

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

of December as required shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased 10% for each month or fraction of a month that payment of renewal is delayed. The maximum fee for delayed renewal shall not exceed twice the normal renewal fee for the period of delinquency.

Effective October 1, 1975

CHAPTER 536

AN ACT to Repeal Obsolete Statutes Concerning Certain Crimes.

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

Sec. 1. 17 MRSA § 2500 is repealed.

Sec. 2. 17 MRSA § 3963 is repealed.

Effective October 1, 1975

CHAPTER 537

AN ACT to Allow Payment of Unemployment Compensation Benefits During Labor Disputes Caused By Failure of the Employer to Correct Hazardous Working Conditions.

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

26 MRSA § 1193, sub-§ 4, ¶ D is enacted to read:

D. He became unemployed because of a strike or lockout caused by an employer's willful failure to observe the terms of the safety and health section of a union contract; an employer's willful failure to comply in a timely fashion with an official citation for a violation of federal and state laws involving occupational safety and health; or the quitting of labor by an employee or employees in good faith because of an abnormally dangerous condition for work at the place of employment of such employee or employees; provided that such strike or lockout shall not extend past the time of the employer's compliance with the safety and health section of the union contract, the employer's compliance with the official citation, or the finding that an abnormally dangerous condition does not exist by a federal or state official empowered to issue official citations for violation of federal and state laws involving occupational safety and health.

Effective October 1, 1975

CHAPTER 538

AN ACT Amending Laws Relating to Juvenile and Correctional Institutions and Judicial Dispositions.

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

Sec. 1. 15 MRSA § 2608, as amended by PL 1967, c. 160, is repealed and the following enacted in place thereof:

§ 2608. Custody pending disposition

When any juvenile has been arrested, the arresting officer shall make arrangements for the juvenile's custody or safekeeping until the juvenile is brought before a juvenile court. If the arresting officer reasonably believes the juvenile will not appear at a scheduled hearing, such officer shall take the arrested juvenile before the juvenile court having territorial jurisdiction over the alleged offense for a determination of the place of custody or detention of the juvenile. If it is not during the business day of the district court, the arresting officer shall transport and deliver said juvenile to any place of detention, including a jail designated by the Department of Mental Health and Corrections as a place for the security detention of juveniles, and said juvenile shall be received and held at such place of detention, with or without process. If a juvenile is detained under this section without having been first brought before the juvenile court having territorial jurisdiction over the alleged offense, the arresting officer shall take the juvenile before the juvenile court on the next business day of the district court.

When the juvenile is brought before the juvenile court, the juvenile court shall inform the juvenile of the complaint against him, of his right to retain counsel, of his right to request the assignment of counsel and shall appoint counsel whenever necessary to protect the juvenile's rights and shall admit him to bail in accordance with section 942. If the juvenile is not released, the juvenile court shall order that the juvenile be detained in any juvenile institution or in any jail designated by the Department of Mental Health and Corrections as a place for the security detention of juveniles, provided the juvenile is segregated from criminal offenders.

Sec. 2. 15 MRSA § 2611, sub-§ 3, is repealed and the following enacted in place thereof:

3. Find probable cause. Find probable cause to hold the juvenile for action by the grand jury within and for the same county. Such finding may be made if, and only if, the juvenile court concludes, and so states in its probable cause finding, that, from the totality of the child's circumstances, it appears the child's age, maturity, experience and development are such as to require prosecution under the general law; the nature and seriousness of the child's conduct constitute a threat to the community; the conduct of the child was committed in a violent manner and there is reasonable likelihood that like future conduct will not be deterred by continuing the child under the care, protection and discipline of the juvenile law processes;

Sec. 3. 15 MRSA § 2611, sub-§ 4, ¶ A-1, as last amended by PL 1975, c. 62, § 3, is repealed.

Sec. 4. 15 MRSA § 2611, sub-§ 4, ¶ D, as last amended by PL 1971, c. 528, § 3, is repealed as follows:

~~D. Commit to the custody and control of the State Parole Board;~~

Sec. 5. 15 MRSA § 2611, sub-§ 4, ¶ E, as last amended by PL 1973, c. 625, § 85, is further amended to read:

E. Commit to the care of a family subject to supervision by the State Parole Board Division of Probation and Parole or by the Department of Health and Welfare;

Sec. 6. 15 MRSA § 2611, sub-§ 4, ¶ G, as last amended by P & SL 1973, c. 53, is repealed and the following enacted in place thereof:

G. Dismiss the action and refer the juvenile to the Department of Mental Health and Corrections which, through its Bureau of Mental Health or Bureau of Mental Retardation, shall cause the provision of services needed by the juvenile to every extent possible, including, but not limited to, causing application to be made for admission of the juvenile to the Augusta Mental Health Institute or to the Bangor Mental Health Institute pursuant to Title 34, chapter 191, if the juvenile is alleged to be a mentally ill individual or to the Pineland Center under Title 34, section 2152, if the juvenile is alleged to be mentally retarded, provided that the court has received a report as provided in section 2503 that the juvenile is mentally ill or mentally retarded;

Sec. 7. 15 MRSA § 2611, sub-§ 5, as last repealed and replaced by PL 1971, c. 121, § 2, is repealed and the following enacted in place thereof:

5. Dispositions after return to a juvenile court. In instances of commitment of a juvenile to the Boys Training Center or to the Stevens School, the superintendent thereof following such commitment may for good cause petition the juvenile court having original jurisdiction in the case for a judicial review of disposition. In all cases in which a juvenile is returned to a juvenile court from the Boys Training Center or Stevens School, the juvenile court may make any of the dispositions otherwise provided in this section.

Sec. 8. 15 MRSA § 2661, sub-§ 2, first sentence, as last amended by PL 1969, c. 501, § 3, is further amended to read:

Any juvenile adjudged by the juvenile court to have committed a juvenile offense may, personally or by his parent or parents, his next friend, guardian or attorney, appeal from such judgment or any orders based thereon, to the Superior Court within and for the county wherein the juvenile offense, concerning which the judgment was rendered, is alleged to have been committed, by giving written notice of appeal to the juvenile court within 5 days next after the entry of such judgment or order.

Sec. 9. 15 MRSA § 2714, as last amended by PL 1975, c. 62, § 4, is repealed and the following enacted in place thereof:

§ 2714. Commitment

Only a juvenile as defined in section 2502, subsection 5, who is 11 years of age or older at the time of the court's disposition of the case may be committed to a center pursuant to chapters 401 to 409. All commitments of such children shall be until the age of 21, and discharge from the center shall be in accordance with section 2718; but no child shall be committed who is deaf, mute, blind or a proper subject for the Augusta Mental Health Institute, the Bangor Mental Health Institute or the Pineland Center.

Sec. 10. 15 MRSA § 2716, as last amended by PL 1971, c. 92, is further amended by adding at the end the following new paragraph:

In the event that any child committed to the center shall attain the age of 18 years while still under commitment, the statutory guardianship of the superintendent with respect to any such child shall terminate; however, any

such child shall remain subject to the control of the superintendent and staff of the center and rules and regulations thereof until the expiration of the period of commitment or discharge from the center.

Sec. 11. 15 MRSA § 2718, as last amended by PL 1975, c. 62, § 5, is further amended to read:

§ 2718. Discharge

The superintendent shall cause to be discharged all children committed to the center at the age of 21 and may discharge any child as rehabilitated during such child's term of commitment and shall cause every child committed to the center to be discharged therefrom at any time during the period of commitment that it is determined that the child has benefited optimally from services and facilities of the center and may cause any child committed to the center to be discharged therefrom when it is determined that discharge would be in the best interest of the child.

Sec. 12. 15 MRSA § 2719, as last amended by PL 1973, c. 788, § 65, is repealed and the following enacted in place thereof:

§ 2719. Offenses while under commitment

1. Absence without leave. If a child committed to a center absents himself or herself from the center without leave or attempts to do so, he or she may be committed to the center under a new commitment following adjudication of the absence without leave by the juvenile court having territorial jurisdiction where the center is located. Under this subsection "absence without leave" is a juvenile offense. Commitment ordered by the juvenile court following adjudication under this subsection shall be for a fixed term of 6 months to run concurrently with the term of the original commitment and subject to the discharge provisions of section 2718.

2. Assault and battery. In addition to the general applicability of Title 17, section 201, to any child committed to a center, a child committed to a center who, then being of the age of 14 years or more, is alleged to have committed an assault and battery of a high and aggravated nature as defined in Title 17, section 201, upon any member of the staff of the center, shall be subject to a hearing before the juvenile court under section 2611, subsection 3, and the juvenile court shall conduct a probable cause hearing and shall make findings appropriate thereto and decree accordingly.

Sec. 13. 34 MRSA § 801, as last amended by PL 1973, c. 788, § 169, is repealed and the following enacted in place thereof:

§ 801. Men's Correctional Center; age groups

The Men's Correctional Center, located at South Windham, shall be maintained for the confinement and rehabilitation of males under the age of 18 years with respect to whom probable cause has been found under Title 15, section 2611, subsection 3, who have pleaded guilty to, or have been tried and convicted of, crimes in the Superior Court and males over the age of 18 years and of not more than 26 years of age who have been convicted of, or who have pleaded guilty to, crimes in the courts of the State, and who have been duly sentenced and committed thereto.

All persons sentenced and committed to the center shall be detained and confined in accordance with the orders or sentences of the courts and rules and regulations of the center. The provisions for the safekeeping or employment of such inmates shall be made for the purpose of teaching such inmates a useful trade or profession and improving their mental and moral condition.

The head of the institution shall be called the superintendent, who shall have supervision and control of the inmates, employees, grounds, buildings and equipment at the center.

The Superintendent of the Men's Correctional Center is authorized, subject to the written approval of the commissioner, to contract with the Director of the Federal Bureau of Prisons acting pursuant to Title 18, U.S.C. § 4002, for the imprisonment, subsistence, care and proper employment of men convicted of crimes against the United States, and may receive and detain any such men pursuant to such contracts.

Sec. 14. 34 MRSA § 801-A, sub-§ 2, as last repealed and replaced by PL 1969, c. 192, § 7, is repealed and the following enacted in place thereof:

2. Inmate. "Inmate" as used in this chapter shall mean any male sentenced and committed to the center.

Sec. 15. 34 MRSA § 802, the first ¶, as last amended by PL 1971, c. 544, § 118-B, and the 2nd ¶, as last amended by PL 1971, c. 121, § 7, are repealed and the following enacted in place thereof:

When, before any court having jurisdiction, a male of not more than 26 years of age is convicted or has pleaded guilty to an offense punishable by imprisonment in the State Prison or by imprisonment in the county jail for more than 6 months, such court may sentence him and order his commitment to the Men's Correctional Center, or sentence him to the punishment provided by law for the same offense.

When any such male is ordered committed to the center, the court shall not fix the term of commitment to the center. The duration of the commitment, including time spent on parole, shall not exceed 3 years.

Sec. 16. 34 MRSA § 851, as last amended by PL 1973, c. 788, § 170, is repealed and the following enacted in place thereof:

§ 851. Women's Correctional Center; population categories; superintendent

The Women's Correctional Center, located at Hallowell, Maine, shall be maintained for the confinement and rehabilitation of females under the age of 18 years with respect to whom probable cause has been found under Title 15, section 2611, subsection 3, who have pleaded guilty to, or have been tried and convicted of, crimes in the Superior Court and females over the age of 18 years and of not more than 26 years of age who have been convicted of, or who have pleaded guilty to, crimes in the courts of the State, and who have been duly sentenced and committed thereto, and all females sentenced to the Maine State Prison who shall be committed, and transported directly from the place of sentence, to the center.

All such females shall be detained and confined in accordance with the orders or sentences of the courts and the rules and regulations of the center.

The superintendent of the center shall have supervision and control of the inmates, prisoners, employees, grounds, buildings and equipment at the center.

The Superintendent of the Women's Correctional Center is authorized, subject to the written approval of the commissioner, to contract with the Director of the Federal Bureau of Prisons acting pursuant to Title 18, U.S.C. § 4002, for the imprisonment, subsistence, care and proper employment of women convicted of crimes against the United States, and may receive and detain any such women pursuant to such contracts.

Sec. 17. 34 MRSA § 851-A, sub-§ 2, as last repealed and replaced by PL 1969, c. 192, § 12, is repealed and the following enacted in place thereof:

2. Inmate. "Inmate" as used in this chapter shall mean any female sentenced and committed to the center;

Sec. 18. 34 MRSA § 853, as last amended by PL 1973, c. 788, § 171, is further amended to read:

§ 853. Commitment; length of sentence; woman attendant

When before any court having jurisdiction, a woman ~~over the age of 18 years and under the age of 40 years~~ of not more than 26 years of age is convicted of, or has pleaded guilty to an offense punishable by imprisonment in the State Prison, or by imprisonment in the county jail for more than 6 months, such court may sentence her and order her commitment to the center, or sentence her to the punishment provided by law for the same offense.

When any such woman ~~or any female adjudicated to have committed a juvenile offense under Title 15, section 2611, subsection 4, paragraph A-1, or any female adjudicated or convicted under Title 15, section 2719~~ is ordered committed to the center the court shall not fix the term of commitment to the center. The duration of the commitment, including time spent on parole shall not exceed 3 years. Upon commitment of any such woman and upon sentencing any woman to the Maine State Prison, if the officer to whom the judgment and order of commitment is addressed is not a woman, the judge shall, in all cases when feasible, designate a woman to be an attendant to accompany her to the center.

Effective October 1, 1975

CHAPTER 539

AN ACT Concerning the Disqualification of Former State Employees, and the Former Partners of Present State Employees, in Matters Connected with said State Employees' Official Duties or Responsibilities.

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

5 MRSA § 15 is enacted to read:

§ 15. Disqualification of former state employees and the former partners of present state employees from participation in certain matters