

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 690

H.P. 519

House of Representatives, February 23, 2011

An Act To Amend the Laws Governing the Transfer of Prisoners to Other States

Received by the Clerk of the House on February 18, 2011. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative CHAPMAN of Brooksville.

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

2 **Sec. 1. 34-A MRSA §9404, first ¶**, as enacted by PL 1983, c. 459, §6, is
3 amended to read:

4 Whenever the duly constituted authorities in a state party to this compact, and which
5 has entered into a contract pursuant to Article III 3, ~~shall~~ decide that confinement in, or
6 transfer of an inmate to, an institution within the territory of another party state is
7 necessary or desirable in order to provide adequate quarters and care or an appropriate
8 program of rehabilitation or treatment, the officials may direct that the confinement be
9 within an institution within the territory of the other party state, the receiving state to act
10 in that regard solely as agent for the sending state. An inmate sentenced under the laws
11 of this State may not be committed or transferred to an institution outside of this State,
12 unless that inmate has executed a written consent to the transfer or the transfer is
13 approved by a court in this State. The inmate has the right to a private consultation with
14 an attorney of the inmate's choice, or with a public defender if the inmate cannot afford
15 counsel, concerning the inmate's rights and obligations under this section and must be
16 informed of those rights prior to executing the written consent. At any time more than
17 one year after a transfer, an inmate may revoke that inmate's consent to a transfer to an
18 institution outside of this State and must be transferred to an institution in this State,
19 unless continuation of the transfer is approved by a court in this State. If the inmate
20 revokes that inmate's consent to a transfer, that inmate must be transferred to an
21 institution in this State within 30 days. The inmate has the right to legal representation if
22 a continuation of the transfer is being sought through the court.

23 **Sec. 2. Application.** An inmate sentenced under the laws of this State who was
24 transferred outside of this State without the consent of that inmate prior to the effective
25 date of this Act is entitled to transfer to an institution in this State at the request of that
26 inmate. In such a case, the return must occur within 30 days, unless a continuation of the
27 transfer is approved by a court in this State.

28 **SUMMARY**

29 This bill modifies the Interstate Corrections Compact with respect to transferring
30 prisoners to and from other states to provide that:

31 1. Inmates convicted in this State may not be transferred out of the State to another
32 state prison system without their written consent or a court order. An inmate has the right
33 to legal advice before consenting;

34 2. Inmates may elect to return to this State after one year of being transferred.
35 Inmates requesting return must be returned within 30 days of the request, unless a court
36 rules in favor of keeping the prisoner away from this State. Inmates have the right to
37 legal representation if a continuation of the transfer is being sought through the court; and

38 3. Inmates who were transferred without their consent prior to the effective date of
39 the bill may elect to return to this State unless a continuation of the transfer is approved
40 by a court in this State.