

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 697

H.P. 528

House of Representatives, February 12, 2007

An Act To Amend the Laws Relating to Department of Corrections Facilities

Submitted by the Department of Corrections pursuant to Joint Rule 204.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered
printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative GERZOFSKY of Brunswick.
Cosponsored by Senator DIAMOND of Cumberland and
Representatives: BLANCHETTE of Bangor, CANAVAN of Waterville, CLARK of
Millinocket, CROCKETT of Augusta, PRATT of Eddington, RINES of Wiscasset, SMITH of
Monmouth, WHEELER of Kittery.

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

2 **Sec. 1. 17-A MRSA §253, sub-§2, ¶E**, as amended by PL 2001, c. 383, §15 and
3 affected by §156, is further amended to read:

4 E. The other person, not the actor's spouse, is ~~in official custody~~ under official
5 supervision as a probationer ~~or~~, a parolee, ~~a sex offender on supervised release, a~~
6 ~~prisoner on supervised community confinement status or a juvenile on community~~
7 ~~reintegration status~~ or is detained in a hospital, prison or other institution, and the
8 actor has supervisory or disciplinary authority over the other person. Violation of
9 this paragraph is a Class B crime;

10 **Sec. 2. 17-A MRSA §255-A, sub-§1, ¶I**, as enacted by PL 2001, c. 383, §23 and
11 affected by §156, is amended to read:

12 I. The other person, not the actor's spouse, is ~~in official custody~~ under official
13 supervision as a probationer ~~or~~, a parolee, ~~a sex offender on supervised release, a~~
14 ~~prisoner on supervised community confinement status or a juvenile on community~~
15 ~~reintegration status~~ or is detained in a hospital, prison or other institution and the
16 actor has supervisory or disciplinary authority over the other person. Violation of
17 this paragraph is a Class D crime;

18 **Sec. 3. 17-A MRSA §1253, sub-§14** is enacted to read:

19 **14.** The Commissioner of Corrections or the sheriff of the county jail may establish
20 policy and guidelines for crediting hours of participation in work in excess of 8 hours in a
21 day toward another day for the purpose of calculating deductions from a sentence under
22 subsections 4, 5, 8 and 10.

23 **Sec. 4. 34-A MRSA §1208, sub-§2, ¶C-1** is enacted to read:

24 C-1. As part of any inspection, the commissioner may access any records, including,
25 but not limited to, the records of persons detained in the facility, as considered
26 necessary by the commissioner in order to determine compliance with standards.

27 **Sec. 5. 34-A MRSA §1208-A**, as amended by PL 1991, c. 314, §16, is further
28 amended to read:

29 **§1208-A. Standards for additional accommodations**

30 The commissioner shall establish standards for facilities not covered by section 1208
31 that are used to house county prisoners, including secure detention facilities as defined in
32 Title 15, section 3003, subsection 24-A and temporary holding resources as defined in
33 Title 15, section 3003, subsection 26 and has the same power to determine compliance
34 with and enforce those standards as provided under section 1208.

35 **Sec. 6. 34-A MRSA §3011, sub-§1**, as enacted by PL 1997, c. 102, §2, is
36 amended to read:

1 **1. Exercise of law enforcement powers.** Investigative officers who are certified by
2 the Board of Trustees of the Maine Criminal Justice Academy as law enforcement
3 officers may exercise the powers of other law enforcement officers with respect to
4 offenses relating to the security or orderly management of a facility administered by the
5 department, if authorized to exercise these powers by the commissioner. Investigative
6 officers may issue administrative subpoenas with respect to offenses relating to the
7 security or orderly management of a facility administered by the department, if
8 authorized to exercise these powers by the commissioner and by the Attorney General or
9 the Attorney General's designee. Investigative officers may not exercise law enforcement
10 or subpoena powers against other employees of the department. These powers are in
11 addition to any powers the officers may otherwise have as employees of the department.
12 Internal investigations of employees of the department must be conducted pursuant to any
13 applicable collective bargaining agreement.

14 **Sec. 7. 34-A MRSA §3047, sub-§2,** as amended by PL 2005, c. 506, §10, is
15 further amended to read:

16 **2. Money.** May give the prisoner an amount equal to the net salary of a single wage
17 earner with no dependents for 40 hours of work at the state minimum wage less all
18 applicable state and federal deductions provided that any amount in excess of \$50 may
19 not be provided by the General Fund, except that the commissioner may not give money
20 to a prisoner who:

21 A. Has, within the 6 months prior to the date of parole or discharge, transferred
22 from the department's general client account to any person more than \$500, excluding
23 any money transferred for the support of dependents; or

24 B. Has, on the date of parole or discharge, more than \$500 in personal assets;.

25 Money received by the prisoner under this subsection is not subject to section 3032,
26 subsection 5-A or 5-B or Title 17-A, section 1330, subsection 2;

27 **Sec. 8. 34-A MRSA §3069, sub-§1, ¶E,** as enacted by PL 1983, c. 459, §6, is
28 amended to read:

29 E. Admission to a ~~hospital~~ mental health institute under this section has no effect
30 upon a sentence then being served or a commitment then in effect. The sentence
31 continues to run and the commitment remains in force, unless terminated in
32 accordance with law. While the sentence or commitment is in effect, the person may
33 not receive a privilege, including, but not limited to, a furlough or its equivalent, a
34 funeral or deathbed visit or the use of tobacco, unless the chief administrative officer
35 of the facility approves the receipt of the privilege.

36 **Sec. 9. 34-A MRSA §3069, sub-§2, ¶D,** as enacted by PL 1983, c. 459, §6, is
37 amended to read:

38 D. Admission to a mental health institute under this section has no effect upon a
39 sentence then being served or a commitment then in effect. The sentence continues
40 to run and the commitment remains in force, unless terminated in accordance with
41 law. While the sentence or commitment is in effect, the person may not receive a
42 privilege, including, but not limited to, a furlough or its equivalent, a funeral or

1 deathbed visit or the use of tobacco, unless the chief administrative officer of the
2 facility approves the receipt of the privilege.

3 **SUMMARY**

4 This bill amends the laws relating to Department of Corrections facilities as follows.

5 1. It adds to the Maine Criminal Code provisions defining gross sexual assault and
6 unlawful sexual contact to include sexual conduct with any of the following when the
7 actor has supervisory or disciplinary authority of one of the following: a sex offender on
8 supervised release, a prisoner on supervised community confinement or a juvenile on
9 community reintegration status.

10 2. It allows prisoners who work more than 8 hours in a day to have the excess hours
11 credited toward another day for purposes of receiving "earned good time" if permitted by
12 the Commissioner of Corrections or the sheriff of the county jail.

13 3. It allows Department of Corrections investigative officers to issue administrative
14 subpoenas if authorized to do so by the Commissioner of Corrections and the Attorney
15 General.

16 4. It makes clear that "gate money" given to a prisoner by the Department of
17 Corrections upon release is not subject to victim restitution, facility disciplinary
18 restitution or facility monetary sanctions.

19 5. It makes clear that prisoners who are admitted to a Department of Health and
20 Human Services psychiatric hospital from a Department of Corrections facility may not
21 receive a privilege at the hospital while still in legal custody of the Department of
22 Corrections without the approval of the chief administrative officer of the Department of
23 Corrections facility.

24 6. It provides that the Commissioner of Corrections may access records, including
25 the records of detained persons, as part of the inspection process for county and
26 municipal detention facilities.