

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2023

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Legislative Document

No. 1626

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S.P. 643

In Senate, April 12, 2023

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**An Act to Standardize Requirements Between Boards of Visitors for  
County Jails and Department of Corrections Correctional Facilities**

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Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator BEEBE-CENTER of Knox.  
Cosponsored by Senators: DUSON of Cumberland, LaFOUNTAIN of Kennebec.

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

2 **Sec. 1. 30-A MRSA §1651**, as amended by PL 2021, c. 620, §3, is further amended  
3 to read:

4 **§1651. Examination of jails; board of visitors**

5 **1. Examination.** At the commencement of each session required by law, the county  
6 commissioners shall examine the jail in their county and take necessary precautions for the  
7 security of prisoners, for the prevention of infection and sickness and for the  
8 accommodations of the prisoners.

9 **2. Appointment.** The sheriff for each county shall appoint a board of 7 visitors for  
10 each correctional facility under the sheriff's supervision.

11 A. Members of the boards of visitors serve for terms of ~~one year~~ 3 years.

12 B. Members of the boards of visitors are eligible for reappointment at the expiration  
13 of their terms. The boards of visitors must be representative of a broad range of  
14 professionals, family members and citizens interested in the well-being of prisoners,  
15 including representatives of advocacy groups for human and civil rights, medical and  
16 psychiatric professionals, persons who have served in corrections settings and other  
17 interested citizens. One member of each board of visitors must be a person with  
18 knowledge of issues related to the incarceration of women. One member of each board  
19 of visitors must be a woman who has been incarcerated in the State and who has prior  
20 child welfare experience with the Department of Health and Human Services, Office  
21 of Child and Family Services. One member of each board of visitors must be a medical  
22 or psychiatric professional.

23 C. A member of the Legislature or a former or current employee of a sheriff's  
24 department may not serve on a board of visitors.

25 ~~D. The sheriffs of 2 or more counties, at their discretion, may appoint a joint board of~~  
26 ~~visitors of 7 or more members.~~

27 **3. Powers.** ~~Each board of visitors shall inspect the correctional facility to which it is~~  
28 ~~assigned, subject to reasonable restrictions required by the sheriff to ensure the security of~~  
29 ~~the jail, and make recommendations to the sheriff with respect to inmates who are mentally~~  
30 ~~ill.~~

31 **4. Duties.** Boards of visitors have the following duties.

32 A. Each board of visitors shall inspect the correctional facility to which it is assigned.  
33 Each board of visitors must be provided open access to all physical areas of the  
34 correctional facility, including access to areas housing prisoners. Each board of visitors  
35 must be provided the opportunity to speak to prisoners and to staff. Members of the  
36 board of visitors shall comply with all sheriff's department policies and procedures and  
37 facility security practices regarding access to the correctional facility, shall adhere to  
38 all federal and state laws regarding confidentiality and shall refer concerns or  
39 complaints regarding specific individuals to the jail administrator or advocate.

40 B. Each board of visitors shall make recommendations to the sheriff regarding services  
41 or treatment for prisoners who have mental health challenges or are mentally ill.

1           C. Each board of visitors shall review the management of the correctional facility to  
2           which it is assigned to determine whether that management is consistent with the  
3           philosophy, mission and policy goals of the sheriff's department and facility. On or  
4           before the last day of the calendar year, each board of visitors shall prepare an annual  
5           report including its recommendations and shall provide copies of its report to the jail  
6           administrator, the county commissioners and the joint standing committee of the  
7           Legislature having jurisdiction over criminal justice and public safety matters. The  
8           sheriff shall provide copies with the sheriff's response to the reports to the joint standing  
9           committee of the Legislature having jurisdiction over criminal justice and public safety  
10           matters within one month of receiving the annual reports.

11           D. Each board of visitors shall appear before the joint standing committee of the  
12           Legislature having jurisdiction over criminal justice and public safety matters upon  
13           request.

14           E. Each board of visitors shall meet regularly and tour the correctional facility to which  
15           it is assigned at least 4 times a year. At each meeting, a board of visitors may request  
16           and must receive information from the jail administrator that the board determines will  
17           assist in the review of the management of the facility. To the extent that a board of  
18           visitors is not discussing matters made confidential by federal or state law, a meeting  
19           of the board is a public proceeding and must be conducted in accordance with Title 1,  
20           section 403. Boards of visitors may meet jointly.

21           F. Each board of visitors shall share copies of that board's annual report with the other  
22           boards of visitors of that sheriff's department.

23           **5. Orientation and training.** A board of visitors must receive annual training,  
24           including:

25           A. Facilities orientation, including a tour of the correctional facility to which the board  
26           of visitors is assigned, explanation of the facility command structure and receipt of the  
27           department's publication regarding detention and correctional standards for Maine  
28           counties and municipalities, facility prisoner handbooks, volunteer policies and board  
29           of visitors policies;

30           B. Review of the federal Americans with Disabilities Act of 1990 and guidance  
31           concerning domestic violence, substance use disorder including opioids, behavioral  
32           health and adverse childhood trauma;

33           C. A list and explanation of available community resources;

34           D. The legal requirements of this section; and

35           E. Training on any other subject as determined by the sheriff or chair of the board of  
36           visitors.

37           **6. Public access.** A member of the public must have direct access to the board of  
38           visitors without being required to access the board through the sheriff's department or  
39           correctional facility administration. A prisoner handbook must provide the names and  
40           contact information for the membership of the board of visitors. A complaint made to a  
41           member of the board of visitors must be referred to the jail administrator or advocate and  
42           may not be directly acted upon by the member or the board.

1           **7. Compliance.** A correctional facility or sheriff's department that fails to comply  
2 with this section may be subject to withholding of state funding.

3           **Sec. 2. 34-A MRSA §3001-A, sub-§1,** as enacted by PL 2005, c. 683, Pt. B, §26,  
4 is amended to read:

5           **1. Appointment.** The Governor shall appoint a board of ~~5~~ 6 visitors for each  
6 correctional facility under the department, as authorized by Title 5, section 12004-I,  
7 subsection 5.

8           A. The terms of the members of the boards of visitors are for 3 years.

9           B. Members of the boards of visitors are eligible for reappointment at the expiration  
10 of their terms.

11           C. A member of the Legislature or ~~an~~ a former or current employee of the department  
12 may not serve on any board of visitors.

13           D. At least one member of each board must be a person licensed by this State to provide  
14 mental health services.

15           E. Each member of the boards of visitors must be compensated according to the  
16 provisions of Title 5, chapter 379.

17           ~~F. The Governor shall appoint a chair from the membership.~~

18           G. At least one member of each board of visitors must have been incarcerated in a  
19 correctional facility.

20           H. Each board of visitors shall select a chair from among its members.

21           **Sec. 3. 34-A MRSA §3001-A, sub-§2, ¶A-1** is enacted to read:

22           A-1. Each board of visitors shall make recommendations to the chief administrative  
23 officer of the correctional facility to which the board is assigned regarding services or  
24 treatment for clients who have mental health challenges or are mentally ill.

25           **Sec. 4. 34-A MRSA §3001-A, sub-§2, ¶B,** as enacted by PL 2005, c. 683, Pt. B,  
26 §26, is amended to read:

27           B. Each board of visitors shall review the management of the correctional facility to  
28 which it is assigned to determine whether that management is consistent with the  
29 philosophy, mission and policy goals of the department and facility. ~~Each~~ On or before  
30 the last day of the calendar year, each board of visitors shall prepare an annual report  
31 including its recommendations and shall provide copies of its report to the chief  
32 administrative officer of the facility, the commissioner and the joint standing  
33 committee of the Legislature having jurisdiction over criminal justice and public safety  
34 matters. The commissioner shall provide copies with the department's response to the  
35 reports to the joint standing committee of the Legislature having jurisdiction over  
36 criminal justice and public safety matters within one month of receiving the annual  
37 reports.

38           **Sec. 5. 34-A MRSA §3001-A, sub-§2, ¶D,** as enacted by PL 2005, c. 683, Pt. B,  
39 §26, is amended to read:

40           ~~D. Boards~~ Each board of visitors shall meet regularly and tour the correctional facility  
41 to which it is assigned at least 4 times a year. At each meeting, a board of visitors may

1 request and must receive information from the chief administrative officer ~~as~~ that the  
2 board determines will assist in the review of the management of the facility. To the  
3 extent that a board of visitors is not discussing matters made confidential by federal or  
4 state law, ~~meetings of boards are~~ a meeting of the board is a public proceedings  
5 proceeding and must be conducted in accordance with Title 1, section 403. Boards of  
6 visitors may meet jointly.

7 **Sec. 6. 34-A MRSA §3001-A, sub-§5** is enacted to read:

8 **5. Orientation and training.** A board of visitors must receive annual training,  
9 including:

10 A. Facilities orientation, including a tour of the correctional facility to which the board  
11 of visitors is assigned, explanation of the facility command structure and receipt of  
12 standards of the American Correctional Association or successor organization, facility  
13 client handbooks, volunteer policies and board of visitors policies;

14 B. Review of the federal Americans with Disabilities Act of 1990 and guidance  
15 concerning domestic violence, substance use disorder including opioids, behavioral  
16 health and adverse childhood trauma;

17 C. A list and explanation of available community resources;

18 D. The legal requirements of this section; and

19 E. Training on any other subject as determined by the commissioner or chair of the  
20 board of visitors.

21 **Sec. 7. 34-A MRSA §3001-A, sub-§6** is enacted to read:

22 **6. Public access.** A member of the public must have direct access to the board of  
23 visitors without being required to access the board through the department or correctional  
24 facility administration. A client handbook must provide the names and contact information  
25 for the membership of the board of visitors. A complaint made to a member of the board  
26 of visitors must be referred to the chief administrative officer of the correctional facility or  
27 advocate and may not be directly acted upon by the member or the board.

## 28 SUMMARY

29 This bill amends and in part standardizes requirements and duties between the boards  
30 of visitors of county jails and Department of Corrections correctional facilities including  
31 the appointment, duties, orientation and training and access by the public to the boards of  
32 visitors.