as an adult
may consent to necessary medical care as if the person had
16 attained 18 years of age.

18 **Sec. 6. 34-A MRSA §3032, sub-§3**, as amended by PL 1989, c.
127, §6 and PL 1999, c. 401, Pt. J, §4, is further amended by
20 amending the first paragraph to read:

22 **3. Segregation.** The imposition of segregation at all
correctional facilities, except ~~the--Southern--Maine--Juvenile~~
24 ~~Facility~~ juvenile correctional facilities, shall-be is subject to
the following conditions.

26 **Sec. 7. 34-A MRSA §3032, sub-§5, ¶A**, as amended by PL 1985, c.
352, §3 and PL 1999, c. 401, Pt. J, §4, is further amended to
28 read:

30 A. Punishment at all correctional facilities, except the
~~Southern--Maine--Juvenile--Facility~~ juvenile correctional
32 facilities, may consist of warnings, loss of privileges,
restitution, labor at any lawful work, confinement to a
34 cell, segregation or a combination of these.

36 **Sec. 8. 34-A MRSA §3032, sub-§5, ¶B**, as amended by PL 1991, c.
314, §37 and PL 1999, c. 401, Pt. J, §4, is further amended to
38 read:

40 B. Punishment at ~~the--Southern--Maine--Juvenile--Facility~~
juvenile correctional facilities and any detention facility
42 may consist of warnings, restitution, labor at any lawful
work and loss of privileges.

44 **Sec. 9. 34-A MRSA §3035-A**, as enacted by PL 1989, c. 587,
46 §1, is repealed.

48 **Sec. 10. 34-A MRSA §3036, sub-§2**, as amended by PL 1991, c.
314, §41, is further amended to read:
50

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

6 **Sec. 11. 34-A MRSA §3063, sub-§1,** as repealed and replaced by
7 PL 1995, c. 368, Pt. R, §11, is amended to read:

8
9 **1. Transfer of prisoner.** The commissioner may transfer a
10 prisoner serving a sentence in a correctional facility to a
11 county jail, upon the request of the ~~commissioner~~ chief
12 administrative officer and the approval of the sheriff of the
13 jail.

14 **Sec. 12. 34-A MRSA §3071, sub-§2,** as amended by PL 1991, c.
15 314, §59, is further amended to read:

16 **2. Contagious diseases.** If a ~~pestilence or contagious~~
17 ~~disease breaks out among the clients~~ client in any correctional
18 or detention facility ~~or county jail~~ requires medical care
19 outside the facility, the commissioner may:

20 A. Cause any ~~of the clients~~ client to be removed to some
21 suitable place of security where ~~they~~ the client will
22 receive all necessary care and medical attention; and

23 B. Cause the client ~~or clients~~ to be returned as soon as
24 possible to the ~~jail or institution~~ facility to be confined
25 according to ~~their sentences~~ the sentence, if unexpired.

26 **Sec. 13. 34-A MRSA §3201,** as amended by PL 1997, c. 752, §35,
27 is repealed.

28 **Sec. 14. 34-A MRSA §3201-A** is enacted to read:

29 **§3201-A. Establishment**

30 The Maine State Prison in Knox County is established for the
31 confinement and rehabilitation of persons lawfully in the custody
32 of the department, as provided by law.

33 **Sec. 15. 34-A MRSA §3231,** as amended by PL 1991, c. 310, is
34 repealed and the following enacted in its place:

35 **§3231. Warden**

36 **1. Chief administrative officer.** The chief administrative
37 officer of the Maine State Prison is called the warden.

2 2. Duties. In addition to other duties set out in this
Title, the warden shall supervise and control the prisoners,
4 pretrial detainees, employees, grounds, buildings and equipment
at the prison.

6 3. Powers. In addition to other powers granted in this
Title, the warden has the following powers.

8
10 A. The warden may appoint deputy wardens, subject to the
Civil Service Law. A deputy warden designated by the warden
12 has the powers, duties, obligations and liabilities of the
warden when the warden is absent from the prison location or
14 is unable to perform the duties of the office.

16 B. The warden may, with the written approval of the
commissioner, contract with the Director of the Federal
18 Bureau of Prisons acting pursuant to the United States Code,
Title 18, Section 4002, for the imprisonment, subsistence,
20 care and proper employment of persons convicted of crimes
against the United States, and may receive and detain such
22 persons pursuant to the contracts.

24 Sec. 16. 34-A MRSA §3232, as amended by PL 1985, c. 785, Pt.
B, §155, is repealed.

26 Sec. 17. 34-A MRSA §3235, as enacted by PL 1983, c. 459, §6,
is repealed.

28 Sec. 18. 34-A MRSA §3261, as amended by PL 1993, c. 337, §1,
30 is further amended to read:

32 **§3261. Delivery to the prison**

34 When a ~~committed-offender~~, person is convicted and sentenced
to the ~~Department--of--Corrections~~, department and is to be
36 transported to the prison from any county:

38 1. **Duties of commissioner.** The commissioner shall
immediately notify the warden and the sheriff of the county in
40 which the sentencing court is located;

42 2. **Duties of the sheriff.** The sheriff of the county in
which the sentencing court is located shall:

44 A. Transport the ~~convict~~ person to the prison, using a
46 sufficient number of ~~his~~ the sheriff's appointed deputies
when necessary; and

48 B. Deliver the ~~convict~~ person to the officer in charge of
50 the prison between the hours of 8 a.m. and 4 p.m. Monday to

2 Friday, except for holidays, unless prior arrangements for
an alternative time have been made with the warden,
4 accompanied by a duly signed warrant of commitment and
record, as provided by Title 15, section 1707;

6 **3. Duties of the jail keeper.** When, during the conveyance
of a convict person to the prison in pursuance of his that
8 person's sentence, it is necessary or convenient to lodge him the
person for safekeeping in a jail until the remainder of the
10 conveyance can be conveniently performed, the keeper of the jail
shall:

12 A. Receive and safely keep and provide for the convict
14 person, reasonable charges and expenses for this service to
be paid from the State Treasury; and

16 B. Deliver the convict person to the custody of the person
18 deputy employed to convey him the person, when that person
deputy calls for the convict person; and

20 **4. Duties of the warden.** The warden shall:

22 A. File the warrant and record, as provided by Title 15,
24 section 1707, with his the warden's return thereon on the
warrant in his the warden's office; and

26 B. Cause a copy of the warrant of commitment to be filed in
28 the office of the clerk of court from which it was issued.

30 **Sec. 19. 34-A MRSA §3264**, as enacted by PL 1983, c. 459, §6,
is amended to read:

32 **§3264. Conditions of imprisonment**

34 Prisoners in the prison, ~~including prisoners transferred~~
36 ~~under section 3066~~, shall work at tasks normal to the
maintenance, service, industrial, agricultural and other
38 activities of the prison.

40 **Sec. 20. 34-A MRSA §3265**, as enacted by PL 1983, c. 459, §6,
is repealed.

42 **Sec. 21. 34-A MRSA §3266, sub-§§2, 3 and 4**, as enacted by PL
44 1983, c. 459, §6, are repealed.

46 **Sec. 22. 34-A MRSA §3266, sub-§5**, as enacted by PL 1983, c.
48 459, §6, is amended to read:

50 **5. Escape.** Prisoners who escape from the Maine State Prison
minimum security unit, ~~or from land leased by the warden while~~

~~they are in training or employed under programs established under subsection-2,~~ are guilty of escape as if the escape were from the confines of the prison and are punishable in accordance with Title 17-A, section 755.

Sec. 23. 34-A MRSA §3407, as amended by PL 1993, c. 337, §2, is further amended to read:

§3407. Delivery to the center

When a person is convicted and sentenced to the department and is to be transported to the center from any county:

1. Duties of commissioner. The commissioner shall immediately notify the superintendent and the sheriff of the county in which the sentencing court is located;

2. Duties of the sheriff. The sheriff of the county in which the sentencing court is located shall:

A. Transport the ~~convict~~ person to the center, using a sufficient number of ~~his~~ the sheriff's appointed deputies when necessary; and

B. Deliver the ~~convict~~ person to the officer in charge of the center between the hours of 8 a.m. and 4 p.m. Monday to Friday, except for holidays, unless prior arrangements are made and approved by the superintendent, accompanied by a duly signed warrant of commitment and record, as provided by Title 15, section 1707;

3. Duties of the jail keeper. When, during the conveyance of a ~~convict~~ person to the center pursuant to ~~his~~ the person's sentence, it is necessary or convenient to lodge ~~him~~ the person for safekeeping in a jail until the remainder of the conveyance can be conveniently performed, the keeper of the jail shall:

A. Receive and safely keep and provide for the ~~convict~~ person reasonable charges and expenses for this service to be paid from the State Treasury; and

B. Deliver the ~~convict~~ person to the custody of the ~~person~~ deputy employed to convey ~~him~~ the person, when that ~~person~~ deputy calls for the ~~convict~~ person; and

4. Duties of the superintendent. The superintendent shall:

A. File the warrant and record, as provided by Title 15, section 1707, with ~~his~~ the superintendent's return ~~thereon~~ on the warrant in ~~his~~ the superintendent's office; and

2 B. Cause a copy of the warrant of commitment to be filed in
the office of the clerk of court from which it was issued.

4
6 **Sec. 24. 34-A MRSA §3602**, as enacted by PL 1983, c. 459, §6,
is amended to read:

8 **§3602. Purposes**

10 The purposes of the Charleston Correctional Facility include
vocational and academic education, rehabilitative programs
12 including work release and work involving public restitution.

14 **Sec. 25. 34-A MRSA §4102, sub-§§2 and 3**, as enacted by PL 1991,
c. 400, are amended to read:

16 **2. Diagnostic evaluation.** To administer court-ordered
18 diagnostic evaluations pursuant to Title 15, section 3309-A and
court-ordered examinations pursuant to Title 15, section 3318; and

20 **3. Confinement.** To confine juveniles ordered detained
22 pursuant to Title 15, section 3314, subsection 1, paragraph H;

24 **Sec. 26. 34-A MRSA §4102, sub-§§4 and 5** are enacted to read:

26 **4. Rehabilitation.** To rehabilitate juveniles committed to
a juvenile correctional facility pursuant to Title 15, section
28 3314, subsection 1, paragraph F; and

30 **5. Protection.** To protect the public from dangerous
juveniles.

32 **Sec. 27. 34-A MRSA §4102**, as amended by PL 1997, c. 752, §41
34 and PL 1999, c. 401, Pt. J, §6, is further amended by adding at
the end a new paragraph to read:

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

46 **Sec. 28. 34-A MRSA §4104**, as amended by PL 1999, c. 260, Pt.
A, §11 and c. 401, Pt. J, §6, is further amended to read:

48 **§4104. Detention**

50

2 1-A. Eligibility. Only a juvenile, as defined in Title 15,
3 section 3003, subsection 14, who is 11 years of age or older at
4 the time of commitment may be committed to the Northern Maine
5 Juvenile Facility pursuant to this subchapter and Title 15, Part
6 6.

7
8 2. Limitations. No A person may not be detained at or
9 committed to the Northern Maine Juvenile Facility who is blind or
10 who is a proper subject for any residential services provided by
11 or through the Department of Mental Health, Mental Retardation
12 and Substance Abuse Services.

13
14 3. Certification. When a person is detained at or
15 committed to the Northern Maine Juvenile Facility, the court
16 ordering the detention or commitment shall certify on the
17 mittimus the person's birthplace, parentage and legal residence.

18 Sec. 29. 34-A MRSA §4109, as enacted by PL 1991, c. 400 and
19 amended by PL 1999, c. 401, Pt. J, §6, is repealed.

20
21 Sec. 30. 34-A MRSA §4111, as enacted by PL 1997, c. 752, §42,
22 is repealed and the following enacted in its place:

23 §4111. Powers of commissioner

24
25 1. Juvenile client. The commissioner has all the power
26 over a juvenile client that a guardian has over a ward and that a
27 parent has over a child with regard to person, allowable property
28 that the juvenile client has at the Northern Maine Juvenile
29 Facility, earnings that the juvenile client receives during the
30 juvenile client's stay at the Northern Maine Juvenile Facility
31 and the rehabilitation of every juvenile client. If a juvenile
32 client is or becomes 18 years of age while still under
33 commitment, the statutory guardianship of the commissioner over
34 the juvenile client terminates, but the juvenile client remains
35 subject to the control of the commissioner, staff and rules of
36 the Northern Maine Juvenile Facility until the expiration of the
37 period of commitment or until discharge from the Northern Maine
38 Juvenile Facility.

39
40
41 2. Juvenile detainee. The commissioner has all the power
42 over a juvenile detainee that a guardian has over a ward and that
43 a parent has over a child with regard to necessary medical care.
44 If a juvenile detainee is or becomes 18 years of age while still
45 detained, the statutory guardianship of the commissioner over the
46 juvenile detainee terminates, but the juvenile remains subject to
47 the control of the commissioner, staff and rules of the Northern
48 Maine Juvenile Facility until release from the Northern Maine
49 Juvenile Facility.

2 Sec. 31. 34-A MRSA §§4112 to 4116 are enacted to read:

4 **§4112. Aftercare status**

6 1. Commissioner's powers. During a juvenile client's
commitment to the Northern Maine Juvenile Facility, the
commissioner may, at the commissioner's discretion:

8 A. Keep the juvenile client at the Northern Maine Juvenile
10 Facility; or

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

16 2. Reports. As often as the commissioner requires, the
person or agency caring for the juvenile client while on
aftercare status shall report to the commissioner:

18 A. The progress and behavior of the juvenile client,
20 whether or not the juvenile client remains under the care of
22 the person or agency; and

24 B. If the juvenile client is not under the care of the
person or agency, where the client is.

26 3. Facility services. The commissioner shall provide
aftercare services to a juvenile client.

28 4. Cancellation. If the commissioner is satisfied at any
30 time that the welfare of the juvenile client will be promoted by
return to the Northern Maine Juvenile Facility, the commissioner
32 may cancel the aftercare status and resume charge of the client
with the same powers as before the placement on aftercare status
34 was made.

36 **§4113. Return to the facility**

38 When a juvenile client who has been placed on aftercare
status, who has been granted a furlough or work or education
40 release or who has been absent from the Northern Maine Juvenile
Facility without leave is taken into custody for the purpose of
42 return to the Northern Maine Juvenile Facility by an officer or
employee of the Northern Maine Juvenile Facility, at the
44 direction of the commissioner, or by a law enforcement officer,
at the request of the commissioner, and, because of the juvenile
46 client's distance from the Northern Maine Juvenile Facility at
the time of being taken into custody, it becomes necessary to
48 detain the client overnight:

