

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2022

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Legislative Document

No. 4

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H.P. 8

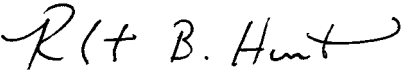
House of Representatives, December 30, 2022

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**An Act to Update Provisions of the Department of Corrections Laws  
Regarding Operation and Administration of Jails, Women's  
Services and Juvenile Detention**

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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.

  
ROBERT B. HUNT  
Clerk

Presented by Representative PLUECKER of Warren.

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

2 **Sec. 1. 34-A MRSA §1001, sub-§8-A**, as amended by PL 2017, c. 148, §5, is  
3 further amended to read:

4 **8-A. Detention facility.** "Detention facility" means the Long Creek Youth  
5 Development Center and, to the extent it houses juveniles, the Mountain View Correctional  
6 Facility.

7 **Sec. 2. 34-A MRSA §1208, sub-§6**, as enacted by PL 1983, c. 581, §§10 and 59,  
8 is repealed.

9 **Sec. 3. 34-A MRSA §1208-B, sub-§4**, as enacted by PL 2021, c. 732, Pt. C, §1, is  
10 amended to read:

11 **4. Requirements; rulemaking by commissioner.** The jails shall operate in  
12 accordance with best practices applicable to facilities of their type and size, including the  
13 mandatory standards, policies and procedures established by rules adopted by the  
14 commissioner under subsection 1 and standards adopted under section 1208, and with the  
15 following requirements as set forth in rules adopted by the commissioner. In adopting rules  
16 ~~under this subsection governing the operations of the jails~~, the commissioner shall consider  
17 the advisory input of the County Corrections Professional Standards Council established  
18 pursuant to Title 5, section 12004-G, subsection 6-D.

19 A. Each jail shall participate in coordination of inmate transportation. Coordination  
20 of transportation may be provided by the jail at which the inmate resides, by another  
21 jail or correctional facility or by a person or entity working under a contract with the  
22 jail at which the inmate resides.

23 B. Each jail shall provide access to substance use disorder screening, assessment,  
24 medication, treatment, recovery and reentry services, including at a minimum:

25 (1) Screening on intake using evidence-based tools to assess the risk of overdose  
26 or withdrawal and the person's history of substance use disorder and to determine  
27 initial treatment options;

28 (2) Medically managed withdrawal treatment consistent with evidence-based  
29 medical standards;

30 (3) All forms of medication for addiction treatment, including at least one of each  
31 formulation of each United States Food and Drug Administration-approved  
32 medication-assisted treatments for substance use disorder, including alcohol use  
33 disorder and opioid use disorder, to ensure that each person receives the particular  
34 formulation found to be the most effective at treating and meeting the person's  
35 individual needs. Medication under this subparagraph must be offered for the  
36 duration of the person's incarceration;

37 (4) Behavioral treatment options, such as group and individual counseling, and  
38 clinical support;

39 (5) Peer support services;

40 (6) Reentry planning and transitional support such as coordination with  
41 community-based treatment and case management service providers and recovery

1 organizations to ensure reentry and continuity of care after release, including  
2 appointments for services made prior to release; and

3 (7) Assistance in obtaining health insurance prior to release.

4 Substance use disorder services required by this paragraph may be provided at the jail  
5 at which the person resides or at another jail or correctional facility or by a service  
6 provider or entity working under a contract with the jail at which the person resides.

7 C. Each jail shall provide mental health treatment, including at a minimum providing  
8 a licensed clinician or licensed professional organization that will be available to assist  
9 an inmate who is a person receiving mental health treatment. Mental health treatment  
10 required by this paragraph may be provided at the jail at which the person resides or at  
11 another jail or correctional facility or by a service provider or entity working under a  
12 contract with the jail at which the person resides.

13 D. Each jail shall provide community programs and services as required by this  
14 subchapter, including at a minimum pretrial or conditional release, alternative  
15 sentencing or housing programs and electronic monitoring.

16 E. Each jail shall provide initial and ongoing training and technical assistance for  
17 facility staff and health care practitioners on screening, assessment, medication and  
18 treatment protocols for substance use disorder.

19 **Sec. 4. 34-A MRSA §1210-F, first ¶**, as enacted by PL 2021, c. 732, Pt. A, §4, is  
20 amended to read:

21 The County Corrections Professional Standards Council, established in Title 5, section  
22 12004-G, subsection 6-D and referred to in this section as "the council," is established to  
23 evaluate and advise the commissioner with regard to the composition of programs and  
24 services required pursuant to section 1208-B, subsection 4; to advise the commissioner  
25 with regard to adopting rules governing the operations of the jails; to develop rules for  
26 reporting to the department the information required in section 1208-B, subsection 5 and,  
27 beginning July 1, 2023, as required in section 1210-E, subsection 6; to develop budget  
28 recommendations for the department related to the County Jail Operations Fund established  
29 in section 1210-E, the recommendations for which must be submitted to the commissioner  
30 and the Governor as part of the State's biennial budget process; to make supplemental  
31 county jail funding recommendations to the department related to the fund as may be  
32 needed from time to time to address shortfalls, emergencies or other needs; and to consider  
33 the need for legislation regarding required programs, services and reporting and to submit  
34 such legislation to the joint standing committee of the Legislature having jurisdiction over  
35 criminal justice and public safety matters.

36 **Sec. 5. 34-A MRSA §1214-B** is enacted to read:

37 **§1214-B. Setoff of victim restitution against lottery winnings**

38 The department shall provide the Department of Administrative and Financial  
39 Services, Bureau of Alcoholic Beverages and Lottery Operations, referred to in this section  
40 as "the bureau," access to an electronic database of all persons who owe victim restitution  
41 payable through the department and imposed by a court under Title 17-A. Before the  
42 payment of lottery winnings by the bureau, the bureau shall determine whether the lottery  
43 winner owes victim restitution payable through the department and imposed by a court

1 under Title 17-A. If the winner is determined to owe victim restitution imposed by a court,  
2 the bureau must suspend payment of the winnings, provide notice to the winner of its  
3 intention to set off the winnings against the victim restitution owed and provide the  
4 winnings to the department in the amount owed by the winner. The bureau shall release  
5 any remaining winnings in accordance with state law.

6 **Sec. 6. 34-A MRSA §1215**, as amended by PL 2003, c. 451, Pt. K, §1, is repealed.

7 **Sec. 7. 34-A MRSA §1215-A** is enacted to read:

8 **§1215-A. Operation and review**

9 The department shall operate its correctional and detention facilities in accordance with  
10 best practices applicable to facilities of similar type and size. The department shall have  
11 the operations of its facilities reviewed at least once every 3 years by one or more nationally  
12 recognized best practices reviewing bodies and shall consider any resulting  
13 recommendations made by the reviewing body in determining how to operate the  
14 correctional and detention facilities.

15 **Sec. 8. 34-A MRSA §3001, sub-§3** is enacted to read:

16 **3. Director of women's services.** In addition to the officers appointed under  
17 subsections 1 and 2, the commissioner may appoint a director of women's services to serve  
18 as the chief administrative officer of any adult correctional facility female housing units.  
19 The director of women's services has all the powers and duties of other department chief  
20 administrative officers, whether described in this Title or in any other provision of statute.

21 **Sec. 9. 34-A MRSA §3061, sub-§1**, as amended by PL 2019, c. 113, Pt. C, §98, is  
22 further amended to read:

23 **1. Transfer.** The commissioner may transfer any client from one correctional or  
24 detention facility or program, including prerelease centers, work release centers, halfway  
25 houses, supervised community confinement or specialized treatment facilities, to another.  
26 A juvenile may not be transferred to another facility or program for adult offenders and an  
27 adult offender may not be transferred to another facility or program for juveniles, except  
28 that an adult offender may be housed in the Long Creek Youth Development Center ~~or the~~  
29 ~~Mountain View Correctional Facility pursuant to section 4117 or~~ Title 17-A, section 1611.

30 **Sec. 10. 34-A MRSA §3903**, as repealed and replaced by PL 2019, c. 343, Pt.  
31 LLLL, §2, is amended to read:

32 **§3903. Superintendent Warden**

33 **1. Chief administrative officer.** The chief administrative officer of the Downeast  
34 Correctional Facility is the ~~superintendent warden~~ of the Mountain View Correctional  
35 Facility, referred to in this subchapter as "~~the superintendent warden,~~" and is responsible  
36 to the commissioner.

37 **2. Duties.** In addition to other duties set out in this Title, the ~~superintendent warden~~  
38 has the following duties.

39 A. The ~~superintendent warden~~ shall exercise proper supervision over the employees,  
40 grounds, buildings and equipment at the Downeast Correctional Facility.

41 B. The ~~superintendent warden~~ shall supervise and control the prisoners at the  
42 Downeast Correctional Facility in accordance with departmental rules.

1           **Sec. 11. 34-A MRSA §3904, sub-§2**, as amended by PL 2019, c. 343, Pt. LLLL,  
2 §3, is further amended to read:

3           **2. Education.** The ~~superintendent~~ warden shall maintain suitable courses for  
4 academic and career and technical education of the prisoners of the Downeast Correctional  
5 Facility. The ~~superintendent~~ warden shall maintain necessary equipment and employ  
6 suitable qualified instructors as necessary to carry out the objectives of the facility's  
7 programs.

8           **Sec. 12. 34-A MRSA §3905**, as amended by PL 2019, c. 343, Pt. LLLL, §4, is  
9 further amended to read:

10 **§3905. Downeast Correctional Facility employees**

11           Employees of the Downeast Correctional Facility have the same power as sheriffs in  
12 their respective counties to search for and apprehend escapees from the facility, when  
13 authorized to do so by the ~~superintendent~~ warden.

14           **Sec. 13. 34-A MRSA §4102-A**, as amended by PL 2017, c. 148, §11, is repealed.

15           **Sec. 14. 34-A MRSA §4103**, as amended by PL 2017, c. 148, §§13 and 14, is further  
16 amended to read:

17 **§4103. Superintendent Warden**

18           **1. Chief administrative officer.** The chief administrative officer of the Mountain  
19 View Correctional Facility is called the ~~superintendent~~ warden and is responsible to the  
20 commissioner.

21           **2. Duties.** In addition to other duties set out in this Title, the ~~superintendent~~ warden  
22 has the following duties.

23           A. The ~~superintendent~~ warden shall exercise supervision over the employees, grounds,  
24 buildings and equipment at the Mountain View Correctional Facility.

25           ~~B. The superintendent shall supervise and control the juvenile detainees and juvenile~~  
26 ~~clients at the Mountain View Correctional Facility in accordance with department~~  
27 ~~rules.~~

28           C. The ~~superintendent~~ warden shall supervise and control the prisoners at the Mountain  
29 View Correctional Facility in accordance with department rules.

30           **3. Powers.** In addition to the powers granted in this Title, the ~~superintendent~~ warden  
31 may appoint ~~one assistant superintendent~~ deputy wardens, subject to the Civil Service Law.  
32 ~~The assistant superintendent~~ A deputy warden has the powers, duties, obligations and  
33 liabilities of the ~~superintendent~~ warden when the ~~superintendent~~ warden is absent or unable  
34 to perform the ~~superintendent's~~ warden's duties.

35           **Sec. 15. 34-A MRSA §4104**, as amended by PL 2017, c. 148, §15, is repealed.

36           **Sec. 16. 34-A MRSA §4105**, as amended by PL 2017, c. 148, §16, is repealed.

37           **Sec. 17. 34-A MRSA §4106**, as amended by PL 2017, c. 148, §17, is further  
38 amended to read:

39 **§4106. Powers of employees**

1 Employees of the Mountain View Correctional Facility have the same power as sheriffs  
2 in their respective counties to search for and apprehend escapees from the facility, when  
3 authorized to do so by the ~~superintendent~~ warden.

4 **Sec. 18. 34-A MRSA §4107**, as amended by PL 2017, c. 148, §18, is repealed.

5 **Sec. 19. 34-A MRSA §4108**, as amended by PL 2017, c. 148, §19, is repealed.

6 **Sec. 20. 34-A MRSA §4111**, as amended by PL 2019, c. 155, §2, is repealed.

7 **Sec. 21. 34-A MRSA §4117**, as amended by PL 2017, c. 148, §26, is repealed.

8 **Sec. 22. 34-A MRSA §4118, sub-§3**, as enacted by PL 2017, c. 148, §27, is  
9 amended to read:

10 **3. Education.** The ~~superintendent~~ warden shall maintain suitable courses for  
11 academic and career and technical education of the prisoners.

12 A. The ~~superintendent~~ warden shall maintain necessary equipment and employ  
13 suitable qualified instructors as necessary to carry out the objectives of the Mountain  
14 View Correctional Facility's programs.

15 B. Before employing instructors in career and technical education, the ~~superintendent~~  
16 warden shall obtain the approval of the Department of Education.

## 17 SUMMARY

18 This bill accomplishes the following.

19 1. It repeals provisions relating to the county and municipal detention facility advisory  
20 committee and transfers the function of advising the Commissioner of Corrections with  
21 respect to all jail standards to the County Corrections Professional Standards Council.

22 2. It provides that lottery winnings are set off against victim restitution owed as a result  
23 of a court order issued under the Maine Revised Statutes, Title 17-A.

24 3. It allows the Commissioner of Corrections to appoint a director of women's services  
25 to act as the chief administrative officer of any adult correctional facility female housing  
26 units.

27 4. It renames the chief administrative officer of the Mountain View Correctional  
28 Facility and the chief administrative officer of the Downeast Correctional Facility as the  
29 warden, which is the name of the chief administrative officers of the other adult correctional  
30 facilities with medium or higher security housing units.

31 5. It repeals provisions referring to the Mountain View Correctional Facility as a  
32 juvenile facility.

33 6. It repeals a provision regarding accreditation of correctional and detention facilities  
34 and instead requires the Department of Corrections to operate those facilities in accordance  
35 with best practices and to have the operation of those facilities reviewed.