

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 453-End

AND AT THE
FIRST SPECIAL SESSION
September 6, 1983 to September 7, 1983
Chapters 583-588

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED AT THE
FIRST REGULAR SESSION
CONTINUED
and
FIRST SPECIAL SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
1983

The commission may accept funds from any agency of the United States.

Effective September 23, 1983.

CHAPTER 459

H.P. 583 - L.D. 832

AN ACT to Recodify the Statutes
Relating to Corrections and Mental Health
and Mental Retardation.

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

Sec. 1. 15 MRSA c. 409, as amended, is repealed.

Sec. 2. 22 MRSA c. 404 is enacted to read:

CHAPTER 404

PRIVATE MENTAL HOSPITALS

§1781. License; visitation; penalty

The Department of Human Services may license any suitable person to establish and keep a private hospital or private house for the reception and treatment of patients who are mentally deranged. The hospital or private house shall be subject to visitation by the department or any member thereof.

Whoever establishes or keeps the private hospital or private house without a license, or after revocation or during suspension of the license, shall be fined not more than \$500.

§1782. Visitation

Each of the licensed hospitals or houses shall be visited at least once a year, and oftener if the Commissioner of Human Services so directs, by a member of the Department of Human Services, who shall carefully inspect every part of the hospital or house visited with reference to its cleanliness and sanitary conditions and who shall make a report to the department with such recommendations to improve conditions as the department deems necessary.

§1783. Revocation or suspension of license after hearing

When the Department of Human Services believes a license should be suspended or revoked, it shall file a statement or complaint with the Administrative Court Judge, designated in the Maine Administrative Procedure Act, Title 5, chapter 375. A person aggrieved by the refusal of the department to issue a license may file a statement or complaint with the Administrative Court Judge.

Sec. 3. 22 MRSA c. 405-B is enacted to read:

CHAPTER 405-BTUBERCULOSIS SANATORIUMS§1871. Establishment and maintenance

The State shall maintain by building, lease or by purchase one or more sanatoriums in such districts of the State as seems best to serve the needs of the people for the care and treatment of persons affected with tuberculosis. If at any time the number of persons requiring such care and treatment in these sanatoriums decreases to a level which, in the judgment of the Commissioner of Human Services, makes continued operation and maintenance of a sanatorium impracticable, the commissioner, with the advice and consent of the Governor, may close any or all sanatoriums. In the event that all sanatoriums are closed as provided, any funds from the sanatorium accounts and appropriations may, with the advice and consent of the Governor, be made available to the Commissioner of Human Services for the purpose of providing alternative treatment and care for those patients needing treatment and care. Where lease or purchase is made, the State shall have the right to enlarge or otherwise adapt the property to meet the needs of the situation. These additions or improvements shall be considered permanent. At the expiration of the original lease of any property for use as a tuberculosis sanatorium, the State shall have the right of renewal or of purchase.

Without regard to the matter of sanatorium closure, the commissioner also may purchase care for tuberculosis patients from private practitioners and private medical institutions. In making payments for care, he shall take into consideration payments that may be available through insurance or other 3rd parties.

§1872. Admission; charges

Patients may be admitted to these sanatoriums upon application to the Department of Human Services, if found to be suffering from tuberculosis or if suspected of having tuberculosis. All patients in the sanatoriums, the parents of minor children or the spouse, shall pay to the State for treatment, including board, supplies and incidentals necessary to the prescribed medical and surgical treatment both for inpatient and outpatient services, the amount determined by the department. The department may, if it finds that the patient or relatives liable by law are unable to pay the amount determined, in whole or in part, waive payment or so much thereof as the circumstances appear to warrant.

All funds collected from this source shall be credited to the General Fund. No pauper disabilities shall be created by reason of any aid or assistance given under this section.

This section does not apply to persons who may be committed under section 1022.

Sec. 4. 30 MRSA c. 13 is enacted to read:

CHAPTER 13

COUNTY JAILS AND JAILERS

SUBCHAPTER I

OFFICIALS AND PERSONNEL

§1701. Custody of jail and prisoners; jailer

The sheriff has the custody and charge of the jail in his county and of all prisoners therein and shall keep it himself, or by his deputy as jailer, master or keeper. The jailer, master or keeper shall appoint, subject to the requirements of section 64-A, all subordinate assistants and employees. Subordinate assistants and employees shall be appointed for the same period that is provided for deputy sheriffs under section 951. The professional qualifications required of them shall emphasize training or experience in or knowledge of corrections. The pay of the jailer, master or keeper and all subordinate assistants and employees shall be fixed by the county commissioners and paid by their several counties, except when otherwise provided by law. The jailer and his subordinate assistants and employees may be deputy sheriffs.

§1702. Jailer's duties when office of sheriff vacant

When a vacancy occurs in the office of sheriff, the jailer lawfully acting continues in office and shall retain charge of the jail and of all prisoners therein or committed thereto, and his official neglects and misdoings are a breach of his principal's official bond until a new sheriff is qualified, or the Governor removes that jailer and appoints another, which he may do. The jailer so appointed shall give bond in the manner required of a sheriff for the faithful discharge of his duties.

§1703. Offices of jailer and sheriff vacant; appointment by county commissioners

If the office of jailer becomes vacant while the office of sheriff is vacant, the county commissioners may appoint a jailer, who shall give bond as a sheriff is required to do and continue in office, if his appointment is confirmed at the commissioners' next meeting, during the vacancy in the office of sheriff or until he is removed and a new jailer appointed.

§1704. Jailer to return list of prisoners at each criminal session of court

Every jailer, at the opening of every criminal term of the Superior Court for his county, shall return a list of prisoners in his custody and afterwards a list of all committed during the session, certifying the cause for which and the person by whom committed, and shall have the calendar of prisoners in court for its inspection. For neglecting to do so, the court may impose a reasonable fine.

§1705. Official papers filed and kept with calendar and delivered to successor

All warrants, mittimus, processes and other official papers by which any prisoner is committed or liberated, or attested copies thereof, shall be regularly filed in order of time and with the calendar safely kept and when the sheriff vacates his office, they shall be, by the sheriff or his personal representative, delivered to his successor on penalty of forfeiting \$200 to the county.

§1706. Sheriff answerable for delivery of prisoners to successors

Every sheriff is answerable for the delivery to his successor of all prisoners in his custody at the time of his removal, and for that purpose shall

retain the keeping of the jail in his county and the prisoners therein until his successor enters on the duties of his office.

§1707. Liability of sheriff for escape

When a prisoner escapes through the insufficiency of the jail or the negligence of the sheriff or jailer, the sheriff is chargeable to the creditor or other person at whose suit he was committed or to whose use any forfeiture was adjudged against that prisoner.

§1708. Escape through insufficiency of jail; sum paid; reimbursed

When an escape happens through the insufficiency of the jail, the county commissioners may order the county treasurer to pay to the sheriff the amount paid by him to that party. If they do not make an order within 6 months after the demand is laid before them, the sheriff may bring his action against the inhabitants of that county, to be tried therein or in an adjoining county, and service shall be made as in other actions.

§1709. Appointment of agent to defend county; execution

The commissioners may appoint an agent to appear and defend the action. If they have no meeting between the time of service and the time within which the answer is required to be served, it shall be continued for such time as the court directs, saving all advantages to the defendants. If judgment is rendered against the county, the execution may be levied on the estate of any inhabitant, who has his remedy against the county to recover the amount so levied.

§1710. Liability of keeper and sheriff for escape

If any jail keeper, through negligence, suffers a prisoner charged with an offense to escape, he shall be fined according to the nature of the offense charged against the escaped prisoner, but if a person committed for debt escapes from jail and the sheriff or jail keeper, within 3 months thereafter, returns him thereto, the sheriff is liable only for the costs of any action commenced against him therefor.

§1711. Administration of medication

1. Administration of medication by sheriff or deputy. The sheriff of any county may administer to any prisoner in his custody and charge any oral or

topical medication as prescribed by a licensed physician or dentist or, if requested by a prisoner, any nonprescription medication in accordance with the directions on its container. The sheriff may delegate this authority to administer medication to his deputy who is in charge of the county jail or to the master or keeper of the county jail.

2. Limitations on administration of medication. The sheriff or his delegate shall not administer any prescription or nonprescription medication to any prisoner who has been incarcerated in the county jail for less than 24 hours, unless the sheriff or his delegate has consulted with and received permission to administer that medication from a licensed physician.

3. Insulin injections. No provision under this section may prevent any prisoner from self-administering insulin injections, provided that:

A. A duly licensed physician has authorized that self-administration; and

B. That self-administration takes place in the presence of the sheriff or his delegate.

4. Statement by prisoner. Before administering any nonprescription medication to any prisoner who has been incarcerated in the county jail for 24 hours or longer, the sheriff or his delegate shall secure a written statement signed by the prisoner, which states that the prisoner has requested that medication and had no previous adverse allergic reaction to that medication.

5. Records of medication administered. Every sheriff or his delegate shall maintain for at least 2 years a record which shall include a description of each prescription and nonprescription medication administered in the county jail and the identity of each person to whom that medication is administered.

6. Administration of medication not a violation. The administration of medication to prisoners, as provided in this section, shall not be a violation of Title 32, section 2102, subsection 2, paragraph D, or Title 32, section 3270, or any other law.

SUBCHAPTER II

PRISONERS AND THEIR CONDUCT

§1751. Pay for labor of prisoners before sentence

Any person charged with crime or awaiting sentence who, while confined in any jail where provision for labor has been made, chooses to labor as provided for persons under sentence, shall receive therefor such sum as, in the judgment of the commissioners of that county, he has earned.

§1752. Positions of trust for certain prisoners

Positions of trust may be granted by a sheriff only to a prisoner confined in a jail who was sentenced to serve his term in that particular jail or who was transferred to that particular jail from another correctional facility where he was serving a sentence.

§1753. Treatment of prisoners for debt and minors

Every jail keeper shall keep prisoners committed for debt separate from prisoners charged with felony or infamous crimes, and shall keep all minors so committed and all prisoners upon a first charge, before or after conviction, separate from notorious offenders and those convicted more than once of felony or infamous crimes, so far as the construction or state of the jail admits.

§1754. Violations or furnishing liquor to prisoners

If any jail keeper violates section 1753 or voluntarily or negligently suffers any prisoner in his custody, charged with or convicted of any offense, to have any intoxicating liquor, unless the physician authorized to attend the sick in that jail in writing certifies that the prisoner's health requires it and prescribes the quantity, he forfeits in each case, for the first offense, \$25; and for the 2nd offense, \$50; to be recovered for the county by indictment, or by any person suing therefor, to his own use; and shall be removed from office and shall be incapable of holding the office of sheriff, deputy sheriff or jailer for 5 years.

§1755. Federal prisoners

The keepers of the several jails shall receive and safely keep all prisoners committed under authority of the United States until discharged, under the penalties provided for the safekeeping of prisoners under the laws of this State.

§1756. Prisoners to attend funerals

Prisoners at the several county jails may, at the discretion of the sheriff, attend funerals of their legally considered mother, father, husband, wife, son

or daughter, if the funeral is held within the State. Prisoners shall pay the cost of transportation and the fee and expenses of the officer who takes them to the funeral.

§1757. Disposal of body of person who died in jail

When a person dies in jail, the jailer or sheriff shall deliver the body to his friends, if requested. Otherwise, he shall dispose of it for anatomical purposes, as provided in Title 22, chapter 709, unless the deceased at any time requested to be buried, in which case he shall bury the body in the common burying ground and the expenses thereof shall be paid by the town in which he had a settlement, if he had any in the State and, if not, by the State.

§1758. Record of persons committed

Every sheriff shall keep in a suitable bound book a true and exact calendar containing, distinctly and fairly registered, the names of all prisoners committed to the jail under his charge, their places of abode, additions, time of their commitments, for what cause and by what authority, and a particular description of the persons of those committed for offenses. He shall register in that book the name and description, the time when and the authority by which any prisoner was discharged, and the time and manner of any prisoner's escape.

§1759. Assistance to discharged prisoners

The sheriff or his deputy keeping the jail may, at the expense of the county, give a prisoner about to be discharged from jail a sum of money not exceeding \$2 and wearing apparel to the value of not exceeding \$10 and may furnish to that discharged prisoner a railroad ticket, nontransferable, to any place to which the fare does not exceed \$8. All sums so expended by the sheriff or jailer shall be repaid to him from the county treasury after the account thereof has been audited and the amount found correct by the county commissioners.

SUBCHAPTER III

PRISON LABOR

§1801. Employment of prisoners generally

The county commissioners may authorize the employment, for the benefit of the county or of dependent families of prisoners committed for crime, in some suitable manner not inconsistent with their

security and the discipline of the prison, and may pay the proceeds of that labor, less a reasonable sum to be deducted therefrom for the cost of maintenance of those prisoners, to the families of such person or persons as may be dependent upon them for support.

This section does not apply to sections 1802 and 1803.

§1802. Charitable organizations

The county commissioners may authorize the use of such prisoners to provide assistance in the improvement of property owned by charitable organizations as may be approved by the county commissioners, provided that the charitable organizations pay for the transportation of the prisoners and for the transportation and per diem compensation for any guards who accompany the prisoners.

§1803. Contracts subject to cancellation or suspension

Any contract for the employment of prisoners not provided for in section 1802, which may be made by the county commissioners of any county with any person, firm or corporation, shall be made subject to the right of the county commissioners to withdraw, cancel or suspend the contract in whole or in part.

§1804. Employment of county jail prisoners

1. Order of release; purpose. Any person sentenced or committed to a county jail for crime, non-payment of a fine or forfeiture or court order, or criminal or civil contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

A. Employment;

B. Conducting his or her own business or occupation, including, in the case of a person primarily responsible for the housekeeping and domestic needs of his or her family, housekeeping and attending the needs of his or her family;

C. Attendance at a weekly religious service;

D. Attendance at an educational institution;

E. Medical treatment;

F. Voluntary services within the county in which the jail is located; or

G. To work or provide service to the victim of his crime in accordance with Title 17-A, chapter 54, but only with the express approval of the victim.

2. Petition; withdrawal. Unless a privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. The court may grant that privilege at the time of sentence or commitment or thereafter. The court may withdraw the privilege at any time by order entered with or without notice of hearing.

3. Wages, self-employment income; collection. If a prisoner is employed for wages or salary, the sheriff shall collect the wages or salary or require the prisoner to turn over his wages or salary in full when received and, if the prisoner is self-employed, his self-employment income shall be turned over to the sheriff as may be ordered by the court, and the sheriff shall deposit the income in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salaries are not subject to trustee process in the hands of either the employer or the sheriff, and the self-employment income is not subject to trustee process in the hands of the sheriff during the prisoner's term and shall be disbursed only as provided in this section; but for tax purposes they are income of the prisoner.

4. Board; transportation. Every prisoner gainfully employed is liable for the cost of his board in the jail, as fixed by the county commissioners. If necessarily absent from jail at a mealtime, he shall at his request be furnished with an adequate nourishing lunch to carry to work. The sheriff shall charge his account, if he has one, for his board.

If the prisoner is gainfully self-employed, he shall pay the sheriff for his board, in default of which his privilege under this section is automatically forfeited.

If the jail food is furnished directly by the county, the sheriff shall account for and pay over these board payments to the county treasurer. The county commissioners may provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment.

5. Disbursements. By order of the court, the wages or salaries of employed prisoners and employment income of self-employed prisoners shall be disbursed by the sheriff for the following purposes, in

the order stated:

A. The board of the prisoner;

B. Necessary travel expense to and from work and other incidental expenses of the prisoner;

C. Support of the prisoner's dependents, if any;

D. Payment, either in full or ratably, of restitution, and of the prisoner's obligations, acknowledged by him in writing, in accordance with Title 17-A, chapter 54, or which have been reduced to judgment; and

E. The balance, if any, to the prisoner upon his release.

6. Employment in other county. The court may by order authorize the sheriff, to whom the prisoner is committed, to arrange with another sheriff for the employment of the prisoner in the other's county, and while so employed to be in the other's custody, but in other respects to be and continue subject to the commitment.

7. Evaluation of need of dependents. The welfare director or the overseers of the poor of the municipality in which the prisoner's dependents reside, or the Department of Human Services, shall at the request of the court investigate and report to the court the amount necessary for the support of the prisoner's dependents.

8. Denial of privilege. The sheriff may refuse to permit the prisoner to exercise his privilege to leave the jail, as provided in subsection 1, for any breach of discipline or other violation of jail regulations. Any prisoner so disciplined may petition either the District Court or the Superior Court for a review of that disciplinary action. The court, after review, shall make such order as it deems appropriate.

9. Violations. Any person who willfully violates the terms of his release in relation to the time for reporting to his place of employment or to any other place to which he is authorized to be released under subsection 1, paragraphs A to E, or for reporting back to the county jail may be punished by imprisonment for not more than 60 days. If the prisoner does not return to the county jail within 48 hours from the time scheduled to return, he shall be guilty of escape under Title 17-A, section 755.

10. Rules of procedure. Proceedings under this

section shall be subject to the rules of procedure adopted under Title 4, section 9.

§1805. Furloughs

The sheriff is authorized to establish regulations for and to permit a prisoner under the final sentence of a court a furlough from the county jail in which he is confined. Furlough may be granted for not more than 3 days at one time in order to permit the prisoner to visit a dying relative or to obtain medical services, which may be for a period of longer than 3 days if medically required or for any other reason consistent with the rehabilitation of an inmate or prisoner which is consistent with the laws, rules or regulations of the department.

Any such prisoner permitted furlough under this section from the county jail shall be furnished a copy of the regulations of the county jail applicable to his furlough and receipt of the copy shall be attested by the prisoner.

Any such prisoner who willfully violates the terms of his release under this section in relation to the time for reporting to his place of furlough, the activities he is authorized to conduct while on furlough, or his time of reporting back to the county jail, may be punished by imprisonment for not more than 60 days; except that any prisoner who does not return to the county jail within 24 hours from the time he is scheduled to return may be prosecuted for escape under Title 17-A, section 755. He shall be prosecuted therefor in the county in which the jail to which he was sentenced is located.

Any person over the age of 18 years who willfully obstructs, intimidates or otherwise abets any prisoner on furlough under this section, and thereby contributes to or causes the prisoner's violation of the terms and conditions of his furlough, after having been warned by the sheriff to cease and desist in that relationship or association with the prisoner, shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

§1806. Prisoner participation in municipal public works projects

The sheriff in charge of a county jail may, in his discretion, permit certain inmates of that jail to participate in public works-related projects in the county where the jail is located. Before an inmate is permitted to participate in this type of

project, the judge or justice who originally sentenced the inmate to the county jail shall sign his approval to the inmate's participation.

Any inmate participating in a public works-related project under this section shall have his sentence to the jail prorated at the rate of one day removed from the sentence for every 16 hours of participation in the project.

Participation in this type of project shall not be deemed employment under section 1804, subsections 3 to 7.

SUBCHAPTER IV

MISCELLANEOUS PROVISIONS

§1851. Examination of jails

At the commencement of each session required by law, the county commissioners shall examine the prison, take necessary precaution for the security of prisoners, for the prevention of infection and sickness and for their accommodations.

§1852. Jails to be clean and healthful

The sheriff shall see that the jail in his county is kept as clean and healthful as may be, cause the walls to be whitewashed in April or May annually and as often as the county commissioners order, at the expense of the county, and pay strict attention to the personal cleanliness of the prisoners.

§1853. Bible, books and instruction for prisoners

The jailer, at the expense of the county, shall furnish to each prisoner who is able to read a copy of the Bible, and to all, on Sundays, such religious instruction as he may be able to obtain without expense, and to those who may be benefited hereby, instruction in reading, writing and arithmetic one hour every evening except on Sunday. It shall be his duty to receive for their use from whatever source, by loan or contribution, any books or literature of a moral or religious tone and to exclude those of opposite tendencies.

§1854. Supplies for jails; accounts audited

The county commissioners of the several counties shall, without extra charge or commission to themselves or to any other person, procure all necessary supplies, including necessary food, fuel, bedding and

clothing for the jails and the prisoners therein, to be furnished and purchased under their direction and at the expense of the counties. No county commissioner may be interested directly or indirectly in the purchase of any such supplies or in any contract therefor made by the board of which and while he is a member thereof, and all contracts made in violation hereof are void. A suitable person shall be employed to prepare the foods of the prisoner in each county at the expense of the county, and the service of the food to the prisoners shall be under the general direction of the jailer, master or keeper. The person employed to prepare the food of the prisoners shall be appointed by the sheriff in each county, subject to the approval of the county commissioners. The county commissioners may at any time direct specific rations or articles of food, clothing, soap, fuel or other necessities to be furnished and served to the prisoners. The bills and accounts for supplies furnished and the items of expense incurred in preparing and serving the same shall be audited by the Department of Audit, as provided by Title 5, section 243, subsection 2.

§1855. Cumberland commissioners annually advertise for supplies

The county commissioners of the County of Cumberland may each year, as soon after January 1st as may be, make an estimate of the amount of food, fuel, clothing and supplies as far as practicable which will be required by the county jail and for the support of the prisoners therein for the current year, and advertise for sealed proposals for furnishing the same according to specifications furnished by them, in the daily papers of the City of Portland, 3 days successively, at least 14 days before the time limited for the reception of those proposals, at which time they shall examine all the proposals and award the contract to the lowest responsible bidder. The county commissioners shall procure such other necessary supplies and articles for the foregoing purposes as may not be furnished by contract and account for the same in the manner provided for in section 1854.

§1856. Transfer of prisoners when jail unfit or insecure

Whenever complaint on oath is made to a Justice of the Superior Court that any jail is unfit for occupation or is insufficient for the secure keeping of any person charged with crime and committed to await trial or under sentence, he shall cause not less than 3 days' notice of that complaint to be given to the jailer or sheriff of the county and to

the warden or chief administrative officer of the state correctional facility, if transfer to a state facility is anticipated, to appear at the time and place fixed in that notice. If on examination the matter complained of is found true, and the proposed transfer is to a county jail, he may issue his warrant for the transfer of that prisoner at the expense of the county to any jail. If the complaint is found true and the proposed transfer is to a state correctional facility, the Justice of the Superior Court may issue a warrant for the transfer of the prisoner at the expense of the county to a state correctional facility, provided that he also finds that the transfer is for the good of the inmate, the receiving institution is able to resolve the problem causing the need to transfer, the nature of the offense committed by the prisoner is so severe that it requires sending to the receiving institution and the security of the sending facility is inadequate to handle the problem. If by fire or other casualty any jail is destroyed or rendered unfit for use, any Justice of the Superior Court may, upon being notified by the district attorney of the county where that jail was or is located, issue his order to the sheriff and his deputies and constables of that county to cause all prisoners who might be liable to imprisonment in that county to be imprisoned in the jail of some adjoining county or in any other place of confinement, the order to be printed in the newspapers of that county.

§1857. Fines applied to building and repair of jail

All fines imposed by this chapter and chapter 1, subchapter VI; Title 14, section 555; and Title 14, chapter 203, subchapter IV, not otherwise appropriated, shall be applied to building and repairing the jails in the county where the offense is committed.

§1858. Additional accommodations

The county commissioners may make such additions in workshops, fences and other suitable accommodations in, adjoining or appurtenant to the jails in the several counties as may be found necessary for the safekeeping, governing and employing of offenders committed thereto by authority of the State or the United States. For the better employing of these offenders, they may lease or purchase necessary lands or buildings anywhere within their respective counties and may authorize the employment on those lands for the benefit of the county or of dependent families of prisoners committed for crime, as provided in section 1801. Whenever the county commissioners shall determine that the use of these land and buildings is unnecessary for that use, they may sell and

dispose of the land and buildings in the manner required by law. The county commissioners may raise by loan of their several counties, or otherwise, a total sum not exceeding \$5,000 to make those purchases, alterations and improvements, and may expend so much thereof as is necessary.

Sec. 5. 34 MRSA, as amended, is repealed.

Sec. 6. 34-A MRSA is enacted to read:

TITLE 34-A

CORRECTIONS

CHAPTER 1

GENERAL PROVISIONS

SUBCHAPTER I

DEFINITIONS

§1001. Definitions

As used in this Title, unless the context otherwise indicates, the following terms have the following meanings.

1. Chief administrative officer of a correctional facility. "Chief administrative officer of a correctional facility" means the head of a correctional facility, including, but not limited to:

A. The Warden of the Maine State Prison;

B. The Superintendent of the Maine Correctional Center;

C. The Director of the Charleston Correctional Facility; and

D. The Superintendent of the Maine Youth Center.

2. Commissioner. "Commissioner" means the Commissioner of Corrections or his designee, except that, when the term "commissioner and only the commissioner" is used, the term applies only to the person appointed Commissioner of Corrections and not to any designee.

3. Committed offender. "Committed offender" means a prisoner, juvenile client, probationer or parolee.

4. Contract agency. "Contract agency" means a

facility or program outside the jurisdiction of the department, providing services under contract to the department.

5. Contract client. "Contract client" means a committed offender residing in a facility or participating in a program outside the jurisdiction of the department under an agreement between the department and the contract agency.

6. Correctional facility. "Correctional facility" means the Maine State Prison, Maine Correctional Center, Charleston Correctional Facility, Maine Youth Center or any other entity which falls under the jurisdiction of the department, but does not include a county jail, holding facility or short-term detention area.

7. Correctional program. "Correctional program" includes, but is not limited to, probation and parole, court intake and jail inspection.

8. Department. "Department" means the Department of Corrections.

9. Holding facility. "Holding facility" means a facility, or part of a building, used for the temporary detention of pretrial detainees prior to arraignment, release or transfer to another facility or authority, but not for the serving of sentences. Holding facilities are classified as follows:

A. Those in which the maximum time of detention is 12 hours; and

B. Those in which the maximum time of detention is 48 hours.

10. Informally adjusted juvenile. "Informally adjusted juvenile" means a juvenile participating in a program of informal adjustment, as defined in Title 15, section 3003, subsection 10.

11. Juvenile client. "Juvenile client" means a juvenile committed to the Maine Youth Center who is either residing at the center or is under aftercare supervision.

12. Parking area. "Parking area" means land maintained by the State at the correctional facilities which may be designated as parking areas by the chief administrative officers of the correctional facilities.

13. Prison. "Prison" means the Maine State Prison.

14. Prisoner. "Prisoner" means an adult person committed to any correctional facility, county jail, holding facility or short-term detention area, except the Maine Youth Center.

15. Public way. "Public way" means a road or driveway on land maintained by the State at the correctional facilities.

16. Segregation. "Segregation" means the separation of a committed offender from the general population of a correctional facility for administrative or punitive reasons.

17. Short-term detention area. "Short-term detention area" means a section of a building used for the detention of pretrial detainees for periods of up to 4 hours.

18. Written political material. "Written political material" means flyers, handbills or other nonperiodical publications, which are subject to the restrictions of Title 21, chapter 35.

SUBCHAPTER II

DEPARTMENT

§1201. Legislative intent

Recognizing the need to firmly control all of the state's correctional facilities, provide for the safety of guards and committed offenders, undertake appropriate programming for the classification, education, rehabilitation and maintenance of committed offenders and assure an effective system for the supervision of parolees and probationers, it is the intent of the Legislature to create a Department of Corrections to improve the administration of correctional facilities, programs and services for committed offenders.

§1202. Establishment

There is established a Department of Corrections to be responsible for the direction and general administrative supervision, guidance and planning of adult and juvenile correctional facilities and programs within the State.

1. Cabinet level. The department is a cabinet-level department.

2. Commissioner. The department is under the control and supervision of the Commissioner of Corrections.

§1203. Office of Advocacy

1. Establishment. The Office of Advocacy is established within the department to investigate the claims and grievances of committed offenders, informally adjusted juveniles and contract clients and to advocate for compliance by the department, any correctional facility or any contract agency with all laws, administrative rules and institutional and other policies relating to the rights and dignity of committed offenders, informally adjusted juveniles and contract clients.

2. Chief advocate. A chief advocate shall direct and coordinate the program of the office.

A. The chief advocate shall report only to the commissioner.

B. The chief advocate shall, with the approval of the commissioner, select other advocates needed to carry out the intent of this section and who shall report only to the chief advocate.

C. The chief advocate and all other advocates shall be classified state employees.

3. Duties. The Office of Advocacy, through the chief advocate and the other advocates, shall:

A. Receive or refer complaints made by committed offenders, informally adjusted juveniles and contract clients;

B. Intercede on behalf of these persons with officials of the department, any correctional facility or any contract agency or assist these persons in the initiation of grievance proceedings established by the commissioner under section 1402, subsection 5;

C. As an information source regarding the rights of these persons, keep informed about all laws, administrative rules and institutional and other policies relating to the rights and dignity of these persons and about relevant legal decisions and other developments related to the field of corrections, both in this State and in other parts of the country; and

D. Make and publish reports necessary to the performance of the duties described in this section, except that only the chief advocate may report any findings of the office to groups outside the department, such as legislative bodies, advisory committees to the Governor, boards of

visitors, law enforcement agencies and the press.

4. Powers. The Office of Advocacy, through the chief advocate and the other advocates, may:

A. Take action only on complaints which it deems not to be trivial or moot or for which there is clearly not another remedy available; and

B. Have access, limited only by the law, to the files, records and personnel of the department, any correctional facility or any contract agency.

5. Confidentiality. Requests for action by the office shall be treated confidentially as follows.

A. Any request by a committed offender, informally adjusted juvenile or contract client for action by the office and all written records or accounts related to the request shall be confidential as to the identity of the requesting person.

B. The records and accounts may be released only as provided in section 3003.

§1204. Maine Correctional Advisory Commission

There is established the Maine Correctional Advisory Commission.

1. Composition. The commission shall consist of 12 members to be appointed as follows:

A. One member from the House of Representatives appointed by the Speaker of the House;

B. One member from the Senate appointed by the President of the Senate; and

C. Ten representative citizens appointed by the Governor, including at least one full-time nonadministrative employee from the correctional system and at least one former inmate of the correctional system.

2. Chairman. The Governor shall designate the chairman of the commission.

3. Duration of appointments. The duration of appointments is determined as follows.

A. Of the first gubernatorial appointments, 4 shall be for terms of 3 years, 3 shall be for terms of 2 years and 3 shall be for terms of one year.

B. Appointments after the first gubernatorial appointments shall be for terms of 3 years, plus the time period until a successor is appointed.

C. Legislative appointments shall be for the legislative term of office of the person appointed.

4. Expenses. Commission expenses shall be treated as follows.

A. Each member of the commission may receive his actual and necessary expenses incurred in the performance of duties pertaining to his office.

B. The commission may receive public and private grants to aid in defraying the expenses of its operation.

5. Duties. The commission shall:

A. Act in an advisory capacity to the commissioner in assessing present programs, in planning future programs and in developing ongoing policies to meet the correctional needs of the State;

B. Regularly advise the executive, legislative and judicial branches of government concerning correctional policy;

C. Issue a report containing the results of its studies to the Legislature, the Governor and the commissioner on December 31st of each year;

D. Meet as often as necessary, at the discretion of its chairman; and

E. Adopt its own rules of procedure necessary to carry out its duties.

§1205. Statewide correctional program improvement

1. Purpose. The purpose of this section is to provide the means for the development, expansion and improvement of correctional programs throughout the State and to encourage participation in correctional programs by persons, unincorporated associations, charitable nonstock corporations, local and county governmental units and state agencies.

2. Commissioner's powers. The commissioner has the following powers.

A. The commissioner may provide or assist in the provision of correctional services relating to all facets of rehabilitation and community life

adjustment, but the services shall be limited to:

- (1) Services to the courts;
- (2) Predelinquency services;
- (3) Diversionary services;
- (4) Prerelease and halfway house services;
and
- (5) Aftercare and post-release services.

B. To accomplish the purpose of paragraph A, the commissioner may cooperate with persons, unincorporated associations, charitable nonstock corporations, municipalities, other governmental units and state agencies.

C. The commissioner may promulgate and enforce rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, for the administration of all services delivered and funded under this section.

D. The commissioner may receive and use, for the purposes of this section, money appropriated by the State, grants from the United States and funds from any other sources.

E. The commissioner may make grants of funds to any person or entity described in this section who applies for the funds, to be used in the management and delivery of 'correctional services' programs approved by, or approved and supervised by, the commissioner.

F. The commissioner may, by contract, purchase professional and other specialized services when necessary to the provision of direct services under this section.

3. Correctional Program Improvement Fund. All funds appropriated for the purposes of this section and all grants and other funds received by the department for the purposes of this section shall be credited to a special revenue account in the department to be known as the Correctional Program Improvement Fund.

A. Any state funds appropriated to this special revenue account unexpended at the end of the fiscal year for which the funds are appropriated do not lapse, but shall carry forward into subsequent fiscal years to be expended for the pur-

poses of this section.

B. No funds appropriated or received under this section may be used for the construction of new facilities or for the reconstruction, renovation or expansion of any existing facilities, except that the funds may be used for minor renovations necessary to meet state or local licensing requirements.

§1206. Agreements with community agencies

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Agreement" means a legally binding document between 2 parties, including documents commonly referred to as accepted application, proposal, prospectus, contract, grant, joint or cooperative agreement or purchase of service.

B. "Community agency" means a person, a public or private nonprofit organization or a firm, partnership or business corporation operated for profit, which:

(1) Operates a human service program at the community level; and

(2) Is not an administrative unit of the Federal Government or State Government.

C. "Funds" means any and all general funds, dedicated funds, fees, special revenue funds, 3rd party reimbursements, vendor payments or other funds available for expenditure by the department in support of the provision of a human service.

D. "Human service" means any alcoholism, children's community action, corrections, criminal justice, developmental disability, donated food, education, elderly, food stamp, income maintenance, health, juvenile, law enforcement, legal, medical care, mental health, mental retardation, poverty, public assistance, rehabilitation, social, substance abuse, transportation, welfare or youth service operated by a community agency under an agreement financially supporting the service, wholly or in part, by funds authorized for expenditure for the department.

E. "Nonprofit organization" means any agency, institution or organization which is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of

which inures, or may lawfully inure, to the benefit of any private shareholder or individual and which has a territory of operations that may extend to a neighborhood, community, region or the State.

2. Commissioner's powers. The commissioner may disburse funds to a community agency for the purpose of financially supporting a human service, only if the disbursement is covered by a written agreement between the department and the agency, specifying at least the following:

A. The human service to be provided by the community agency;

B. The method of payment by the department to the community agency; and

C. The criteria for monitoring and evaluating the performance of the community agency in the provision of the human service.

3. Commissioner's duties. The commissioner's duties are as follows.

A. The commissioner shall promulgate rules, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, consistent with and necessary for the effective administration of this section.

B. When making agreements with community agencies for the provision of a human service, the commissioner shall use uniform agreement forms and shall develop uniform procedures.

C. When disbursing funds pursuant to an agreement, the commissioner shall require uniform accounts payable forms or uniform supporting documentation and information.

D. When accounting for funds disbursed under an agreement, the commissioner shall use uniform accounting principles, policies and procedures.

§1207. Out-of-state prison-made goods

1. Purpose. The purpose of this section is to take advantage of the so-called Hawes-Cooper bill, entitled "AN ACT to Divest Goods, Wares, and Merchandise Manufactured, Produced, or Mined by Convicts or Prisoners of Their Interstate Character in Certain Cases" and to prohibit the sale or use within the State of any goods, wares or merchandise produced in penal institutions outside of the State and trans-

ported into the State.

2. Prohibited acts. Prohibited acts under this section are governed as follows.

A. A person commits the civil violation of sale of out-of-state prison-made goods if he sells within this State any goods, wares or merchandise manufactured, produced or mined, wholly or in part, by nonparoled convicts or prisoners, or in any penal or reformatory institution, in another state and transported into this State.

B. A person commits the civil violation of use of out-of-state prison-made goods if he uses, consumes or stores within this State any goods, wares or merchandise manufactured, produced or mined, wholly or in part, by nonparoled convicts or prisoners, or in any penal or reformatory institution, in another state and transported into this State.

SUBCHAPTER III

COMMISSIONER

§1401. Office

1. Appointment. The Governor shall appoint the Commissioner of Corrections, subject to review by the joint standing committee of the Legislature having jurisdiction over health and institutional services and to confirmation by the Senate, to serve at the pleasure of the Governor.

2. Vacancy. Vacancies in the office of the commissioner shall be filled as follows.

A. Any vacancy in the office of commissioner shall be filled by appointment under subsection 1.

B. If the office of the commissioner is vacant or if the commissioner is absent or disabled, the associate commissioner shall perform the duties and have the powers provided by law for the commissioner.

3. Qualifications. To qualify for appointment as commissioner, a person must have training and experience in correctional administration or satisfactory experience in the direction of work of a comparable nature.

§1402. Duties

In addition to other duties set out in this Title, the commissioner has the following duties.

1. General. The commissioner shall have general supervision, management and control of the research and planning, grounds, buildings, property, officers, employees and committed offenders of any correctional facility or correctional program.

2. Enforcement of laws. The commissioner shall enforce all laws concerning correctional facilities, unless specific law enforcement duties are given by law to other persons.

3. Rules. Rules shall be established as follows.

A. The commissioner shall establish, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, such rules as he determines appropriate or necessary for the care and management of the property of all correctional facilities, for the production and distribution of industrial products of the correctional facilities and for the execution of the statutory purposes and functions of correctional facilities or correctional programs.

B. The central principle underlying all rules, regulations, procedures and practices relating to committed offenders is that the committed offenders shall retain all rights of an ordinary citizen, except those expressly or by necessary implication taken from them by law.

4. Vocational education. Establishment of vocational education shall be as follows.

A. The commissioner shall establish and maintain suitable courses for vocational education in the correctional facilities.

(1) The commissioner shall install equipment necessary to carry out this duty.

(2) The commissioner shall employ suitable and qualified instructors necessary to carry out this duty, subject to the approval of the Associate Commissioner of the Bureau of Vocational Education.

B. The expenses of carrying out this subsection shall be paid from the appropriations for the correctional facilities.

5. Grievance procedures. The commissioner shall establish procedures for hearing grievances of committed offenders, informally adjusted juveniles and contract clients as described in section 1203.

6. County jail, holding facility and short-term detention area standards. County jail, holding facility and short-term detention area standards are governed as follows.

A. The commissioner shall establish standards for all county jails, holding facilities and short-term detention areas which shall approximate, insofar as possible, the standards established by the Inspector of Jails of the Federal Bureau of Prisons.

B. The commissioner shall inspect all county jails, holding facilities and short-term detention areas at least once a year and may make more frequent inspections.

(1) The commissioner shall report to the Governor before December 1st of each year on the condition of the county jails, holding facilities and short-term detention areas.

(2) The commissioner may contract with any qualified person to serve as a consultant to the department for the purpose of inspections under this section and to inspect the county jails, holding facilities and short-term detention areas and, any law to the contrary notwithstanding, the qualified person may be an officer or employee of the department.

C. If a failure of the county commissioners to maintain the standards established under this section is discovered during a jail inspection conducted under this section, the commissioner shall report in writing to the county commissioners of the county in which the jail is located, specifying deficiencies and departures from the standards and ordering their correction.

(1) The county commissioners shall cause the deficiencies to be corrected and the standards to be restored within 6 months from the receipt of the report and order of the commissioner.

(2) If the county commissioners fail to comply with the order, the commissioner may order the county jail to be closed and the prisoners transferred to the nearest county

jail or jails meeting the prescribed standards and having available room for the prisoners.

(3) The cost of transfer, support and return of the prisoners shall be paid by the county from whose jail the prisoners are transferred, as provided in section 3068.

§1403. Powers

In addition to other powers granted in this Title, the commissioner has the following powers.

1. General powers. The commissioner may perform any legal act relating to the care, custody, treatment, relief and improvement of committed offenders or may purchase residential services when the department's correctional facilities do not provide the appropriate services for the committed offender.

2. Appointments. The commissioner's appointment powers are as follows.

A. The commissioner may appoint, subject to the Personnel Law and except as otherwise provided, any employees who may be necessary.

B. The commissioner may appoint and set the salary for an associate commissioner to assist in carrying out the responsibilities of the department.

(1) The appointment shall be for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

(2) To be eligible for appointment as an associate commissioner, a person must have training and experience in general management.

3. Delegation. The commissioner's delegation powers are as follows.

A. Unless a specific statute otherwise directs, the commissioner may delegate powers and duties given under this Title to the associate commissioner and to chief administrative officers of correctional facilities.

B. The commissioner may empower the associate commissioner and chief administrative officers of correctional facilities to further delegate powers and duties delegated to them by the com-

missioner.

4. Funding sources. The commissioner may use the following funding sources.

A. The commissioner may accept for the State any federal funds appropriated under federal law relating to the juvenile offender and may do whatever is necessary to carry out the federal law.

B. The commissioner may accept, from any other agency of government, person, group or corporation, any funds which may be available in carrying out this Title.

C. The commissioner may apply for and receive federal funds under the United States Housing Act of 1954, Public Law 560, Title 7.

5. Lease of unused buildings. The commissioner may, with the approval of the Director of Public Improvements, lease unused buildings at the correctional facilities for the purposes of providing services to committed offenders.

A. The leases shall be for a period not to exceed one year.

B. The commissioner shall submit a plan of the proposed leases and their impact on the correctional facilities and committed offenders to the joint standing committee of the Legislature having jurisdiction over health and institutional services no later than January 31st of each year.

CHAPTER 3

CORRECTIONAL FACILITIES

SUBCHAPTER I

GENERAL PROVISIONS

ARTICLE I

ADMINISTRATIVE PROVISIONS

§3001. Chief administrative officers

1. Appointment. The commissioner may appoint chief administrative officers of correctional facilities as necessary for the proper performance of the functions of the department.

A. To be eligible for appointment as a chief administrative officer of a correctional facility, a person must be experienced in the management of the particular type of correctional facility to which he is assigned.

B. Chief administrative officers of correctional facilities shall report directly to the commissioner.

2. Acting chief administrative officer. Notwithstanding any other provision of law, the commissioner may delegate any employee of the department to serve as the acting chief administrative officer of any correctional facility, if the office of the chief administrative officer of the facility is vacant.

A. The acting chief administrative officer shall serve for a period not to exceed 180 days.

B. Service as the acting chief administrative officer of a correctional facility is considered a temporary additional duty for the person so delegated.

§3002. Boards of visitors

1. Appointment. The Governor shall appoint a board of 5 visitors for each correctional facility under the department.

A. The terms of the members of the boards of visitors are for one year.

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

C. No member of the Legislature may serve on any board of visitors.

D. Members of the boards of visitors are not entitled to compensation.

2. Powers. Each board of visitors may inspect the correctional facility to which it is assigned and may make recommendations on the management of the facility to the commissioner.

3. Duties. Boards of visitors have the following duties.

A. Boards of visitors shall send copies of all recommendations to the members of the joint standing committee of the Legislature having

jurisdiction over health and institutional services.

B. Each board of visitors shall appear before the joint standing committee of the Legislature having jurisdiction over health and institutional services upon request.

§3003. Confidentiality of information

1. Limited disclosure. All orders of commitment, medical and administrative records, applications and reports, and facts contained in them, pertaining to any person receiving services from the department, shall be kept confidential and may not be disclosed by any person, except that:

A. A person receiving services, his legal guardian, if any, or, if he is a minor, his parent or legal guardian may give his informed written consent to the disclosure of information, if he has been given the opportunity to review the information sought to be disclosed;

B. Information may be disclosed if necessary to carry out any of the statutory functions of the department;

C. Information may be disclosed if ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503; and

D. Inmate financial records. The Commissioner of Corrections may provide information on inmate employment and earnings to other state agencies and the Federal Government for the purposes of determining inmate tax liability or child support obligations.

2. Prohibited acts. Prohibited acts under this section are governed as follows.

A. A person is guilty of unlawful disclosure of information if he discloses information in violation of this section.

B. Unlawful disclosure of information is a Class D crime.

§3004. Legal actions

1. Contract actions. Actions founded on any contract made with the State Purchasing Agent, or with any official of the department under the authority granted by the State Purchasing Agent, on behalf of a correctional facility may be brought by the

official making the contract or his successor in office.

2. Actions for injuries to property. Actions for injuries to the real or personal property of the State, used by any correctional facility and under the management of an officer of the facility, may be prosecuted in the name of the officer or his successor in office.

§3005. Emergencies

When emergency situations are certified by the chief administrative officer to exist at a correctional facility, the commissioner may, with the approval of the Governor, assign personnel as may be necessary from another facility or division of the department to assist in controlling the emergency situation.

1. Temporary assignment. The assignment of personnel shall be only for the period during which the emergency exists.

2. Compensation. Any personnel transferred are entitled to receive compensation as required by the Personnel Law, rules and contract terms.

§3006. Improper conduct of correctional facility officers

The commissioner may inquire into any improper conduct imputed to correctional facility officers in relation to the concerns of their facilities and for that purpose may:

1. Subpoenas. Issue subpoenas for witnesses and compel their attendance and the production of papers and writings by punishment for contempt in case of willful failure, neglect or refusal;

2. Examination of witnesses. Examine witnesses under oath; and

3. Adjudication. Adjudicate cases of alleged improper conduct in a manner similar to and with similar effect as cases of arbitration.

§3007. Posting of political material

The chief administrative officer of each correctional facility shall provide in at least one accessible area in each facility an appropriate space for the posting of written political material sent for that purpose to the chief administrative officer by candidates for state office or federal office in this

State.

1. One item limit. No more than one item of written political material may be posted in one place on behalf of any one candidate.

2. Removal. Written political material shall be removed after the elections for which it is intended for use.

3. Voting place. If there is a voting place within the facility, the posting place may not be located within 250 feet of the entrance to the voting place.

4. Violation. The posting of written political material under this section is not a violation of Title 21, section 1575-A, or Title 21, section 1579, subsection 7.

§3008. Reallocation of correctional facility appropriations

In administering the policy and purposes of this Title, the commissioner may expend correctional facility appropriations on committed offenders participating in halfway house, prerelease, vocational training, educational, drug treatment or other correctional programs being administered physically apart from the facilities to which the persons were originally sentenced or committed to defray the costs of the persons' participation in the programs.

§3009. Public ways and parking areas

1. Rules. The chief administrative officers of correctional facilities may promulgate and enforce rules, subject to the approval of the commissioner, governing the use of public ways and parking areas maintained by the State at the facilities.

A. The rules shall be promulgated in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

B. The Secretary of State shall forward a copy of the rules, attested under the Great Seal of the State of Maine, to the District Court in the area of jurisdiction.

2. Special police officers. The chief administrative officers of correctional facilities may appoint and employ, subject to the Personnel Law, special police officers for the purpose of enforcing rules promulgated under subsection 1.

A. The special police officers shall:

(1) Patrol all the public ways and parking areas subject to this section;

(2) Enforce rules promulgated under this section; and

(3) Arrest and prosecute violators of the rules.

B. The State Police, sheriffs, deputy sheriffs, police officers and constables who have jurisdiction over the areas in which the correctional facilities are located shall, insofar as possible, cooperate with the special police officers in the enforcement of the rules promulgated under subsection 1.

3. Court procedure. The District Court, in the areas in which the correctional facilities are located, has jurisdiction in all proceedings brought under this section.

A. The District Court shall take judicial notice of all rules promulgated under subsection 1.

B. In any prosecution for a violation of the rules, the complaint may allege the offense as in prosecutions under a general statute and need not recite the rule.

4. Prohibited acts; fines. Prohibited acts and fines under this section are governed as follows.

A. A person is guilty of a public ways or parking violation if he violates any rule promulgated pursuant to this section.

B. Upon conviction of a public ways or parking violation, a person shall pay a fine as follows:

(1) For the first offense in any calendar year, a fine of \$1;

(2) For the 2nd offense in any calendar year, a fine of \$2; and

(3) For each offense in excess of 2 in any calendar year, a fine of \$5.

C. Notwithstanding any other law, the fines and costs of court paid under this section shall inure to the municipality in which the proceedings take place.

D. Offenses not covered by the rules promulgated under subsection 1 shall be dealt with as otherwise provided by law.

ARTICLE II

COMMITTED OFFENDERS GENERALLY

§3031. Rights

Any person residing in a correctional facility has a right to:

1. Food. Nutritious food in adequate quantities;

2. Medical care. Adequate professional medical care;

3. Living conditions. An acceptable level of sanitation, ventilation and light;

4. Sleeping space. A reasonable amount of space per person in any sleeping area;

5. Exercise and recreation. A reasonable opportunity for physical exercise and recreational activities;

6. Protection from abuse. Protection against any physical or psychological abuse;

7. Area for personal effects. A reasonably secure area for the maintenance of permitted personal effects; and

8. Visitation. A reasonable opportunity to visit with relatives and friends, in accordance with departmental policies and institutional procedures, provided that the department may restrict or prohibit visits when the restriction or prohibition is necessary for the security of the institution.

§3032. Disciplinary action

The commissioner shall promulgate rules describing disciplinary offenses and punishments in correctional facilities under the general administrative supervision of the department and establishing a fair and orderly procedure for processing disciplinary complaints. The rules shall conform to the following requirements.

1. Fairness and equity. The rules shall ensure the maintenance of a high standard of fairness and equity.

2. Corporal punishment. Corporal punishment may not be imposed.

3. Segregation. The imposition of segregation at all correctional facilities, except the Maine Youth Center, shall be subject to the following conditions.

A. All punishments involving segregation shall be first approved by the chief administrative officer of the correctional facility.

B. The prisoner shall be provided with a sufficient quantity of wholesome and nutritious food.

C. Adequate sanitary and other conditions required for the health of the prisoner shall be maintained.

D. When segregation exceeds 24 hours, the chief administrative officer of the correctional facility shall cause the facility's physician or a member of the facility's medical staff to visit the person forthwith and, at least once in each succeeding 24-hour period of confinement, to examine the person's state of health.

(1) The chief administrative officer shall give full consideration to recommendations of the physician or medical staff member as to the person's dietary needs and the conditions of the person's confinement required to maintain his health.

(2) If the recommendations of the physician or medical staff member regarding a person's dietary or other health needs while in segregation are not carried out, the chief administrative officer shall send a written report of that fact to the commissioner.

(3) The segregation shall be discontinued if the physician states that it is harmful to the mental or physical health of the person.

E. If a person is held in segregation or solitary confinement for more than 5 days, the chief administrative officer shall send a report of the confinement to the commissioner, giving the reasons for the confinement.

4. Loss of earned good time. All punishments involving loss of earned good time shall be first approved by the chief administrative officer.

5. Specific facilities. Punishment at specific correctional facilities is governed as follows.

A. Punishment at all correctional facilities, except the Maine Youth Center, may consist of warnings, loss of privileges, confinement to a cell, segregation or a combination of these.

B. Punishment at the Maine Youth Center may consist of seclusion, in accordance with section 3809, warnings and loss of privileges.

6. Impartial hearing. If the punishment may affect the term of commitment, sentence or parole eligibility or may involve segregation, the chief administrative officer of the facility shall, before imposing punishment, provide an impartial hearing at which the committed offender has the following rights.

A. He is entitled to be informed in writing of the specific nature of his alleged misconduct.

B. He is entitled to the right to be present.

C. He is entitled to present evidence on his own behalf.

D. He is entitled to call one or more witnesses, which right may not be unreasonably withheld or restricted.

E. He is entitled to question any witness who testifies at the hearing, which right may not be unreasonably withheld or restricted.

F. He is entitled to be represented by counsel substitute as prescribed in the rules.

G. A record shall be maintained of all disciplinary complaints, hearings, proceedings and dispositions.

H. He is entitled to appeal the final disposition, before imposition of punishment, to the chief administrative officer of the correctional facility.

I. If, at any stage of the proceedings, he is cleared of the charges in a complaint, or the complaint is withdrawn, all documentation relating to the complaint shall be expunged.

§3033. Work assignments

1. Public works. The commissioner may authorize

the employment of able-bodied prisoners in the prison or Maine Correctional Center in the construction and improvement of highways or other public works within the State under such arrangements as may be made with the Department of Transportation or with another department or commission of the State, county or municipality in charge of these public works, and the commissioner may prescribe whatever rules and conditions he deems expedient to insure the proper care and treatment of the prisoners while so employed and to ensure their safekeeping and return.

2. Fire or disaster. The commissioner may authorize the training and use of able-bodied prisoners in the prison or in the Maine Correctional Center by the Bureau of Forestry or the Bureau of Civil Emergency Preparedness to fight fires or provide assistance during or after a civil disaster.

3. Charitable property improvement. The commissioner may authorize the use of able-bodied prisoners in the prison or Maine Correctional Center to provide assistance in the improvement of property owned by charitable organizations, as may be approved by the commissioner, if the charitable organizations pay for the transportation of the prisoners and for the transportation and per diem compensation of any guards who accompany the prisoners.

4. Prohibited act. A person is guilty of escape under Title 17-A, section 755, if he escapes from any assignments described in this section or from any other assignment beyond the walls of the prison or off the grounds of the Maine Correctional Center.

§3034. Prisoner labor

The keeper of the jail, workhouse or house of correction or, in the case of a sentence to a town farm or almshouse, the overseers of the poor of the town or the keeper or agent of the town farm or almshouse may:

1. Work requirement. Require a prisoner to labor at any lawful work within the town in which the institution is located;

2. Keeper. Appoint any suitable person keeper over the prisoner;

3. Collection of wages. Collect and receive the wages, compensation or profits of the prisoner's labor; and

4. Payment. At the expiration of his sentence, pay to the prisoner reasonable compensation for his

labor, deducting from that amount the costs of commitment.

§3035. Rehabilitative programs

The commissioner may adopt, implement and establish rules for rehabilitative programs, including work release, restitution and furlough, as authorized by Title 17-A, chapter 54, within the correctional facilities under his control.

1. Work release and restitution. The chief administrative officer of a correctional facility may permit any committed offender considered to be worthy of trust to participate in activities outside the facility under the following conditions.

A. Activities may include training and employment.

B. Activities are subject to rules promulgated by the commissioner.

C. Activities shall, in the judgment of the chief administrative officer, contribute to the reformation of the committed offender and assist in preparing him for eventual release.

2. Furlough. The commissioner may grant to a committed offender furlough from the facility in which he is confined under the following conditions.

A. Furlough may only be granted subject to rules adopted by the commissioner.

B. Furlough may be granted for not more than 10 days at one time for a visit to a dying relative, for attendance at the funeral of a relative, for the contacting of prospective employers or for any other reason consistent with the rehabilitation of a committed offender.

C. Furlough may be granted for the obtaining of medical services for a period longer than 10 days if medically required.

3. Copy of rules. Copies of rules shall be provided to committed offenders as follows.

A. The chief administrative office of a facility adopting a rehabilitative program under this section shall provide, to any committed offender permitted outside a facility under this section, a copy of the rules of the commissioner applicable to the program in which he is permitted to participate, or to his furlough.

B. The committed offender shall attest to the receipt of the copy of the rules.

4. Prohibited acts. Prohibited acts under this section are governed as follows.

A. A person who has passed his 17th birthday is guilty of interference with a rehabilitative program or furlough if he willfully obstructs, intimidates or otherwise abets any committed offender participating in a program, or on furlough, under this section, and thereby contributes or causes the committed offender to violate the terms of his program participation or furlough, after having been warned by the chief administrative officer of the facility to end the relationship or association with the committed offender.

B. Interference with a rehabilitative program or furlough is a Class E crime, except that, notwithstanding Title 17-A, the court may sentence a person to imprisonment for not more than 11 months.

§3036. Halfway house program

1. Establishment. The commissioner may promulgate rules establishing a halfway house program to provide an environment of community living and control.

2. Participation. Committed offenders at any correctional facility or at any county jail may be paroled, furloughed, transferred or entrusted to participate in the halfway house program in accordance with applicable provisions of law.

§3037. Physical and mental examination

1. Requirement. The commissioner may require a physical and mental examination of any committed offender.

2. Examiners. The commissioner shall designate competent examiners.

§3038. Administration of medication

The administration of medication in correctional facilities operated by the department shall be in accordance with rules established by the State Board of Nursing.

1. Maine Administrative Procedure Act. The State Board of Nursing shall establish rules in ac-

cordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

2. Considerations. In establishing rules for each type of facility, the State Board of Nursing shall consider, among other factors:

A. The general health of the persons likely to receive medication;

B. The number of persons served by the facility; and

C. The number of persons employed at the facility.

§3038-A. Care of children of male committed offenders

1. Commitment of child. If any male committed offender, at the time of his commitment to the Maine State Prison or the Maine Correctional Center, is the father of and has under his exclusive care any child which might otherwise be left without proper care or guardianship, the judge committing him shall cause his child to be committed to:

A. A children's home provided by law for the child's care or guardianship;

B. The care and custody of some relative or proper person willing to assume the care; or

C. The custody of the Department of Human Services.

2. Controlling statute. Any commitment of a child under this section is subject to Title 22, sections 4006, 4037, 4038, 4061 and 4063.

§3039. Committed offenders' money

When any committed offender confined in a correctional facility receives money from any source, including compensation for work authorized under other sections of the Revised Statutes or by a policy of the department, and the money or any part of it is retained to be given to the committed offender upon release:

1. Account. The money shall be placed in an interest-bearing account of the committed offender's choice; and

2. Payment. The principal and interest shall be paid to the committed offender at the time of his

release.

§3040. Committed offender's abandoned property

Any property abandoned or unclaimed by a committed offender in a correctional facility shall be disposed of according to Title 33, chapter 27.

§3041. Reduction of sentence

A prisoner in any correctional facility may have his sentence reduced by 5 days for each pint of blood donated by him to a veterans' organization, civil defense unit, blood bank, hospital, the Armed Forces of the United States or the Red Cross, or for the purpose of scientific research.

1. Applicability. The reduction of sentence is applicable to the minimum sentence of the prisoner.

2. Limitation. Each prisoner is limited to one donation every 6 months.

3. No forfeiture. Any reduction of sentence earned under this section is not subject to forfeiture.

4. Nonprofit. Blood donated under this section may not be used in any way commercially or for a profit.

5. Donor list. The chief administrative officer of the correctional facility shall keep a list of all blood donors under this section and the amounts of blood donated by each.

§3042. Disposition of detainees

1. Notice to prisoner. The commissioner, chief administrative officer or other official having custody of a prisoner serving a term of imprisonment in a correctional facility in this State shall promptly inform the prisoner in writing of:

A. The source and contents of any untried indictment, information or complaint pending in this State against the prisoner of which the commissioner, warden or other official has knowledge; and

B. The prisoner's right to request a final disposition of the untried indictment, information or complaint.

2. Right to trial. A prisoner serving a term of imprisonment in a correctional facility in this State

is entitled to be brought to trial on any untried indictment, information or complaint pending in this State against him within 180 days after giving proper notice in accordance with subsections 3 and 4.

3. Proper notice. To constitute proper notice under subsection 2, the prisoner must send to the prosecuting official of the county in which the indictment, information or complaint is pending, and to the appropriate court, the following:

A. Written notice of the place of imprisonment;

B. Written notice of the request for final disposition to be made of the untried indictment, information or complaint; and

C. A certificate of the commissioner, warden or other official having custody of the prisoner stating:

(1) The term of commitment under which the prisoner is held;

(2) The time already served on the sentence;

(3) The time remaining to be served;

(4) The amount of good time earned;

(5) The time of parole eligibility of the prisoner; and

(6) Any decisions of the State Parole Board relating to the prisoner.

4. Manner of giving proper notice. The manner of giving proper notice under subsection 2 is as follows.

A. The prisoner shall give or send the written notice of place of imprisonment and the written notice of request for final disposition to the commissioner, warden or other official having custody of him.

B. The commissioner, warden or other official having custody of the prisoner shall promptly forward the written notices, together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

5. Continuance. The court having jurisdiction of the matter may grant any necessary or reasonable

continuance for good cause shown in open court by the prisoner or his counsel.

6. Time limitation. If the prisoner is not brought to trial on the untried indictment, information or complaint within 180 days after the prisoner gave or sent proper notice under subsection 2:

A. The untried indictment, information or complaint is no longer of any force of effect;

B. No court has jurisdiction over it; and

C. The appropriate court shall enter an order dismissing it with prejudice.

7. Effect of escape. If a prisoner escapes from custody after his execution of the request for final disposition, his request is voided.

8. Exception. This section does not apply to any person adjudged to be mentally ill.

§3043. Aliens

1. Notification of immigration officer. When a person is admitted or committed to a correctional facility, a county jail or any other state, county, city or private institution which is supported wholly or in part by public funds, the chief administrative officer of the facility, jail or institution shall inquire at once into the nationality of the person and, if it appears that the person is an alien, the chief administrative officer shall notify immediately the United States immigration officer in charge of the district in which the facility, jail or institution is located, of:

A. The date of and the reason for the alien's admission or commitment;

B. The length of time for which the alien is admitted or committed;

C. The country of which the alien is a citizen; and

D. The date on which and the port at which the alien last entered the United States.

2. Copy of record to immigration officer. Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien to a correctional facility, a county jail or any other state, county, city or private institution which is

supported wholly or in part by public funds, the clerk of the court shall furnish without charge a certified copy of:

- A. The complaint, information or indictment;
- B. The judgment and sentence; and
- C. Any other record pertaining to the alien's case.

§3044. Apprehension of escapees and fugitives

1. Generally. The commissioner shall take all proper measures for, and may offer a reward for, the apprehension and return of any committed offender in any correctional institution who has escaped from the control of the department.

- A. The reward may not exceed \$100.
- B. Upon satisfactory proof that the terms of the reward offer have been complied with, the department shall pay the reward.

2. Capital crimes and high offenses. When a prisoner convicted of or charged with a capital crime or other high offense escapes from prison, or there is reasonable cause to believe that a person charged with such an offense and unapprehended for it cannot be arrested and secured in the ordinary course of proceedings, the Governor may, upon application in writing of the Attorney General or district attorney for the county in which the offense was committed, and upon terms which he deems expedient and proper, offer a suitable reward for the arrest, return and delivery into custody of the escaped prisoner or fugitive from justice.

- A. The reward may not exceed \$1,000
- B. Upon satisfactory proof that the terms of the reward offer have been complied with, the Governor may draw his warrant upon the Treasurer of State for the payment of the reward.

§3045. Unnatural death of committed offender

When the death of any committed offender in any correctional facility is not clearly the result of natural causes, an examination and inquest shall be held as in other cases, and the commissioner or the chief administrative officer of the facility shall cause a medical examiner to be immediately notified for that purpose.

ARTICLE IIITRANSFER AND REMOVAL OF COMMITTED OFFENDERS§3061. Transfer generally

When it appears to the commissioner, for reasons of availability of rehabilitative programs and the most efficient administration of correctional resources, that the requirements of any committed offender would be better met in a facility, or program other than that to which the person was originally sentenced, the commissioner may, with the written consent of the person, transfer the person to another facility, institution or program administered by or providing services to the department.

1. Juveniles. No juvenile may be transferred to a facility, institution or program for adult offenders.

2. Applicable rules. Any person transferred under this section shall be subject to the general rules of the institution, facility or program to which he is transferred, except that:

A. The term of his original sentence or commitment remains the same, unless altered by the court; and

B. The person becomes eligible for release and discharge as provided in Title 17-A, section 1254.

§3062. Transfer from the prison to a federal correctional institution

1. Requirements. The commissioner may transfer a person committed to the prison to a federal penal or correctional institution if:

A. The warden certifies in writing to the commissioner that:

(1) The person's presence may be seriously detrimental to the well-being of the prison;

(2) The person willfully and persistently refuses to obey prison rules; or

(3) The person is considered an incorrigible prisoner; and

B. The Attorney General of the United States accepts the commissioner's application for transfer of the person.

2. Contract. The commissioner may contract with the Attorney General of the United States, or such officer as the Congress may designate under the United States Code, Title 18, Section 5003 and acts supplementing and amending it, in each individual case for the care, custody, subsistence, education, treatment and training of any person transferred under this section.

A. The contract shall provide for the reimbursement of the United States in full for all costs or other expenses involved, the costs and expenses to be paid from the appropriation for the operation of the prison.

B. The warden shall affix to the contract a copy of the mittimus or mittimuses under which the prisoner is held.

C. The contract and mittimus or mittimuses are sufficient authority for the United States to hold the prisoner on behalf of the State.

3. Effect on prisoner. The rights of transferred prisoners are governed as follows.

A. A prisoner transferred under this section is subject to the terms of his original sentence or sentences as if he were serving the sentence or sentences within the confines of the prison.

B. Nothing in this section deprives a prisoner transferred under this section of his rights to parole or his rights to legal process in the courts of this State.

§3063. Transfer from the prison to the Maine Correctional Center

1. Transfer requirements. The commissioner may, upon the joint recommendation of the warden and the Superintendent of the Maine Correctional Center, transfer a prisoner in execution of sentence at the prison to the Maine Correctional Center if the transfer would be in the best interest of the transferee, of public safety or of the security and orderly administration of the facility.

A. The transferred prisoner shall serve the sentence imposed upon him by the court at the Maine Correctional Center.

B. During execution of the sentence at the Maine Correctional Center, the transferred prisoner is entitled to receive the same deductions for good time as he would have received at the prison.

2. Return requirements. The commissioner may, upon the joint recommendation of the warden and the Superintendent of the Maine Correctional Center, order a prisoner transferred under subsection 1 to be returned to the prison to continue in execution of his sentence, if the transferred prisoner is not compatible to the Maine Correctional Center program.

§3064. Transfer from the prison to the minimum security unit

The warden may, at his discretion, transfer prisoners from the prison to the Maine State Prison minimum security unit at South Warren, which is considered a part of the prison.

1. Effect on sentences. Prisoners transferred under this section are deemed to be serving their sentences as if confined within the walls of the prison.

2. Rules. Prisoners transferred under this section are subject to the same rules as prisoners confined within the walls of the prison.

3. Escape. Prisoners who escape from the minimum security unit are guilty of escape as if the escape were from the confines of the prison and are punishable in accordance with Title 17-A, section 755.

§3065. Transfer from the prison to jails

1. Requirements. The commissioner may authorize the warden to transfer as many prisoners as necessary to a jail if the warden certifies to the commissioner that there are more prisoners in the prison than can be confined there securely.

2. Jailer's compensation. The jailer who receives prisoners under subsection 1 is entitled to receive whatever compensation from the State Treasury that he and the warden agree upon.

3. Return to prison. When the prison can safely accommodate prisoners transferred under subsection 1, the warden shall transfer the prisoners back to the prison.

4. Effect on sentences. Prisoners are entitled to have the time served in jail under this section deducted from their sentences.

§3066. Transfer from the Maine Correctional Center

1. Transfer to the prison. Transfers to the prison are governed as follows.

A. The commissioner may, upon the joint recommendation of the warden and the Superintendent of the Maine Correctional Center, transfer a prisoner convicted of a Class A, Class B or Class C crime and committed to the center to the prison if:

(1) Reasons of security or overcrowding at the center so require; or

(2) In the interest of the prisoner and the public, the result is the most effective use of available correctional programs with respect to the prisoner.

B. Any prisoner transferred under paragraph A shall serve the sentence imposed on him by the court at the prison.

C. The commissioner may, upon the joint recommendation of the warden and the Superintendent of the Maine Correctional Center, return the prisoner to the center to continue in execution of his sentence, if the reasons for the transfer no longer obtain.

2. Transfer to jails. Transfers to jails are governed as follows.

A. The commissioner may authorize the Superintendent of the Maine Correctional Center to transfer as many prisoners as necessary to a jail if the superintendent certifies to the commissioner that there are more prisoners in the center than can be confined there securely.

B. The jailer who receives prisoners under paragraph A is entitled to receive whatever compensation from the State Treasury that he and the superintendent agree upon.

C. When the center can safely accommodate prisoners transferred under paragraph A, the superintendent shall transfer the prisoners back to the center.

D. Prisoners are entitled to have the time served in jail under this section deducted from their sentences.

§3067. Transfer from the Charleston Correctional Facility

1. Transfer to the prison or the Maine Correctional Center. The Director of the Charleston Correctional Facility may transfer any prisoner, in ac-

cordance with the department's classification process, to the prison or the Maine Correctional Center for reasons of security, overcrowding or failure to participate satisfactorily in the work and rehabilitative programs of the Charleston Correctional Facility.

2. Other transfers. Other transfers from the Charleston Correctional Facility are governed as follows.

A. The director may transfer prisoners to prerelease centers, work release centers, halfway houses, specialized treatment facilities or county jails to meet correctional objectives.

B. Prisoners transferred under this subsection are entitled to credit to their sentences for all time spent in county jails and other correctional facilities or programs.

§3068. Transfer from jails

The commissioner may transfer a prisoner serving a sentence in a county jail from one jail to another to serve any part of his sentence, upon request of the sheriff and approval of the county commissioners of the county of the sending jail and upon the approval of the sheriff and county commissioners of the county of the receiving jail.

1. Cost of transfer or return. The cost of the transfer or return of the prisoner shall be paid by the county of the sending jail.

2. Cost of support. The cost of the support of the prisoner in the receiving jail shall be the amount agreed upon by the county commissioners party to the transfer and shall be paid by the county of the sending jail.

§3069. Hospitalization for mental illness

1. Involuntary. When the chief administrative officer of a correctional facility believes that any person in his facility is mentally ill, requires hospitalization and meets requirements for admission, the chief administrative officer shall make application in accordance with Title 34-B, section 3863.

A. Any person with respect to whom an application and certification under Title 34-B, section 3863 are made may be admitted to either state mental health institute.

B. Except as otherwise specifically provided in

this section, Title 34-B, chapter 3, subchapter IV, Article III, is applicable to the person as if the admission of the person were applied for under Title 34-B, section 3863.

C. A copy of the document by which the person is held in the correctional facility shall accompany the application for admission.

D. If the sentence being served at the time of admission has not expired or commitment has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, he shall be returned by the appropriate officers of the correctional facility.

E. Admission to a hospital under this section has no effect upon a sentence then being served or a commitment then in effect. The sentence continues to run and the commitment remains in force, unless terminated in accordance with law.

2. Voluntary. The chief administrative officer of a correctional facility may permit a person confined in the facility to apply for informal admission to a state mental health institute under Title 34-B, section 3831.

A. Except as otherwise provided in this section, the provisions of law applicable to persons admitted to a state mental health institute under Title 34-B, chapter 3, subchapter IV, Article II, shall apply to any person confined in a correctional facility who is admitted to a state mental health institute under that section.

B. A copy of the document by which the person is held in the correctional facility shall accompany the application for admission.

C. If the sentence being served at the time of admission has not expired or commitment has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, he shall be returned by the appropriate officers of the correctional facility.

D. Admission to a mental health institute under this section has no effect upon a sentence then being served or a commitment then in effect. The sentence continues to run and the commitment remains in force, unless terminated in accordance with law.

§3070. Hospitalization for mental retardation

1. Application. When the chief administrative officer of a correctional facility believes that any person confined in his facility is mentally retarded and in need of services available at the Pineland Center and is a proper subject for admission to the Pineland Center, he shall apply in writing for the admission of the person.

A. A copy of the document by which the person is held in the correctional facility shall accompany the application for admission.

B. Admission to the Pineland Center shall be effected in accordance with Title 34-B, sections 5473 to 5478.

2. Unexpired sentence. If the sentence being served at the time of admission has not expired or commitment has not been terminated in accordance with law at the time the person is ready for discharge from the Pineland Center, he shall be returned by the appropriate officers of the correctional facility.

3. Expired sentence. If, at the time of expiration of the original sentence or termination of the commitment, it is the opinion of the Superintendent of the Pineland Center that the patient should remain in residence at the Pineland Center after expiration of sentence or termination of commitment, the patient may be readmitted to the Pineland Center in accordance with Title 34-B, sections 5473 to 5478.

4. Effect on sentence. The sentences of hospitalized prisoners are governed as follows.

A. Admission to a hospital under this section has no effect upon a sentence then being served or a commitment then in effect.

B. The sentence continues to run and the commitment remains in force, unless terminated in accordance with law.

§3071. Removal for disease

1. Dangerous diseases. Removal of prisoners afflicted with dangerous diseases is governed as follows.

A. If a prisoner in a jail, house of correction or workhouse is attacked with a disease which the local health officer, by medical advice, considers dangerous to the safety and health of other prisoners or of the inhabitants of the town, the local health officer shall, by written order,

direct the person's removal to some place of safety, to be securely kept and provided for until the officer's further order.

B. If the person recovers from the disease, he shall be returned to his place of confinement.

C. A removal under this section may not be deemed an escape.

D. If the diseased person was committed to the place of confinement by an order of court or judicial process, the local health officer shall send to the office of the clerk of the court from which the order or process was issued:

(1) The order for the diseased person's removal or a copy of the order attested by the local health officer; and

(2) A statement describing the actions taken pursuant to the order.

2. Contagious diseases. If a pestilence or contagious disease breaks out among the committed offenders in any correctional facility or county jail, the commissioner may:

A. Cause any of the committed offenders to be removed to some suitable place of security where they shall receive all necessary care and medical attention; and

B. Cause the committed offender or offenders to be returned as soon as possible to the jail or institution to be confined according to their sentences, if unexpired.

3. Tuberculosis. The commissioner may transfer committed offenders in any correctional institution who are afflicted with tuberculosis to state sanatoriums.

A. When a committed offender in a correctional facility becomes afflicted with tuberculosis so that the welfare of the committed offender or the safety of the other committed offenders in the facility requires his removal, the commissioner, with the approval of the Governor, may cause the committed offender to be removed to one of the state sanatoriums to be kept and treated until he may be safely returned to the correctional facility.

B. The officers of state sanatoriums shall give preference in the admission of new patients to

persons transferred under this subsection.

SUBCHAPTER II

MAINE STATE PRISON

ARTICLE I

GENERAL PROVISIONS

§3201. Maintenance

The commissioner shall maintain the Maine State Prison at Thomaston, in Knox County, as the prison and penitentiary of the State, and shall confine, employ and govern persons lawfully committed to the prison, as provided by law.

ARTICLE II

PRISON OFFICIALS AND PERSONNEL

§3231. Warden

The chief administrative officer of the Maine State Prison is called the warden.

1. Appointment. The commissioner shall appoint and set the salary for the warden.

A. The warden's appointment shall be subject to the Personnel Law.

B. The appointment shall be for an indeterminate term and until a successor is appointed and qualified or during the pleasure of the commissioner.

2. Residence. The warden shall reside constantly within the prison.

3. Duties. In addition to other duties set out in this Title, the warden has the following duties.

A. Under the direction and control of the commissioner, the warden shall have the care, custody and charge of the prison, the prisoners in the prison, in conformity to their sentences, and the lands, buildings, machines, tools, stock, provisions and every other kind of property belonging to or within the prison.

B. The warden shall cause all rules of the prison to be strictly and promptly enforced.

C. The warden shall observe and oversee the conduct of the prisoners.

D. The warden shall have command of all the force for guarding the prison, and all officers and persons employed under him in overseeing, guarding and governing it.

E. The warden shall constantly keep on hand a suitable and sufficient supply of arms and ammunition.

F. The warden shall give the commissioner immediate information of any officer who refuses or neglects to enforce the discipline established and shall remove forthwith any such officer.

G. The warden shall cause a record to be kept of all punishments imposed upon prisoners at the prison, as provided in section 3032 and in rules of the prison, setting forth the reasons for the imposition of the punishments.

H. The warden shall serve, execute and return all processes within the exterior walls of the prison yard.

(1) All processes shall be directed to the warden.

(2) Both the warden and his designee are answerable for the actions of the designee.

(3) The warden shall charge the same fees as sheriffs for serving, executing and returning processes.

I. The warden shall, on demand of an officer having a writ commanding him to replevy from the warden's possession any goods or chattels of a private individual who is not a prisoner, expose the goods and chattels outside the prison yard so that they may be replevied.

(1) The officer shall pay the warden a reasonable charge for the removal of the goods and chattels.

(2) The officer shall tax that charge in his fees on the writ.

J. The warden shall be the contracting agent for all sales of articles from the prison, for the letting to hire of such prisoners as the commissioner deems expedient and for all other contracts made on account of the prison, except those made by the State Purchasing Agent.

(1) All contracts shall be made in the man-

ner prescribed by the commissioner.

(2) No contract may be accepted by the warden, unless the contractor gives satisfactory security for its performance.

(3) No officer of the prison may be directly or indirectly interested in any contract.

(4) Notwithstanding the language of this paragraph, the warden may authorize the sale of articles produced at the prison and may authorize any person or business entity purchasing articles from the prison to resell those articles if the person or entity requests in writing that authority from the warden at the time the initial purchase is made.

K. The warden shall receive and take care of any property that a person has with him at the time he enters the prison, keep an account of the property and give the property back to the person on his discharge.

L. Upon the advice of the prison physician and in other cases when he deems it necessary, the warden shall cause any sick prisoner to be removed forthwith to a hospital, where the prisoner shall receive such care, attention, medicine and diet as his situation requires, until the prison physician determines that the prisoner may leave the hospital without injury to his health.

M. The warden shall cause all articles and goods manufactured at the prison for sale to be distinctly labeled or branded with the words "Manufactured at the Maine State Prison."

N. The warden may not carry on or be concerned in trade or commerce during his continuance in office.

4. Powers. In addition to other powers granted in this Title, the warden has the following powers.

A. The warden may require all officers and other citizens to aid him in suppressing an insurrection among the prisoners in the prison and in preventing their escape or rescue from the prison or from any other legal custody or confinement.

B. The warden may transport prisoners to induction centers whenever necessary to comply with rules of selective service, and in so doing shall

take such measures as the commissioner feels are necessary for the public safety.

C. If any subordinate officer is guilty of negligence or unfaithfulness in the discharge of his duties or of a violation of any of the laws or rules for the government of the prison and, if the commissioner approves, the warden may deduct from the wages of the subordinate officer a sum not exceeding a month's pay.

D. Under the direction of the commissioner, the warden may sell and convey any real estate to which he acquires title in the adjustment of debts in behalf of the State.

5. Civil process or execution. The warden may not be arrested on any civil process or execution while in office, but execution upon any judgment against him personally, and not in his official capacity, may be issued against his goods and estate only.

A. If the execution is returned unsatisfied, the creditor may file with the Governor a copy of the execution and return and may serve on the warden a copy of that copy attested by the Secretary of State, with a notice under the Secretary of State's hand of the day on which the copy was filed.

B. If the warden does not, within 40 days after the day of service of the copy, pay the creditor his full debt, with reasonable costs for copies and service of the copies, the commissioner shall remove the warden from office.

C. When the person appointed warden ceases to be warden, alias executions may be issued against his body or property as in other cases.

§3232. Deputy warden

1. Appointment. The warden shall appoint deputy wardens subject to the Personnel Law.

2. Unavailability of warden. When the warden is absent from the prison or unable to perform the duties of his office, the deputy warden designated by the warden has the powers, duties, obligations and liabilities of the warden.

§3233. Prison employees

1. Duties. Prison employees have the following duties.

A. Prison officers shall perform the services in the managing, superintending and guarding of the prison as prescribed by the rules or as directed by the warden.

B. If a prisoner at the prison resists the authority of any uniformed or ununiformed officer or refuses to obey his lawful commands, the officer shall immediately enforce obedience.

2. Powers. Prison employees have the following powers.

A. Employees of the prison have the same power as sheriffs in their respective counties to search for and apprehend escapees from the prison, when authorized to do so by the warden.

B. Employees of the prison, when authorized by the warden, may carry weapons inside and outside the prison in connection with their assigned duties or training.

3. Uniforms. Prison employee uniforms are governed as follows.

A. Employees of the prison may be provided, at the expense of the State, with distinctive uniforms for use when required for the performance of their official duties and which shall remain the property of the State.

B. Employees of the prison may be provided with an equivalent clothing allowance when the private purchase of special clothing is similarly required for the performance of their official duties.

§3234. Overseers

1. Employment. When practicable, the warden shall employ persons having suitable knowledge and skill in the fields of labor and manufacture carried on in the prison to supervise activities in those fields assigned to them by the warden.

2. Services. Persons employed under subsection 1 shall perform the services in the managing, supervising and guarding of the prison as prescribed by the prison rules or as directed by the warden.

§3235. Physician

1. Appointment. The warden shall appoint some suitable person as physician of the prison.

2. Duties. The prison physician has the following duties.

A. The prison physician shall visit the prison as necessary to attend and prescribe for sick prisoners and, when requested by the warden, shall determine their ability to work.

B. The prison physician shall advise the warden when the illness of any prisoner requires his removal to a hospital.

§3236. Chaplain

1. Appointment. The warden shall appoint suitable persons as chaplains.

2. Duties. The prison chaplains shall, in accordance with the rules of the prison:

A. Conduct religious services;

B. Visit the sick;

C. Labor diligently and faithfully for the mental, moral and religious improvement of the prisoners; and

D. Aid the prisoners, when practicable, in obtaining employment after their discharge.

3. Powers. The chaplains may, with the assent of the warden, establish a religious educational program and may admit persons of proper character from outside the prison to assist in it.

ARTICLE III

PRISONERS

§3261. Delivery of convicted men to the prison

When a male person is convicted and sentenced to the prison from any county:

1. Duties of clerk of court. The clerk of the sentencing court shall immediately notify the warden and the sheriff of the county in which the sentencing court is located;

2. Duties of the sheriff. The sheriff of the county in which the sentencing court is located shall:

A. Transport the convict to the prison, using a sufficient number of his appointed deputies when

necessary; and

B. Deliver the convict to the officer in charge of the prison before 4 p.m. on any day, accompanied by a duly signed warrant of commitment and record, as provided by Title 15, section 1707;

3. Duties of the jail keeper. When, during the conveyance of a convict to the prison in pursuance of his sentence, it is necessary or convenient to lodge him for safekeeping in a jail until the remainder of the conveyance can be conveniently performed, the keeper of the jail shall:

A. Receive and safely keep and provide for the convict, reasonable charges and expenses for this service to be paid from the State Treasury; and

B. Deliver the convict to the custody of the person employed to convey him, when that person calls for the convict; and

4. Duties of the warden. The warden shall:

A. File the warrant and record, as provided by Title 15, section 1707, with his return thereon in his office; and

B. Cause a copy of the warrant of commitment to be filed in the office of the clerk of court from which it was issued.

§3262. Receipt of United States prisoners

1. Requirements. A prisoner convicted of an offense against the United States and committed for a term of imprisonment in excess of one year to the custody of the Attorney General of the United States may be received in the prison, if:

A. The Attorney General of the United States designates the prison as the place of confinement for the prisoner; and

B. The commissioner approves and agrees to accept the prisoner to be kept in the prison in pursuance of his sentence.

2. Contracts. Contracts for the receipt of United States prisoners are governed as follows.

A. The commissioner may contract with the Attorney General of the United States or such officer as the Congress may designate for the care, custody, subsistence, education, treatment and training of any prisoner accepted under this

section.

B. All sums paid pursuant to contracts authorized under this section shall accrue to the General Fund.

§3263. Sentence duration

1. Commencement of sentence. A prisoner's sentence begins on the day he is received into the prison and that day is counted as the first full day of the sentence.

2. Discharge from sentence. The warden shall discharge a prisoner from his sentence only when the prisoner:

A. Has served the full term for which he was sentenced, except that, if the computation of a prisoner's sentence fixes his release or discharge date on a Saturday, Sunday or legal holiday, the warden may release or discharge the prisoner on the last regular business day of the prison preceding that Saturday, Sunday or legal holiday;

B. Has been pardoned; or

C. Has been otherwise released by legal authority.

§3264. Conditions of imprisonment

Prisoners in the prison, including prisoners transferred under section 3066, shall work at tasks normal to the maintenance, service, industrial, agricultural and other activities of the prison.

§3265. Disciplinary action

1. Hard labor. The warden may subject a prisoner, including a prisoner transferred under section 3066, to confinement at hard labor only for the purposes of prison discipline and government and control of the prisoners.

2. Segregation. The warden may subject a prisoner, including a prisoner transferred under section 3066, to segregation only for the purposes of prison discipline and government and control of the prisoners.

§3266. Prisoner employment and training

1. Minimum security unit. The warden may establish a vocational training program at the minimum

security unit to provide prisoners skills designed to assist in the acquisition and retention of employment following parole or discharge.

2. Leased facilities. The warden may employ or provide training for prisoners in minimum security facilities conducted on leased land in towns within Knox County, and may detain and house the prisoners in the barracks at the minimum security unit at South Warren.

3. Effect on sentences. Prisoners in training or employed under programs established under subsection 2 are deemed to be serving their sentences as if confined in the minimum security unit.

4. Rules. Prisoners in training or employed under programs established under subsection 2 are subject to the same rules as prisoners confined in the minimum security unit.

5. Escape. Prisoners who escape from the Maine State Prison minimum security unit, or from land leased by the warden while they are in training or employed under programs established under subsection 2, are guilty of escape as if the escape were from the confines of the prison and are punishable in accordance with Title 17-A, section 755.

§3267. Funerals and deathbed visits

At the discretion of the warden, a prisoner at the prison may attend the funeral of his natural or adoptive mother, father, son or daughter, of his wife, his brothers or sisters, or may be permitted one supervised deathbed visit to any of those persons, if the funeral or visit is held within the State.

1. Certification of terminal illness. Before a deathbed visit is permitted, terminal illness must be certified by the attending physician.

2. Costs. The prisoner, if able, shall pay the cost of transportation and the per diem compensation of the accompanying officer.

§3268. Discharge or parole

When any prisoner is paroled or discharged, the warden:

1. Clothing. Shall ensure that he is provided with decent clothing;

2. Money. May give him no more than \$50, except

that the warden may not give money to a prisoner who:

A. Has, within the 6 months prior to the date of his parole or discharge, transferred from his account to any person more than \$500, plus money necessary to the support of his dependents and the payment of his creditors; or

B. Has, on the date of his parole or discharge, more than \$500 in his account; and

3. Transportation. Shall furnish transportation to the place where the prisoner was convicted, except that:

A. If the prisoner's home is within the State, the warden shall furnish transportation to his home;

B. If the prisoner has secured employment within the State, the warden shall furnish transportation to the place of employment;

C. If the prisoner's home is outside the State, the warden shall furnish transportation to the place on the Maine border nearest to his home; and

D. If the prisoner has secured employment outside the State, the warden shall furnish transportation to the place on the Maine border nearest the place of employment.

SUBCHAPTER III

MAINE CORRECTIONAL CENTER

§3401. Establishment

There is established the Maine Correctional Center, formerly known as the Men's Correctional Center, located at South Windham for the confinement and rehabilitation of the following persons:

1. Men. Men over the age of 18 years who have been duly sentenced and committed to the center;

2. Women. Women who have been duly sentenced to the prison or the center and committed to the center; and

3. Pretrial detainees. Pretrial detainees who have been committed to the center.

§3402. Superintendent

1. Chief administrative officer. The chief

administrative officer of the Maine Correctional Center is called the superintendent.

2. Duties. In addition to other duties set out in this Title, the superintendent shall supervise and control the prisoners, pretrial detainees, employees, grounds, buildings and equipment at the center.

3. Powers. In addition to other powers granted in this Title, the superintendent has the following powers.

A. The superintendent may appoint 2 assistant superintendents, subject to the Personnel Law. An assistant superintendent designated by the superintendent has the powers, duties, obligations and liabilities of the superintendent when the superintendent is absent from the center location or is unable to perform the duties of the office.

B. The superintendent may, with the written approval of the commissioner, contract with the Director of the Federal Bureau of Prisons acting pursuant to the United States Code, Title 18, Section 4002, for the imprisonment, subsistence, care and proper employment of persons convicted of crimes against the United States, and may receive and detain such persons pursuant to the contracts.

§3403. Prisoners generally

1. Conditions of confinement. Conditions of confinement of prisoners are governed as follows.

A. The superintendent shall detain and confine all persons committed to the center in accordance with the sentences of the courts and with the rules of the center.

B. The superintendent shall provide for the safekeeping or employment of persons committed to the center in order to teach them a useful trade or profession and to improve their mental and moral condition.

2. Housing. The superintendent shall maintain separate housing facilities for men and women.

3. Convicted boundover juveniles. Nothing in this subchapter may be construed to prevent the sentencing of convicted boundover juveniles to other correctional facilities in this State.

§3404. Pregnant women

If any woman is, at the time of her commitment to the center, pregnant with a child which will be born after her commitment, the custody of the child, at the instance of the commissioner, shall be determined in accordance with Title 22, chapter 1071.

§3405. Maine Correctional Center employees

1. Powers. Employees of the center have the same power as sheriffs in their respective counties to search for and apprehend escapees from the center, when authorized to do so by the superintendent.

2. Uniforms. Maine Correctional Center employee uniforms are governed as follows.

A. Employees of the center may be provided, at the expense of the State, with distinctive uniforms for use when required for the performance of their official duties and which shall remain the property of the State.

B. Employees of the center may be provided with an equivalent clothing allowance when the private purchase of special clothing is similarly required for the performance of their official duties.

§3406. Land grants to the Department of Conservation

The following lands of the former Women's Correctional Center at Skowhegan are granted to the bureaus of the Department of Conservation as follows.

1. Land grant to Bureau of Public Lands. All of the open land and timberland north of Norridgewock Avenue, excluding the land immediately adjacent to the institutional buildings, is transferred to the Bureau of Public Lands, which shall actively manage the timberlands as a working forest.

2. Land grant to Bureau of Parks and Recreation. All the land lying between Norridgewock Avenue and the Kennebec River, with the exception of the sewerage treatment plant and access thereto, is transferred to the Bureau of Parks and Recreation to be managed by the bureau.

SUBCHAPTER IV

CHARLESTON CORRECTIONAL FACILITY

§3601. Establishment

There is established the Charleston Correctional

Facility located at Charleston for the confinement and rehabilitation of persons who have been duly sentenced and committed to the Maine Correctional Center or to the prison.

§3602. Purposes

The purposes of the Charleston Correctional Facility include vocational and academic education and work involving public restitution.

§3603. Director

1. Chief administrative officer. The chief administrative officer of the Charleston Correctional Facility is called the director and is responsible to the commissioner.

2. Duties. In addition to other duties set out in this Title, the director has the following duties.

A. The director shall exercise proper supervision over the employees, grounds, buildings and equipment at the Charleston Correctional Facility.

B. The director shall supervise and control the prisoners at the Charleston Correctional Facility in accordance with departmental rules.

3. Powers. In addition to other powers granted in this Title, the director may appoint one assistant director, subject to the Personnel Law, and the assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform his duties.

§3604. Prisoners generally

1. Evaluation. Before assignment to the Charleston Correctional Facility, prisoners must be evaluated for security status, program needs and emotional stability by the classification process at the Maine Correctional Center or the prison.

2. Transferred prisoners. All prisoners transferred to the Charleston Correctional Facility shall be detained and confined in accordance with the sentences of the court and the rules of the department.

3. Education. The director shall maintain suitable courses for academic and vocational education of the prisoners.

A. The director shall maintain necessary equipment and employ suitable qualified instructors as

necessary to carry out the objectives of the facility's programs.

B. Before employing instructors in vocational education, the director shall obtain the approval of the Department of Educational and Cultural Services.

4. Employment. The commissioner may authorize the employment of prisoners of the Charleston Correctional Facility on public works with any department, agency or entity of the State, county or local government and may authorize the use of prisoners to provide assistance in the improvement of property owned by nonprofit organizations.

A. The commissioner shall promulgate such rules as he deems proper to ensure the care and treatment of the prisoners and the safe working conditions of prisoners and departmental employees.

B. The purpose of the employment authorized in this subsection is to provide training to the prisoner and to be a form of public restitution for the crime or crimes committed by the prisoner.

C. The prisoners employed under this subsection may not be compensated monetarily for the work performed.

D. The commissioner may request that nonprofit organizations pay for the transportation of the prisoners and pay the per diem compensation of correctional officers or instructors who must accompany the prisoners or oversee the work to be performed.

5. Escape. Any prisoner who escapes from the facility, or from any assignment beyond the grounds of the facility, is guilty of escape under Title 17-A, section 755.

§3605. Charleston Correctional Facility employees

Employees of the Charleston Correctional Facility have the same power as sheriffs in their respective counties to search for and apprehend escapees from the facility, when authorized to do so by the director.

SUBCHAPTER V

MAINE YOUTH CENTER

§3801. Establishment

The State shall maintain the Maine Youth Center located at South Portland.

1. Coeducational. The center shall be coeducational.

2. Separate housing. The center shall fully separate the housing facilities for boys and girls.

§3802. Purposes

1. Statement. The purposes of the Maine Youth Center are:

A. To detain juveniles prior to Juvenile Court appearances on court order that the juvenile be securely detained;

B. To administer court-ordered diagnostic evaluations pursuant to Title 15, section 3309-A, and court-ordered examinations pursuant to Title 15, section 3318; and

C. To rehabilitate juveniles committed to it on being adjudicated as having committed a juvenile crime under Title 15, section 3310, subsection 5.

2. Accomplishment. To accomplish the purposes set out in subsection 1, the disciplines of education, casework, group work, psychology, psychiatry, medicine, nursing, vocational training and religion as they are related to human relations and personality development shall be employed.

§3803. Superintendent

The chief administrative officer of the Maine Youth Center is called the superintendent.

§3804. Superintendent's powers

In addition to other powers granted in this subchapter, the superintendent has the following powers.

1. Juvenile clients. The superintendent has all the power which a guardian has over his ward and which a parent has over his child as to the person, property, earnings and rehabilitation of every juvenile client. Each juvenile client is under the direction of the superintendent, subject to rules of the department, except that:

A. If a juvenile client is or becomes 18 years of age while still under commitment, the statu-

tory guardianship of the superintendent over him shall terminate; but

B. The juvenile client remains subject to the control of the superintendent, staff and rules of the center until the expiration of the period of commitment or until discharge from the center.

2. Assistant superintendents. The superintendent may appoint 2 assistant superintendents, subject to the Personnel Law.

A. An assistant superintendent designated by the superintendent has the powers, duties, obligations and liabilities of the superintendent when the superintendent is absent from the center or unable to perform the duties of the office.

B. If there are no assistant superintendents, another employee designated by the superintendent has the powers, duties, obligations and liabilities of the superintendent in the circumstances described in paragraph A.

§3805. Commitment

1. Eligibility. Only a juvenile, as defined in Title 15, section 3003, subsection 14, who is 11 years of age or older at the time of the court's disposition of the case may be committed to the center pursuant to this subchapter and Title 15, Part 6.

2. Limitations. No person may be committed to the center who is blind or who is a proper subject for the Augusta Mental Health Institute, the Bangor Mental Health Institute or the Pineland Center.

3. Certification. When a person is committed to the center, the court making the commitment shall certify on the mittimus the person's birthplace, parentage and legal residence.

§3806. Federal juvenile offenders

The commissioner may contract with the Attorney General of the United States for the confinement and support in the Maine Youth Center of juvenile offenders against the laws of the United States in accordance with the United States Code, Title 18, Sections 706 and 707.

§3807. Human services' custody

1. Suspension. When the custody of a child at the time of commitment is in the Department of Human

Services, that custody shall be temporarily suspended while the child is in the Maine Youth Center.

2. Reversion. Upon discharge from the Maine Youth Center, the custody of the child shall revert to the Department of Human Services, if the child is still under 18 years of age.

§3808. Overcrowding

When the superintendent reports that overcrowding exists at the center, the commissioner may, with the approval of the Governor, authorize the use of any available facilities at the location in Hallowell formerly known as the Stevens School and Women's Correctional Center.

§3809. Seclusion

1. Generally. When a juvenile client's behavior presents a high likelihood of harm to himself or to others, presents a substantial and imminent threat of destruction of property or demonstrates a proclivity to absent himself from the center without leave, the juvenile client may be placed in seclusion if he has demonstrated that anything less restrictive would be ineffectual in the control of his behavior.

2. Conditions. The use of seclusion is subject to the following conditions.

A. The use of seclusion shall be first approved by the superintendent.

B. The juvenile client shall be provided with a sufficient quantity of wholesome and nutritious food.

C. Adequate sanitary and other conditions required for the health of the juvenile client shall be maintained.

D. The use of seclusion may not exceed the period of time necessary to alleviate and prevent the reoccurrence of the behavior described in subsection 1.

E. When seclusion exceeds 12 hours, the superintendent shall cause the center physician or a member of the center medical staff to visit the juvenile client forthwith and at least once in each succeeding 24-hour period the client remains in seclusion, to examine the client's state of health.

(1) The superintendent shall give full con-

sideration to recommendations of the physician or medical staff member as to the juvenile client's dietary needs and the conditions of his confinement required to maintain his health.

(2) Use of seclusion shall be discontinued if the physician states that it is harmful to the mental or physical health of the juvenile client.

F. Seclusion may not exceed 72 hours without the commissioner's approval, which shall:

(1) Be in writing;

(2) State the reasons for the approval; and

(3) Be kept on file.

G. If the recommendations of the physician or medical staff member regarding the juvenile client's dietary or other health needs while in seclusion are not carried out, the superintendent shall send a written justification to the commissioner.

§3810. Entrustment

1. Superintendent's powers. During a juvenile client's commitment to the center, the superintendent may, at his discretion:

A. Keep the juvenile client at the center; or

B. Upon prior mutual agreement, entrust the juvenile client, for a period not exceeding the term of his commitment, to the care of:

(1) Any suitable person or persons;

(2) The Division of Probation and Parole;

(3) The Department of Human Services; or

(4) Some other public or private child care agency.

2. Reports. As often as the superintendent requires, the person or agency to whom the juvenile client is entrusted shall report to the superintendent:

A. The progress and behavior of the juvenile client, whether or not the juvenile client remains under the care of the person or agency;

and

B. If the juvenile client is not under the care of the person or agency, where the client is.

3. Center services. The superintendent shall provide aftercare and entrustment services to juvenile clients.

4. Cancellation. If the superintendent is satisfied at any time that the welfare of the juvenile client will be promoted by return to the center, the superintendent may cancel the trust and resume charge of the client with the same powers as before the trust was made.

§3811. Return to the center

When a juvenile client who has been placed on entrustment or who has absented himself from the center without leave is taken into custody for the purpose of return to the center by an officer or employee of the center, at the direction of the superintendent, or by a law enforcement officer, at the request of the superintendent, and because of the juvenile client's distance from the center at the time of being taken into custody, it becomes necessary to detain the client overnight:

1. Temporary detention. The juvenile client may be temporarily detained in a county jail; and

2. Return. The juvenile client shall be returned to the center on the day after being taken into custody, except that, if traveling conditions are unsafe, the client shall be returned to the center at the earliest possible time.

§3812. Discharge

1. Duty. The superintendent shall cause a juvenile client to be discharged from the center:

A. When the client becomes 21 years of age; or

B. When the superintendent determines that the client has benefited optimally from the services and facilities of the center.

2. Power. The superintendent may cause a juvenile client to be discharged from the center when the superintendent determines that discharge is in the best interest of the client.

CHAPTER 5

PROBATION AND PAROLE

SUBCHAPTER I

GENERAL PROVISIONS

§5001. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Board. "Board" means the State Parole Board.
2. Director. "Director" means the Director of Probation and Parole.
3. Division. "Division" means the Division of Probation and Parole under the Department of Corrections.
4. Fine. "Fine" includes court costs whenever applicable.
5. Juvenile. "Juvenile" means a person under the age of 18 years or a person who is alleged to have committed, while under the age of 18 years, any acts or offenses covered by Title 15, Part 6, regardless of whether, at the time of the proceeding, the person is of the age of 18 years or over.
6. Parole. "Parole" is a release procedure by which a person may be released from a correctional facility by the State Parole Board prior to the expiration of his maximum term, parole status being in effect under Title 17-A, section 1254, subsection 3, with all provisions of prior laws governing parole continuing in effect.
7. Probation. "Probation" means a procedure under which a person found guilty of an offense is released by the court, without being committed to a correctional facility, or with or without commitment to jail or fine, subject to conditions imposed by the court.

§5002. Pardons by the Governor

This chapter does not deprive the Governor of the power to grant a pardon or commutation to any person sentenced to a correctional facility.

§5003. Prohibited acts

1. Interference with probation. A person 18

years of age or older is guilty of interference with probation if he willfully obstructs, intimidates or otherwise abets a probationer under the supervision and control of the division and thereby causes or contributes to causing the probationer to violate the conditions of his probation, after having been warned in writing by the director to end his relationship or association with the probationer.

A. Interference with probation is a Class E crime, except that, notwithstanding Title 17-A, it shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

B. This subsection applies to interferences with the probation of probationers who are under the supervision and control of the division at the request of other states under terms of the Uniform Act for Out-of-State Parolee Supervision.

2. Interference with parole. A person 18 years of age or older is guilty of interference with parole if he willfully obstructs, intimidates or otherwise abets a parolee under the supervision and control of the division and thereby causes or contributes to causing the parolee to violate the conditions of his parole, after having been warned in writing by the director to end his relationship or association with the parolee.

A. Notwithstanding Title 17-A, section 4-A, interference with parole shall be punished by a fine of not more than \$500 or by imprisonment for not more than 11 months, or by both.

B. This subsection applies to interferences with the parole of parolees who are under the supervision and control of the division at the request of other states under terms of the Uniform Act for Out-of-State Parolee Supervision.

SUBCHAPTER II

PAROLE BOARD

§5201. Establishment

There is established within the Department of Corrections a State Parole Board consisting of 5 members.

§5202. Appointment

The Governor shall appoint as the 5 members of

the board persons who:

1. Citizens and residents. Are citizens and residents of the State; and

2. Training or experience. Have special training or experience in law, sociology, psychology or related branches of social science.

§5203. Terms

The terms of the members of the board are:

1. Four years. Four years plus the time period until their successors have been appointed and qualified; or

2. Pleasure of Governor. During the pleasure of the Governor.

§5204. Vacancy

A vacancy on the board shall be filled for the unexpired term in the same manner in which an appointment is made.

§5205. Expenses

The members of the board shall be paid \$25 per day and necessary expenses for each day actually spent in the work of the board.

§5206. Meetings

1. Chairman. The members of the board shall elect a chairman who shall preside at all meetings of the board when he is present.

2. Frequency. The board shall meet at least once every 2 months and may meet as often as necessary, at such times and places as the chairman may designate.

3. Quorum. Any 3 members constitute a quorum for the exercise of all powers of the board.

§5207. Cooperation

The Department of Human Services, Department of Corrections and officers and staffs of correctional facilities and law enforcement agencies in the State shall cooperate with the board in exercising its powers and duties.

§5208. Annual report

1. Board secretary's duty. The secretary of the board shall, after June 30th of each year, send to the commissioner a detailed report of the work of the board and of the probation and parole activities of the division for the preceding fiscal year.

2. Commissioner's duty. The commissioner shall send the annual report to the Governor for submission to the Legislature.

§5209. Administrative assistant

1. Appointment. The board shall appoint a full-time administrative assistant to serve at the pleasure of the board.

2. Compensation. The administrative assistant is entitled to compensation in an amount to be determined by the Governor.

3. Duties. The administrative assistant shall perform those duties assigned to him by the board.

4. Powers. The administrative assistant may, subject to the rules of the board, conduct a preliminary hearing with a committed offender at any correctional facility and make written recommendations to the board concerning disposition.

§5210. Duties

The board shall:

1. Time of parole. Determine the time of parole for each committed offender;

2. Parole revocation. Revoke parole when warranted due to a parole violation;

3. Discharge from parole. Determine the time of discharge of parolees from parole supervision; and

4. Advice to Governor. When requested by the Governor, advise him concerning applications for pardon, reprieve or commutation.

A. The board shall hold hearings, cause an investigation to be made and collect records to determine the facts and circumstances of a committed offender's crime, his past criminal record, his social history and his physical and mental condition as may bear on the application.

B. The board shall make recommendations regard-

ing action by the Governor on the application.

C. All information obtained under this subsection, and any report furnished to the Governor under this subsection, is confidential.

§5211. Powers

1. Rules. The board may promulgate rules, in accordance with the Administrative Procedure Act, Title 5, chapter 375, pertaining to its functions set out in this chapter.

2. Restitution. The board may authorize and impose as a condition of parole that the person make restitution to his victim or other authorized claimant in accordance with Title 17-A, chapter 54.

3. Quasi-judicial powers. The board, or any member of the board, may, in the performance of official duties:

A. Issue subpoenas;

B. Compel the attendance of witnesses;

C. Compel the production of books, papers and other documents pertinent to the subject of its inquiry; and

D. Administer oaths and take the testimony of persons under oath.

4. Grant or denial of parole. The board may grant or deny parole in accordance with the following procedures.

A. If the recommendation of the administrative assistant under section 5209, subsection 4, is to grant parole, the board may make a final decision granting parole without a hearing.

B. If the recommendation of the administrative assistant is to deny parole, the board shall afford the committed offender a hearing before the board and the board may not deny parole without affording the committed offender a hearing.

SUBCHAPTER III

DIVISION OF

PROBATION AND PAROLE

§5401. Establishment

There is established within the Department of Corrections a Division of Probation and Parole which is charged with the administration of probation and parole services within the State:

1. Director. The division is under the direction of the Director of Probation and Parole.

2. Employees. The division consists of field probation and parole officers, juvenile caseworkers and of such other administrative employees as may be necessary in carrying out its functions.

§5402. Director

1. Appointment. The commissioner shall appoint the Director of Probation and Parole, subject to the Personnel Law.

2. Duties. The director shall:

A. Promulgate and enforce rules for the field probation and parole service, juvenile caseworkers and parole officers in correctional facilities;

B. Appoint, subject to the Personnel Law, district probation and parole supervisors, field probation and parole officers and such other employees as may be required to carry out adequate supervision of all probationers and of all parolees from the correctional facilities;

C. Prescribe the powers and duties of persons appointed under paragraph B;

D. Provide necessary investigation of any criminal case or matter, including presentence investigation, when requested by the court having jurisdiction;

E. Provide investigation when requested by the board;

F. Cooperate closely with the board, the criminal and juvenile courts, the chief administrative officers of correctional facilities and other correctional facility personnel;

G. Make recommendations to the board in cases of violations of the conditions of parole;

H. Issue warrants for the arrest of parole violators;

I. Notify the chief administrative officers of correctional facilities of determinations made by the board;

J. Divide the State into administrative districts and staff the districts;

K. Provide instruction and training courses for probation and parole officers and for juvenile caseworkers; and

L. Be executive officer and secretary of the board.

3. Powers. The director may:

A. Provide necessary specialized services and procedures for the constructive rehabilitation of juveniles;

B. Obtain psychiatric, psychological and other necessary services;

C. Sign documents, including warrants and extradition papers, for the board when so instructed by the board; and

D. With the approval of the commissioner, in special instances and in the absence or illness of the Assistant Director of Probation and Parole, delegate any responsibilities of the assistant director to a district supervisor.

(1) This delegation shall not exceed 20 working days.

(2) During the period of the delegation, the district supervisor has all the responsibilities and obligations of the assistant director.

§5403. Assistant director

1. Acting director. The assistant director has the powers, duties, obligations and liabilities of the director when the director is absent or unable to perform his duties.

2. Arrest warrants. Upon designation by the director, the assistant director may issue warrants for the arrest of parole violators.

§5404. Probation and parole officers

In addition to duties prescribed by the director and by the court having jurisdiction, a probation and

parole officer shall:

1. Investigation. Investigate any criminal case or matter concerning probation or parole referred to him for investigation and report the result of the investigation;

2. Arrest. Arrest in the following circumstances:

A. Arrest and return probation and parole violators upon request of the chief administrative officer of a correctional facility; and

B. Arrest and return to a correctional facility persons released from the correctional facility under section 3035;

3. Supervision. Supervise persons as follows:

A. Supervise the probation or parole of each person placed under his supervision;

B. Supervise persons released from a correctional facility under section 3035, if the chief administrative officer of the facility requests the supervision and the director agrees to the supervision; and

C. Keep informed of the conduct and condition of each person placed under his supervision and use suitable methods to encourage him to improve his conduct and condition;

4. Records and reports. Keep records of each case and make reports as required; and

5. Money. Collect and disburse money according to the order of the court having jurisdiction.

A. The officer shall make a detailed account under oath of all fines received.

B. The officer shall pay the fines collected to the appropriate county treasurer by the 15th day of the month following collection.

SUBCHAPTER IV

JUVENILE PROBATION SERVICES

§5601. Interagency agreements

The department may enter into agreements with state agencies, other public agencies and private

nonprofit agencies to provide supervision or other services to juveniles placed on probation by the Juvenile Court.

1. Terms. The terms of the agreements, including any payments to be made by the department for the services provided, shall be set forth in writing.

2. Termination. Any agreement made under this section may be terminated upon 90 days' written notice by either party to the agreement.

§5602. Juvenile caseworkers

1. Departmental employees. Juvenile caseworkers are employees of the Department of Corrections.

2. Juvenile probation officer functions. Juvenile caseworkers shall carry out the functions of juvenile probation officers, including those delineated in the Maine Juvenile Code, Title 15, Part 6.

3. Intake worker functions. The intake worker functions of juvenile caseworkers are governed as follows.

A. Juvenile caseworkers shall carry out the functions of intake workers delineated in the Maine Juvenile Code, Title 15, Part 6.

B. Statements made by a juvenile to a juvenile caseworker performing as an intake worker shall be inadmissible as provided in Title 15, section 3204.

4. Maine Youth Center functions. The Maine Youth Center functions of juvenile caseworkers are governed as follows.

A. Juvenile caseworkers shall provide appropriate services to juveniles committed to the Maine Youth Center who are on leave or in the community on entrustment.

B. Juvenile caseworkers shall, when directed, provide information to the Maine Youth Center on juveniles committed to the Maine Youth Center.

5. Investigations. Juvenile caseworkers appointed under this chapter shall make such investigations as the Juvenile Court may direct and shall keep those written records of the investigations as the Juvenile Court may direct.

6. Care and custody of juveniles. Each juvenile

caseworker shall use all suitable means, including counseling, to aid each juvenile under his supervision and shall perform such duties in connection with the care and custody of juveniles as the court may direct.

7. Arrest. With respect to juveniles placed under their supervision, juvenile caseworkers have the same arrest powers as other sworn law enforcement officers.

8. Written statement of probation conditions. When any juvenile is placed on probation, the juvenile caseworker shall give the juvenile a written statement of the conditions of his probation and shall fully explain the conditions to him.

9. Keeping informed. Each juvenile caseworker shall keep informed as to the condition and conduct of each juvenile placed under his supervision and shall report on the condition and conduct to the court and to the department as they may direct.

10. Records. Each juvenile caseworker shall keep complete records of all work done.

11. Change of residence. Before a juvenile who is on probation may change his residence, he shall obtain the permission of his caseworker.

A. When a juvenile caseworker learns that a juvenile under his supervision has changed his residence to another district, he shall immediately notify the court.

B. The court may then transfer the probation records of the juvenile to the Juvenile Court of the district to which the juvenile has moved, together with a request that that court direct the probation supervision of the juvenile.

C. The Juvenile Court of the district to which the juvenile has moved shall then place the juvenile under probation supervision.

SUBCHAPTER V

PAROLE LAWS FOR

PRECRIMINAL CODE PRISONERS

§5801. Applicability

This subchapter applies only to those persons in the custody of the Department of Corrections pursuant to a sentence imposed under the law in effect prior

to May 1, 1976.

§5802. Parole by board

The board may grant a parole from a penal or correctional institution after the expiration of the period of confinement, less deductions for good behavior, or after compliance with conditions provided for in sections 5803 to 5805 applicable to the sentence being served by the prisoner or inmate. It may revoke a parole when a condition of the parole is violated.

1. Duration and conditions of parole. When the board grants a parole, upon release, the parolee shall serve the unexpired portion of his sentence, less deductions for good behavior, unless otherwise discharged therefrom by the board.

2. Custody and control. While on parole, the parolee is under the custody of the warden or superintendent of the institution from which he was released, but under the immediate supervision of and subject to the rules of the division or any special conditions of parole imposed by the board.

§5803. Eligibility for hearing; State Prison

A prisoner at the Maine State Prison or Maine Correctional Center becomes eligible for a hearing by the board as follows:

1. Expiration of minimum term in minimum-maximum sentence. Prior to the expiration of the prisoner's minimum term of imprisonment, less the deduction for good behavior, when the law provides for a minimum-maximum sentence;

2. Expiration of 1/2 of term in certain cases. Prior to the expiration of 1/2 of the term of imprisonment imposed by the court, less the deduction for good behavior, when the prisoner has been convicted of an offense under Title 17, section 1951, 3151, 3152 or 3153. This subsection applies to a prisoner who has been convicted previously of an offense under Title 17, section 1951, 3151, 3152 or 3153;

3. Expiration of 15-year term in life imprisonment cases. Prior to the expiration of a 15-year term of imprisonment, less deduction for good behavior, when the prisoner has been convicted of an offense punishable only by life imprisonment; and

4. Expiration of 15-year term in other cases. Prior to the expiration of a 15-year term of

imprisonment, less deduction for good behavior, when, following conviction, the prisoner has been sentenced to a minimum term of 15 years or more.

§5804. Maine Correctional Center

An inmate at the Maine Correctional Center becomes eligible for a hearing by the board as follows:

1. Inmate reformed. When it appears to the superintendent that the inmate has reformed; and

2. Suitable employment secured. When some suitable employment or situation has been secured for him in advance.

If the superintendent does not recommend an inmate for a parole hearing during the first year after commitment, the reasons for not so doing shall be reported to the Director of Corrections at the end of the year and for each 6 months thereafter until the inmate is recommended for a hearing by the board.

§5805. Women's reformatory

An inmate at the Women's Correctional Center becomes eligible for a hearing by the board as follows:

1. Inmate reformed. When it appears to the superintendent that the inmate has reformed;

2. Suitable employment secured. When some suitable employment or situation has been secured for her in advance.

If the superintendent does not recommend an inmate for a parole hearing during the first year after commitment, the reasons for not so doing shall be reported to the Director of Corrections at the end of the year and for each 6 months thereafter until the inmate is recommended for a hearing by the board.

§5806. Violations of parole

A probation-parole officer may arrest and charge a parolee with violation of parole and take him into his custody in any place he may be found, detain the parolee in any jail, pending the issuance of a parole violation warrant, which detention shall not extend beyond the next business day of the office of the director. In the event a warrant is not issued in that time, the parolee shall be released from arrest and detention forthwith. A parolee so arrested and detained shall have no right of action against the

probation-parole officer or any other persons because of that arrest and detention.

When a parolee violates a condition of his parole or violates the law, the director may issue a warrant for his arrest. A probation-parole officer, or any other law enforcement officer within the State authorized to make arrests, may arrest the parolee on the warrant and return him to the institution from which he was paroled. At its next meeting at that institution, the board shall hold a hearing. The parolee is entitled to appear and be heard. If the board, after hearing, finds that the parolee has violated his parole or the law, it shall revoke his parole, set the length of time he shall serve of the unexpired portion of his sentence before he can again be eligible for hearing by the board, and remand him to the institution from which he was released; except that, when a parolee from the Maine Correctional Center violates the law and is sentenced by the court to the Maine State Prison, any length of time set by the board to be served of the unexpired portion of his correctional center sentence may be served at the Maine State Prison.

1. Forfeits deductions. Upon revocation of parole by the board, the prisoner forfeits any deductions for good behavior earned while on parole.

2. May earn deductions. While serving the unexpired portion of his sentence after parole has been revoked, the prisoner may earn deductions for good conduct.

Whenever a warrant is issued under this section for the arrest of a parolee, the running of the parolee's sentence shall be interrupted and shall remain interrupted until the parolee is returned to the institution from which he was paroled. Interruption of the running of his sentence shall include any time served prior to such return, after conviction for a crime committed while on parole.

In the event of the withdrawal of the warrant by authority of the director, or in the event that the board at the hearing on the alleged violation finds that the parolee did not violate the conditions of his parole, or the law, he shall be credited with the time lost by the interruption of the running of his sentence.

§5807. Sentence for crime committed by parolee

Any parolee who commits an offense while on parole who is sentenced to the Maine State Prison shall serve the 2nd sentence beginning on the date of

termination of the first sentence, unless the first sentence is otherwise terminated by the board.

§5808. Discharge from parole

Any parolee who faithfully performs all the conditions of parole and completes his sentence is entitled to a certificate of discharge to be issued by the warden or superintendent of the institution to which he was committed.

§5809. Certificate of discharge

Whenever it appears to the board that a person on parole is no longer in need of supervision, it may order the superintendent or warden of the institution from which he was released to issue him a certificate of discharge, except that in the case of persons serving a life sentence who may not be discharged from parole in less than 10 years after release on parole.

§5810. Records forwarded to State Police

When a person who has been convicted under Title 17, section 1951, 3151, 3152 or 3153 is paroled, the warden or superintendent of the institution shall forward to the State Police a copy of his record and a statement of facts necessary for full comprehension of the case. Whenever any prisoner, who has been convicted of an offense under Title 17, section 1951, 3151, 3152 or 3153 is discharged in full execution of his sentence, the Warden of the Maine State Prison shall make and forward to the State Police a copy of the prison record of that prisoner together with a statement of any fact or facts which he may deem necessary for a full comprehension of the case.

CHAPTER 7

JUVENILE DELINQUENCY PREVENTION

AND REHABILITATION

§7001. Responsibility of the department

The department is responsible for:

1. Services. Within the limits of available funding, ensuring the provision of all services necessary to:

A. Prevent juveniles from coming into contact with the Juvenile Court; and

B. Support and rehabilitate those juveniles who do come into contact with the Juvenile Court;

2. Information. Gathering standardized information on the characteristics of and the present and past services needs of juveniles who have come into contact with the Juvenile Court and gathering standardized information on the extent to which those needs are being met;

3. Proposals. Making proposals for meeting the prevention and rehabilitation services needs which are not being addressed; and

4. Coordination. Coordinating its efforts in discharging the responsibility given under this section with those of other state or local agencies in order to effectively use existing resources to the maximum extent possible to achieve the purposes of this chapter and Title 15, Part 6.

§7002. Powers and duties of the department

The department has the following powers and duties with respect to the responsibility defined in section 7001.

1. Services. The department shall provide, directly or through purchase or contract, services to children and their families, including, but not limited to:

A. Administering, supervising and ensuring the provision of correctional programs for juveniles adjudicated as having committed juvenile crimes;

B. Providing technical assistance and additional financial resources to assist communities to establish and provide necessary preventive and rehabilitative services for juveniles;

C. Coordinating its efforts with those of other state and local agencies in order to effectively use all existing resources to the maximum extent possible;

D. Working with other public and voluntary agencies as resources for the purchase of care and services; and

E. Stimulating the creation of voluntary services.

2. Planning. The department shall carry out planning for identifying, evaluating and meeting the service needs for prevention of juvenile crime and

rehabilitation of juveniles adjudicated as having committed juvenile crimes.

3. Evaluation. The department shall evaluate prevention and rehabilitation services with regard to, among other things:

A. Compliance with all regulations for the use of funds for those services; and

B. Quality and cost of effectiveness of those services.

4. Appeals. The department shall provide structure for appeals, fair hearings and a review of grievances by children and their parents, guardian or legal custodian regarding provision of services for which the department has been given responsibility under this chapter, including, but not limited to, protecting the rights of individuals to appeal from denials of or exclusion from the services to which they are entitled, actions that preclude the individual's right of choice to specific programs, or actions that force involuntary participation in a service program.

5. Training. The department shall train personnel to perform the functions necessary to implement this chapter, including, but not limited to:

A. Meeting the need for professional personnel for juvenile services, through in-service training, institutes, conferences and educational leave grants;

B. Upgrading education and competence of professional and other personnel and volunteers; and

C. Making staff and training facilities available for training of staff and volunteers in contracting agencies or facilities to assure effective provision of purchased services.

6. Research and demonstration. The department may conduct research and demonstration projects, including, but not limited to, entering into contracts with other agencies and making grants for research, including basic research into the causes of juvenile crime, evaluation of methods of service delivery in use, and development of new approaches.

7. Wards. With respect to individual juveniles for whom the department has accepted responsibility, it may take necessary action for the appointment of a guardian of a juvenile who does not have a parent to exercise effective guardianship, and it shall:

A. Assure that appropriate services are made available to them, either directly or by purchase of those services;

B. Assume responsibility, to the extent that parents are unable to do so, for payment for services; and

C. Assume legal custody of children or legal guardianship when vested by the court.

§7003. Transfer

1. Approval. The department may transfer any juvenile committed to its care from one facility or program to another, except that, before any juvenile is transferred, he shall be examined and evaluated and the evaluation shall be reviewed and approved by the commissioner.

2. Emergency exception. When the commissioner finds that the welfare and protection of a juvenile or others requires the juvenile's immediate transfer to another facility, he shall make the transfer prior to the examination and evaluation of the juvenile.

3. Restrictive placements. Restrictive placements are governed as follows.

A. Notwithstanding subsections 1 and 2, the transfer of any juvenile from a less restrictive placement to a more restrictive placement shall be reviewed by the Juvenile Court that originally ordered the juvenile's placement within 48 hours of the transfer, excluding Saturdays, Sundays and legal holidays.

B. In order to continue the more restrictive placement, a court must find:

(1) That it is necessary to protect the juvenile or protect the community; and

(2) That no other available less restrictive placement will protect the juvenile or the community.

C. Notwithstanding paragraph A, the commissioner may not place any juvenile committed to the department in an adult correctional facility.

§7004. Agreements and contracts with public and private agencies

1. Commissioner's power. The commissioner may enter into agreements or contracts with any govern-

mental unit or agency or private facility or program cooperating or willing to cooperate in a program to carry out the purposes of this chapter and Title 15, Part 6.

2. Nature of agreements or contracts. Agreements or contracts entered into under subsection 1 may provide, among other things, for the type of work to be performed, for the rate of payment for that work and for other matters relating to the care and treatment of juveniles.

3. Custody. Placement of juveniles by the department in any public or private facility or program not under the jurisdiction of the department does not terminate the legal custody of the department.

4. Inspection. The department may inspect all facilities used by it and may examine and consult with persons in its legal custody who have been placed in any such facility.

§7005. Administrators of facilities and programs

A chief administrative officer of a facility or program with which the department contracts for services shall:

1. Report. Report to the commissioner at such times and on such matters as the commissioner may require;

2. Receipt of juveniles. Receive, subject to limitations on physical capacity and programs, all juveniles committed to the custody of the department and placed in his care under the provisions of Title 15, Part 6, and keep them for rehabilitation, education and training until discharged by law or under the rules of the department or released on probation; and

3. Evaluations. Secure a careful and thorough evaluation of every juvenile placed under his care at intervals no greater than 6 months, that evaluation to ascertain whether the juvenile should be released, whether his program should be modified or whether his transfer to another facility should be recommended.

§7006. Rules

The commissioner shall develop and promulgate according to the Maine Administrative Procedure Act, Title 5, chapter 375, by January, 1979, such rules as may be necessary to enable the department to carry out its responsibilities as prescribed in this chap-

ter. When portions of the rules relate to staff or services administered by another state agency, those portions shall be developed and approved jointly with that other agency.

§7007. Expenses for transporting children long distances

The department shall pay any expenses incurred by local agencies for transporting a juvenile more than 100 miles, pursuant to the provisions of Title 15, Part 6, or of this chapter to an intake worker, to a placement directed by the intake worker or to a Juvenile Court.

§7008. Community conference committee

In any district in which an intake worker is established, the commissioner may appoint a community conference committee composed of citizen volunteers.

1. Membership. The committee shall consist of at least 10 members, but not more than 15 members, of whom 5 shall constitute a quorum.

2. Compensation. Members may not be compensated for their services.

3. Alternative diversionary resource. The committee shall serve as an alternative diversionary resource for juvenile offenders.

4. Guidelines. The commissioner shall promulgate guidelines for the functioning of community conference committees.

5. Additional committees. This section does not prohibit the appointment of more than one community conference committee within an intake district by the intake worker, with the approval of the commissioner.

CHAPTER 9

INTERSTATE COMPACTS

SUBCHAPTER I

UNIFORM INTERSTATE COMPACT ON JUVENILES

§9001. Findings and purposes--Article I

The contracting states solemnly agree:

That juveniles who are not under proper supervision and control, or who have absconded, escaped or

run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to:

1. Cooperative supervision. Cooperative supervision of delinquent juveniles on probation or parole;

2. Return of delinquent juveniles. The return, from one state to another, of delinquent juveniles who have escaped or absconded;

3. Return of nondelinquent juveniles. The return, from one state to another, of nondelinquent juveniles who have run away from home; and

4. Additional measures undertaken cooperatively. Additional measures for the protection of juveniles and of the public, which any 2 or more of the party states may find desirable to undertake cooperatively. In carrying out this compact, the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to this compact. This compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

§9002. Existing rights and remedies--Article II

All remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

§9003. Definitions--Article III

For the purposes of this compact:

1. Court. "Court" means any court having jurisdiction over delinquent, neglected or dependent children;

2. Delinquent juvenile. "Delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the

jurisdiction or supervision of an agency or institution pursuant to an order of such court;

3. Probation or parole. "Probation or parole" means any kind of conditional release of juveniles authorized under the laws of the state party hereto;

4. Residence. "Residence" or any variant thereof means a place at which a home or regular place of abode is maintained;

5. State. "State" means any state, territory or possession of the United States, the District of Columbia and the Commonwealth of Puerto Rico;

6. Minor. "Minor" means any person who has not attained the age of 18 years. A person charged with or convicted of a crime as an adult in a demanding state, whose extradition from this State is sought by the demanding state shall be subject to the provisions of Title 15, sections 201 to 229, although the person is a minor under the laws of this State; and

7. Adult. "Adult" means a person who has attained the age of 18 years.

§9004. Return of runaways--Article IV

1. Requisition for return of juvenile. The parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent, but who has run away without the consent of such parent, guardian, person or agency, may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by 2 certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the

judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause

exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

2. Transportation costs. The state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

3. Juvenile defined. "Juvenile," as used in this Article, means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

§9005. Return of escapees and absconders--Article V

1. Requisition for return of delinquent juvenile. The appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be

executed in duplicate, and shall be accompanied by 2 certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. In such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any

criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

2. Transportation costs. The state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

§9006. Voluntary return procedure--Article VI

Any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under Article IV, subsection 1, or Article V, subsection 1, may consent to his immediate return to the state from which he absconded, escaped or run away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, upon the request of the state to which the juve-

nile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event, a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

§9006-A. Rendition amendment--Article VI-A

All provisions and procedures of Articles V and VI of the Uniform Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

This provision shall apply regardless of whether the requesting state has also adopted it.

§9007. Cooperative supervision of probationers and parolees--Article VII

1. Permission for delinquent juvenile to reside in receiving state. The duly constituted judicial and administrative authorities of a state party to this compact, herein called "sending state," may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact, herein called "receiving state," while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian

or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

2. Duties of receiving state. Each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

3. Returning delinquent juvenile. After consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

4. Transportation costs. The sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

§9008. Responsibility for costs--Article VIII

1. Internal relationships not affected. Article IV, subsection 2, Article V, subsection 2, and Article VII, subsection 4 of this compact shall not be construed to alter or affect any internal relation-

ship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

2. Asserting rights for costs. Nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Article IV, subsection 2, Article V, subsection 2, or Article VII, subsection 4 of this compact.

§9009. Detention practices--Article IX

To every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or disolute persons.

§9010. Supplementary agreements--Article X

The duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

1. Rates. Provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished;

2. Court hearing. Provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;

3. Receiving state agent of sending state. Provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;

4. Sending state to retain jurisdiction. Provide that the sending state shall at all

times retain jurisdiction over a delinquent juvenile sent to an institution in another state;

5. Inspection. Provide for reasonable inspection of such institutions by the sending state;

6. Consent of parent, guardian or custodian. Provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and

7. Other matters and details. Make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

§9011. Acceptance of federal and other aid--Article XI

Any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same, subject to the terms, conditions and regulations governing such donations, gifts and grants.

§9012. Compact administrators--Article XII

The governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

§9013. Execution of compact--Article XIII

This compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed, it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

§9014. Renunciation--Article XIV

This compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending 6 months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII shall continue as to parolees

and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the 6 months' renunciation notice of the present Article.

§9015. Severability--Article XV

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§9016. Action by Governor

The Governor of this State is authorized and directed to execute a compact on behalf of the State with any of the states of the United States legally joining therein in the form substantially as provided in this chapter.

SUBCHAPTER II

NEW ENGLAND INTERSTATE CORRECTIONS COMPACT

§9201. Purpose and policy--Article I

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

§9202. Definitions--Article II

As used in this compact, unless the context otherwise indicates, the following terms have the following meanings.

1. Inmate. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

2. Institution. "Institution" means any penal or correctional facility, including, but not limited to, a facility for the mentally ill or mentally defective, in which inmates, as defined in subsection 1, may lawfully be confined.

3. Receiving state. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

4. Sending state. "Sending state" means a state party to this compact in which conviction or court commitment was had.

5. State. "State" means a state of the United States, located in New England, to wit, Maine, New Hampshire, Vermont, Massachusetts, Connecticut and Rhode Island.

§9203. Contracts--Article III

Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Duration. Its duration;

2. Payments. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

3. Employment. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

4. Inmate delivery. Delivery and retaking of inmates; and

5. Other matters. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

Subject to legislative approval by the states concerned and prior to the construction or completion of construction of any institution or addition thereto by a party state, any other party state or states may contract therewith for the enlargement of the planned capacity of the institution or addition thereto, or for the inclusion therein of particular equipment or structures, and for the reservation of a specific percentum of the capacity of the institution to be kept available for use by inmates of the sending state or states so contracting. Any sending state so contracting may, to the extent that moneys are legally available therefor, pay to the receiving state a reasonable sum as consideration for such enlargement of capacity, or provision of equipment or structures, and reservation of capacity. Such payment may be in a lump sum or in installments as provided in the contract.

The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

§9204. Procedures and rights--Article IV

Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state,

for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact, including a conduct record of each inmate, and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of the inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

All inmates who may be confined in an institution pursuant to this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which the inmate would have had if confined in an appropriate institution of the sending state.

Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to this paragraph, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

Any inmate confined pursuant to this compact

shall be released within the territory of the sending state, unless the inmate and the sending and receiving states shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

The parent, guardian, trustee or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

§9205. Acts not reviewable in receiving state;
extradition--Article V

Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to remove an inmate from an institution in the receiving state, there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

Any inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

§9206. Federal aid--Article VI

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision, provided that, if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

§9207. Entry into force--Article VII

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any 2 states from among the states of New England. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

§9208. Withdrawal and termination--Article VIII

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to this compact.

§9209. Other arrangements unaffected--Article IX

Nothing contained in this compact shall be construed to abrogate nor impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

§9210. Construction and severability--Article X

The provisions of this compact shall be liberally

construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§9221. Ratification

The New England Interstate Corrections Compact is enacted into law and entered into by this State with any other of the states mentioned in Article II legally joining therein in the form substantially as provided in this subchapter.

§9222. Title

This subchapter may be cited as the "New England Interstate Corrections Compact."

§9223. Powers

The Commissioner of Corrections is authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular.

SUBCHAPTER III

INTERSTATE CORRECTIONS COMPACT

§9401. Purpose and policy--Article I

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

§9402. Definitions--Article II

As used in this compact, unless the context clearly requires otherwise:

1. Inmate. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution;

2. Institution. "Institution" means any penal or correctional facility, including, but not limited to, a facility for the mentally ill or mentally defective, in which inmates, as defined in subsection 1, may lawfully be confined;

3. Receiving state. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had;

4. Sending state. "Sending state" means a state party to this compact in which conviction or court commitment was had; and

5. State. "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

§9403. Contracts--Article III

Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states.

1. Contract provisions. Any such contract shall provide for:

A. Its duration;

B. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

C. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

D. Delivery and retaking of inmates; and

E. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

§9404. Procedures and rights--Article IV

Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, the officials may direct that the confinement be within an institution within the territory of the other party state, the receiving state to act in that regard solely as agent for the sending state.

The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact, including a conduct record of each inmate, and certify the record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining

and altering the disposition of the inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which the inmate would have had if confined in an appropriate institution of the sending state.

Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. The record, together with any recommendations of the hearing officials, shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this section, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

Any inmate confined pursuant to this compact shall be released within the territory of the sending state, unless the inmate and the sending and receiving states shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

The parent, guardian, trustee or other person or

persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

§9405. Acts not reviewable in receiving state; extradition--Article V

Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to remove an inmate from an institution in the receiving state, there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent nor affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

§9406. Federal aid--Article VI

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provisions; provided that, if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

§9407. Entry into force--Article VII

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any 2 states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

§9408. Withdrawal and termination--Article VIII

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

§9409. Other arrangements unaffected--Article IX

Nothing contained in this compact shall be construed to abrogate nor impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

§9410. Construction and severability--Article X

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

§9421. Ratification

The Interstate Corrections Compact is hereby enacted into law and entered into by this State with any other states legally joining therein.

§9422. Title

This subchapter may be cited as the "Interstate Corrections Compact."

§9423. Powers

The Commissioner of Corrections, subject to the limitations provided under section 9424, is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular.

§9424. Limitations

The commissioner shall carry out the provisions of this compact in accordance with the following.

1. Juveniles excluded. For purposes of this compact, no juvenile may be considered an inmate, as defined in section 9402.

2. Contracts. Any contracts made with one of the other party states for the confinement of inmates in Maine may provide for cash payments for the costs of the confinement whenever the total days for inmates placed in Maine by that state exceeds by 200 the number of days for inmates placed by Maine in that state. Otherwise, all contracts shall provide for an accrual of days earned by the respective states rather than cash payments.

3. Inmates. The commissioner may accept an inmate for confinement in Maine if, in the opinion of the commissioner, the inmate has demonstrated ties to this State which would justify the confinement, or the inmate's confinement in this State is in the best interests of the inmate or the State of Maine.

4. Transportation. The commissioner may permit any inmate who may be confined in another state under the provisions of the compact to pay the costs of transportation to the receiving state.

5. Facilities. The commissioner may not accept any inmate under the provisions of the compact when the confinement of that inmate would cause immediately, or in the near future would be likely to cause, a need for an increase in correctional facilities in this State.

**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO TWO
ELECTRONIC FILES. FOR THE REMAINDER OF THE
CHAPTER, SEE THE SECOND FILE.]**