

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 1953

H.P. 1391

House of Representatives, December 20, 2007

### **An Act To Amend the Laws Relating to the Department of Corrections**

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Submitted by the Department of Corrections pursuant to Joint Rule 204.

Received by the Clerk of the House on December 18, 2007. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative PLUMMER of Windham.  
Cosponsored by Senator McCORMICK of Kennebec and  
Representatives: GERZOFKY of Brunswick, HASKELL of Portland.

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

2 **Sec. 1. 15 MRSA §891, first ¶**, as amended by PL 2007, c. 277, §1, is further  
3 amended to read:

4 When a person has been admitted to bail or juvenile conditions of release or is  
5 committed by a judge, or is indicted or held upon a complaint and warrant for an assault  
6 or ~~other~~ a Class D or E crime, as defined by Title 17-A, section 4-A, or is the subject of a  
7 juvenile petition alleging commission of a crime that, if the juvenile charged were an  
8 adult, would be an assault or ~~other~~ a Class D or E crime, as defined by Title 17-A, section  
9 4-A, for which the party injured has a remedy by civil action, except aggravated assaults,  
10 assaults upon or resistance of ~~a law-enforcement an~~ officer ~~as defined by Title 17-A~~ in the  
11 execution of ~~a law-enforcement~~ the officer's duty, as defined by Title 17-A, section 751-  
12 A or 752-A, assaults of those officers, crimes involving family or household members as  
13 defined in Title 19-A, chapter 101 and molesting lobster gear pursuant to Title 12, chapter  
14 619, if the injured party appears before the judge or court and in writing acknowledges  
15 satisfaction for the injury, the court, on payment of all costs, may stay further proceedings  
16 and discharge the defendant. The judge may exonerate the bail and release the obligors,  
17 supersede the commitment by written order and exonerate the bail of the witnesses.

18 **Sec. 2. 15 MRSA §3314, sub-§7**, as enacted by PL 2007, c. 196, §5, is amended  
19 to read:

20 **7. Enforcement of a dispositional order or order to appear.** After notice and  
21 hearing and in accordance with the Maine Rules of Civil Procedure, Rule 66, the court  
22 may exercise its inherent contempt power by way of a plenary contempt proceeding  
23 involving punitive sanctions, accompanied or unaccompanied by remedial sanctions, to  
24 enforce the disposition ordered following an adjudication for a juvenile crime or to  
25 enforce any order requiring the appearance of a juvenile before the court. Any  
26 confinement imposed as a punitive or remedial sanction upon a person who has not  
27 attained 18 years of age may not exceed 30 days and must be served in a facility  
28 approved or operated by the Department of Corrections exclusively for juveniles. Any  
29 confinement imposed as a punitive or remedial sanction upon a person who has attained  
30 18 years of age, if to be served in a facility approved or operated by the Department of  
31 Corrections exclusively for juveniles, may not exceed 30 days. To enforce the disposition  
32 ordered following an adjudication for a juvenile crime defined in section 3103, subsection  
33 1, paragraph B or C upon a person who has not attained 18 years of age, the court shall, at  
34 the time of the disposition, provide written notice to the juvenile of the court's authority to  
35 enforce the dispositional order through an exercise of its inherent contempt power and  
36 that a contempt order could include an order of confinement for up to 30 days as a  
37 punitive sanction and for up to 30 days as a remedial sanction. Nothing Except as  
38 explicitly set out in this subsection, nothing in this subsection affects the court's ability to  
39 exercise its contempt powers for persons who have attained 18 years of age.

40 **Sec. 3. 34-A MRSA §3036-A, sub-§3, ¶A**, as enacted by PL 1991, c. 845, §4, is  
41 amended to read:

1 A. The prisoner must be involved in a program of work or education that is  
2 approved by the commissioner together with any treatment program that the  
3 commissioner might require. The commissioner may waive the requirement of  
4 involvement in a program of work or education for a prisoner who is involved in an  
5 approved full-time treatment program.

6 **Sec. 4. 34-A MRSA §3046**, as amended by PL 2001, c. 386, §14, is repealed.

7 **Sec. 5. 34-A MRSA §3046-A** is enacted to read:

8 **§3046-A. Funeral and deathbed visits**

9 **1. Family member.** At the discretion of and under conditions prescribed by the  
10 commissioner, a client confined in a correctional or detention facility may attend the  
11 funeral of the client's spouse or domestic partner or the client's parent, child, sibling,  
12 grandparent or grandchild, whether the relationship is natural, adoptive, foster or through  
13 marriage, and may be permitted deathbed visits to any of those persons if the funeral or  
14 visit is held within the State.

15 **2. Another person.** At the discretion of and under conditions prescribed by the  
16 commissioner, a client confined in a correctional or detention facility may attend the  
17 funeral of or be permitted a deathbed visit to another person if the funeral or visit is held  
18 within the State. The commissioner may not delegate this authority.

19 **3. Certification of terminal illness.** Before a deathbed visit is permitted under this  
20 section, terminal illness must be certified to the commissioner by the attending physician.

21 **4. Costs.** The client, if able, shall pay the cost of transportation under this section  
22 and the per diem compensation of the accompanying officers if the officers are required  
23 by the commissioner.

24 **Sec. 6. 34-A MRSA §3805, sub-§2**, as amended by PL 2005, c. 507, §22, is  
25 further amended to read:

26 **2. Limitations.** A person may not be detained or confined in or committed to the  
27 facility if that person is more appropriately a subject for intensive ~~temporary~~ out-of-home  
28 treatment services or for in-home treatment services provided by or through the  
29 Department of Health and Human Services as agreed upon by the commissioner and the  
30 Commissioner of Health and Human Services or their designees.

31 **Sec. 7. 34-A MRSA §4104, sub-§2**, as amended by PL 2005, c. 507, §26, is  
32 further amended to read:

33 **2. Limitations.** A person may not be detained or confined in or committed to the  
34 facility if that person is more appropriately a subject for intensive ~~temporary~~ out-of-home  
35 treatment services or for in-home treatment services provided by or through the  
36 Department of Health and Human Services as agreed upon by the commissioner and the  
37 Commissioner of Health and Human Services or their designees.

38 **Sec. 8. 34-A MRSA §7003**, as enacted by PL 1983, c. 459, §6, is repealed.

