

# MAINE STATE LEGISLATURE

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DATE: *May 29, 2001*

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**CRIMINAL JUSTICE**

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**STATE OF MAINE  
SENATE  
120TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "B" to S.P. 580, L.D. 1758, Bill, "An Act to Amend the Laws Pertaining to the Department of Corrections"

Amend the bill by striking out all of sections 2, 3, 4 and 5 and inserting in their place the following:

'Sec. 2. 17-A MRSA §757-A is enacted to read:

**§757-A. Trafficking of tobacco in adult correctional facilities**

1. A person is guilty of trafficking tobacco in an adult correctional facility if:

A. That person intentionally conveys or attempts to convey tobacco or tobacco products to a person confined in an adult correctional facility that has banned the use of tobacco or tobacco products by prisoners; or

B. That person is confined in an adult correctional facility that has banned the use of tobacco or tobacco products by prisoners and the person intentionally obtains or possesses tobacco or tobacco products.

2. As used in this section, "adult correctional facility" means a county jail or correctional facility other than a juvenile facility under the control of the Department of Corrections.

3. Trafficking of tobacco in an adult correctional facility is a Class E crime.'

**COMMITTEE AMENDMENT**

Further amend the bill in section 7 in the first line (page 3, line 19 in L.D.) by striking out the following: "\$4012" and inserting in its place the following: '\$4014'

Further amend the bill by striking out all of sections 9 and 10 and inserting in their place the following:

'Sec. 9. 25 MRSA §2804-D, as amended by PL 1997, c. 14, §1, is further amended to read:

**§2804-D. Basic corrections training**

1. **Required.** As a condition to the continued employment of any person as a full-time corrections officer by a municipality, a county, the State or any other nonfederal employer, that person must successfully complete, within the first 12 months of employment, a basic training course of not less than 80 hours as approved by the board. Thereafter, as a condition of continued employment as a full-time corrections officer, the officer must satisfactorily maintain the basic certification. The board, under extenuating and emergency circumstances in individual cases, may extend the 12-month period for not more than 90 days. The board, in individual cases, may waive basic training requirements when the facts indicate that an equivalent course has been successfully completed in another state or federal jurisdiction within the 2 years immediately preceding employment. This section applies to any person employed as a full-time corrections officer on or after July 6, 1978. Administrators of facilities where there are corrections officers who are not full-time are encouraged to develop an orientation program for those persons. A full-time correctional trade instructor hired after January 1, 2002 must meet the training requirements established under this subsection for full-time corrections officers.'

Further amend the bill by striking out all of section 13 and inserting in its place the following:

'Sec. 13. 34-A MRSA §1205, sub-§3, as amended by PL 1991, c. 314, §15, is further amended to read:

3. **Additional expenses.** ~~All funds appropriated for the purposes of this section and all grants and other funds received by the department for the purposes of this section shall be credited to a special revenue account in the department to be known as the Correctional Program Improvement Fund~~ Additional expenses must be paid as follows.

~~A. Any state funds appropriated to this special revenue account unexpended at the end of the fiscal year for which~~

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2       ~~the funds are appropriated do not lapse, but shall carry~~  
3       ~~forward into subsequent fiscal years to be expended for the~~  
4       ~~purposes of this section.~~

6       ~~B. No funds appropriated or received under this section may~~  
7       ~~be used for the construction of new facilities or for the~~  
8       ~~reconstruction, renovation or expansion of any existing~~  
9       ~~facilities, except that the funds may be used for minor~~  
10       ~~renovations necessary to meet state or local licensing~~  
11       ~~requirements.~~

12       C. The commissioner shall pay for additional expenses  
13       incurred by the counties in providing security and  
14       transportation services to clients who commit new offenses  
15       while serving their sentences in state correctional  
16       facilities. The effective date of this paragraph is July 1,  
17       1989.'

18       Further amend the bill by striking out all of sections 15  
19       and 16 and inserting in their place the following:

22       'Sec. 15. 34-A MRSA §3003, sub-§5 is enacted to read:

24       5. Assessment tools. Documents in the possession of the  
25       department used to screen or assess clients, including, but not  
26       limited to, questionnaires and test materials, are not public  
27       records for purposes of Title 1, chapter 13, subchapter I. The  
28       department shall release these documents on request to any other  
29       state agency if necessary to carry out the statutory functions of  
30       that agency and to any committee or study commission established  
31       by the Legislature with authority to examine issues related to  
32       mental health.'

34       Further amend the bill by striking out all of section 18.

36       Further amend the bill in section 19 in the first indented  
37       paragraph in the 3rd line (page 6, line 21 in L.D.) by inserting  
38       after the following: "natural" the following: ', foster'

40       Further amend the bill in section 19 in the first indented  
41       paragraph in the 5th to 7th lines (page 6, lines 23 to 25 in  
42       L.D.) by striking out the following: "sister, stepmother,  
43       stepfather, stepson, stepdaughter, stepgrandfather or  
44       stepgrandmother, stepgrandchild or stepbrother or stepsister or"  
45       and inserting in its place the following: 'sister, or the  
46       client's stepmother, stepfather, stepson, stepdaughter,  
47       stepgrandfather or stepgrandmother, stepgrandchild or stepbrother  
48       or stepsister and'

Further amend the bill by inserting after section 19 the following:

**Sec. 20. Department of Corrections; rename program.** The following General Fund program is renamed as follows: the "Correctional Program Improvement Fund" is renamed the "Correctional Medical Services Fund."

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

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

### FISCAL NOTE

This bill may increase prosecutions for Class E crimes. The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may increase General Fund revenue by minor amounts.

The additional costs associated with implementing the changes in this bill can be absorbed by the Department of Corrections utilizing existing budgeted resources.'

### SUMMARY

This amendment, which is the minority report of the Joint Standing Committee on Criminal Justice, accomplishes the following:

1. It removes that portion of the bill that would have repealed and replaced the law governing the use of force, including deadly force, by corrections personnel;

2. It removes that portion of the bill that would have exempted corrections officers in juvenile facilities from Maine Criminal Justice Academy training and required the Department of Corrections to provide separate training for these officers;

3. It removes that portion of the bill that would have allowed the Department of Corrections to use money in a prisoner's account to pay for the cost of burial in those cases where the prisoner is buried at public expense;

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2 4. It replaces that portion of the bill that proposed to  
make tobacco trafficking in prison a Class C crime; under the  
4 amendment, tobacco trafficking in an adult correctional facility  
is made a class E crime;

6 5. It makes a technical correction to correct a reference;

8 6. It replaces that portion of the bill that would have  
added Correctional Trade Instructor to the definition of  
10 "corrections officers" under the laws relating to the Maine  
Criminal Justice Academy training requirements; under this  
12 amendment, the instructors are required to meet the same training  
requirements, but are not defined as "corrections officers" for  
14 purpose of the Maine Criminal Justice Academy law. Nothing in  
this amendment is intended to affect the salary classifications  
16 of the instructors;

18 7. It removes that portion of the bill that would have  
struck the assistant to the commission position from the list of  
20 positions that serve at the pleasure of the Commissioner of  
Corrections;

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24 8. It makes technical corrections to ensure that the  
Correctional Program Improvement Fund is repealed and replaced by  
the new Correctional Medical Services Fund;

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28 9. It replaces that portion of the bill that would have  
made certain screening and assessment tools used by the  
Department of Corrections confidential; the amendment provides  
30 that such documents are not public records but that they must be  
supplied on request to other agencies and to any committee or  
32 study commission established by the Legislature with authority to  
examine issues related to mental health;

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36 10. It amends the bill to allow prisoners, with the  
approval of the Department of Corrections, to visit the deathbed  
and attend the funeral of natural, adoptive or foster relatives;  
38 and

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11. It also adds a fiscal note to the bill.