

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

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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

CHAPTER 581

H.P. 1339 - L.D. 1779

AN ACT to Amend the Statutes Regarding Corrections.

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

Sec. 1. 15 MRSA §3203, sub-§7, ¶B, as repealed and replaced by PL 1977, c. 664, §18, is repealed and the following enacted in its place:

B. Upon the request of the Commissioner of Corrections or his designee, a judge may approve the transfer of a juvenile who is detained at the Maine Youth Center to any jail or other secure facility intended or used for the detention of adults:

(1) If the judge finds, by clear and convincing evidence, that:

(a) Jurisdiction of the matter as a juvenile case has been waived and the juvenile has been bound over pursuant to section 3104, subsection 4; or

(b) A prosecutor has requested the court to bind over the juvenile, pursuant to section 3101, subsection 4, because he is accused of having committed a subsequent offense, while committed to the center; and

(2) If the judge finds, by clear and convincing evidence, that the juvenile's behavior:

(a) Presents an imminent danger of harm to himself or to others; or

(b) Presents a substantial likelihood that the juvenile will absent himself from the center.

(3) If the judge finds, by clear and convincing evidence, that there is no less restrictive alternative to detention in an adult facility which will meet the purposes of detention.

Sec. 2. 15 MRSA §3314, sub-§4 is enacted to read:

4. Medical support. Whenever the court commits

a juvenile to the Maine Youth Center or to the Department of Human Services or Department of Corrections for placement in a foster home, group care home or halfway house, it shall notify his parents or legal guardian and, after hearing, may, as justice may demand, require the parent or legal guardian to provide medical insurance for or contract to pay the full cost of any medical treatment which may be provided to the juvenile while he is committed.

Sec. 3. 17-A MRSA §1251, as repealed and replaced by PL 1977, c. 510, §74, is repealed and the following enacted in its place:

§1251. Imprisonment for murder

A person convicted of murder shall be sentenced to the Department of Corrections for life or for any term of years that is not less than 25 years.

Sec. 4. 17-A MRSA §1252, sub-§1, as amended by PL 1977, c. 510, §75, is repealed and the following enacted in its place:

1. In the case of a person convicted of a crime other than murder, the court may sentence to imprisonment for a definite term as provided for in this section, unless the statute which the person is convicted of violating expressly provides that the fine and imprisonment penalties it authorizes may not be suspended, in which case the convicted person shall be sentenced to imprisonment and required to pay the fine authorized therein. The sentence of the court shall specify the term to be served and shall commit the person to the Department of Corrections.

Sec. 5. 17-A MRSA §1257 is enacted to read:

§1257. Notification of commitments to the Department of Corrections

At the time of sentencing, the court shall notify the Commissioner of Corrections that a person has been committed and shall inquire as to the correctional facility to which the sentenced person shall be delivered by the sheriff or his deputies. The Commissioner of Corrections shall have complete discretion to determine the initial place of confinement. The commissioner shall immediately inform the court of the location of the correctional facility to which the sentenced person shall be transported.

Sec. 6. 30 MRSA §§1760, 1761 and 1762 are enacted to read:

§1760. Transfer from jails

The sheriff 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.

§1761. Transfer from state correctional facilities

The sheriff may accept custody of prisoners transferred to his jail from state correctional facilities, pursuant to the provisions of Title 34-A, section 3063.

§1762. Removal for disease

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

1. Removal. If a prisoner in a jail is afflicted 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.

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

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

4. Notice. 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 court from which the order or process was issued:

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

B. A statement describing the actions taken pursuant to the order.

Sec. 7. 30 MRSA §1856, as enacted by PL 1983, c. 459, §4, is repealed and the following enacted in its place:

§1856. Transfer of prisoners when jail unfit or insecure

1. Transfer of prisoners when jail unfit or insecure. Whenever complaint on oath is made to a Justice of the Superior Court that a prisoner or prisoners should be removed from a jail to another jail or to a state correctional facility because that jail is unfit for occupation or is insufficient for the secure keeping of any person charged with a crime and committed to await trial, the Superior Court Justice shall:

A. Schedule the time and place for a hearing on this complaint;

B. Cause not less than 3 days' notice of that hearing to be given to the sheriff or sheriffs of the county jail or jails involved and, if transfer to a state correctional facility is anticipated, to the Commissioner of Corrections;

C. Order removal, at the expense of the sending county, of the prisoner or prisoners to a state correctional facility pending hearing, provided that the Commissioner of Corrections and the sending sheriff agree; and

D. Conduct a hearing and if the matter complained of is found true:

(1) Issue his warrant for the transfer of the prisoner or prisoners, at the expense of the sending county, to any jail; or

(2) Issue his warrant for the transfer of the prisoner or prisoners, at the expense of the sending county, to a state correctional facility, provided that he finds that 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.

2. Emergency. In the event of an emergency, regardless of whether a complaint on oath has been made to a Justice of the Superior Court, the sheriff, with the agreement of the Commissioner of Corrections, may immediately, at the expense of the sending county, remove any prisoner from his jail to a state correctional facility. If removal is made pursuant

to this section, a complaint on oath shall be made to a Justice of the Superior Court within 24 hours and a hearing shall be conducted in accordance with the requirements in subsection 1, paragraph D, subparagraph (1).

3. Transfer of prisoners when jail unfit due to a casualty. 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 the 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 shall be printed in the newspapers of that county.

Sec. 8. 34-A MRSA §1204, sub-§4, ¶A, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

A. Each member of the commission may receive a per diem expense allowance equal to that received by Legislators during a special session and may receive additionally his actual and necessary expenses incurred in the performance of duties pertaining to his office.

Sec. 9. 34-A MRSA §1207, as enacted by PL 1983, c. 459, § 6, is repealed and the following enacted in its place:

§1207. Out-of-state prison-made goods

1. Purpose. The purpose of this section is to prohibit the sale within the State of any goods, wares or merchandise produced in penal institutions outside of the State and transported into the State.

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

A. A person is guilty of a civil violation of sale of out-of-state prison-made goods if that person 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. Upon conviction of a civil violation of sale of out-of-state prison-made goods, a person shall pay a fine. The fine may be any amount which does not exceed twice the monetary value of the transaction.

Sec. 10. 34-A MRSA §§1208 and 1209 are enacted to read:

§1208. Standards for county and municipal detention facilities

The commissioner shall establish standards, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for county and municipal jails, holding facilities and short-term detention areas, referred to in this section as county and municipal detention facilities, as follows and shall enforce them.

1. Establishment. The commissioner shall establish both mandatory and desirable standards for all county and municipal detention facilities, setting forth requirements for maintaining safe, healthful and secure facilities.

2. Inspections. Inspections of county and municipal detention facilities are governed as follows.

A. The commissioner shall conduct a comprehensive inspection of each county and municipal detention facility every 2 years, in order to provide the department with information, verified by on-site inspection, regarding compliance with all department standards.

B. The commissioner shall conduct no fewer than 3 additional inspections of each county and municipal detention facility during the period between each comprehensive inspection, in order to determine continued compliance with standards.

C. The commissioner may inspect a county or municipal detention facility at any time, without prior notice, to determine compliance with standards.

D. The commissioner shall prepare a written report of each inspection and shall send a copy of the report to appropriate county or municipal officials within 15 days after the inspection.

(1) The report shall summarize inspection findings.

(2) The report shall list the standards with which the facility does not comply and set forth the reasons for noncompliance.

E. The commissioner shall order the noncomplying county or municipality to respond to this report

in accordance with subsection 3.

3. Standards compliance. Each county and municipal detention facility shall, unless granted a variance pursuant to subsection 5, comply with the mandatory standards established by the commissioner.

A. Within 60 days from the receipt of an inspection report for each mandatory standard listed in subsection 2, paragraph D, subparagraph (2), the county or municipality shall either:

(1) Correct deficiencies listed in the report and submit to the department a written response listing the corrections made; or

(2) Offer a plan to correct those deficiencies for consideration by the department.

B. If a county or municipality fails to correct deficiencies and offers no plan of correction, or if the plan of correction offered to the department is determined inadequate by the commissioner, the commissioner shall determine an appropriate action to restrict or modify the operations of the facility, consistent with the nature of the uncorrected deficiencies, which action may include ordering an entire facility closed until the deficiencies have been corrected.

(1) Before any such action is taken, the commissioner shall notify the county or municipality in writing of the planned action and shall offer the opportunity to meet and discuss the planned action.

(2) If a meeting is not requested by the county or municipality within 15 days after the county or municipality receives notice of the planned action, or if a meeting is held and fails to produce a plan of correction acceptable to the commissioner, the commissioner shall take the planned action.

4. Emergency powers. The commissioner may take immediate action in response to noncompliance with a mandatory standard, if the noncompliance is determined to endanger the safety of the staff, inmates or visitors of any county or municipal detention facility.

A. The commissioner's action under this subsection shall expire within 90 days or upon compliance with the mandatory standard.

B. After having taken action under this section, the commissioner shall send a written inspection report to the affected facility.

C. The commissioner shall decide what long-term action to take with respect to the affected facility on the basis of county or municipality response to the inspection report and subsequent meetings.

5. Variances. The commissioner shall establish written procedures to govern the submission and consideration of requests for variances from established departmental standards, including provisions for department consideration of appeals of decisions.

A. The commissioner may grant a variance only when he determines that the variance will not result in diminishing the safety, health or security of staff, inmates or visitors of a county or municipal detention facility.

B. The commissioner may grant variances to counties and municipalities for periods of up to 2 years.

C. County and municipal officials may request variances from mandatory department standards if:

(1) Efforts are underway to achieve compliance and continued failure to comply is only temporary; or

(2) The intent and spirit of the standards may be attained through other means.

D. The officials applying for a variance have the burden of showing clear justification for the variance.

6. Advisory review. The commissioner shall create and maintain a county and municipal detention facility advisory committee.

A. The committee shall consist of representatives of the Department of Corrections, Maine Sheriffs' Association, Maine County Commissioners' Association, Maine Chiefs of Police Association, Attorney General, Legislature and citizens.

B. The terms of members of this committee shall be one year.

C. Members of the county and municipal detention facility advisory committee are eligible for reappointment at the expiration of their term.

D. The commissioner shall consult the committee when promulgating standards and may consult the committee when variances are sought, when actions are contemplated by the commissioner in response to a failure to comply with standards and when the commissioner determines that the consultation is necessary for other reasons.

7. Technical assistance. The commissioner may provide technical assistance to county and municipal detention facilities to facilitate compliance with standards.

§1209. Juvenile Justice Advisory Group

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

A. "Act" means the Juvenile Justice and Delinquency Prevention Act of 1974, Public Law 93-415.

B. "Group" means the Juvenile Justice Advisory Group, as established by Executive Order 16 Fiscal Year 1981-82.

2. Duties. The group shall:

A. Operate as the supervisory board for all planning, administrative and funding functions of the Act;

B. Make subgrants for planning or for the improvement of juvenile justice consistent with the intent of applicable state and federal legislation;

C. Develop, approve and implement the state's juvenile justice plan;

D. Monitor state compliance with the requirements of the Act;

E. Review and approve or disapprove all juvenile justice and delinquency prevention subgrant applications submitted to the group;

F. Develop more effective education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile delinquency and improvement of the juvenile justice system;

G. Submit to the Governor and Legislature, at least annually, recommendations with respect to matters related to its functions, including

recommendations on state compliance with the requirements of the Act;

H. Review the progress and accomplishments of juvenile justice and delinquency projects funded under the state plan; and

I. Regularly seek comments and opinions from juveniles currently under the jurisdiction of the juvenile justice system.

3. Membership. Membership of the group is governed as follows.

A. Regular membership of the group shall be in accordance with the requirements of the Act.

B. Members are appointed by the Governor for a term of 4 years, or until a successor is appointed, and are eligible for reappointment at the discretion of the Governor.

C. Members appointed to fill an unexpired term shall serve until the expiration date of that term or until a successor is appointed.

D. The Commissioner of Corrections, Commissioner of Educational and Cultural Services, Commissioner of Human Services, Commissioner of Mental Health and Mental Retardation and Commissioner of Public Safety are ex officio, voting members of the group.

E. Neither a majority of the members of the group, nor the chairman, may be full-time employees of the Federal Government, State Government or local government.

F. Members of the group appointed under Executive Order 4, Fiscal Year 1979-80 shall continue to serve until the expiration of their terms.

4. Departmental duties and powers. The duties and powers of the Department of Corrections are as follows.

A. The department shall have the powers necessary to an agency designated by the Governor as the sole agency responsible for supervising the group in the preparation and administration of the state plan within the meaning of the Act.

B. The department shall serve as the fiscal agent of the group.

C. The department may employ a full-time juve-

nile justice specialist, subject to the approval of the group, and such additional staff as necessary.

(1) The professional staff shall be unclassified.

(2) Clerical staff shall be employed subject to the Personnel Law.

D. The department, at the direction of the group, may make grants to state agencies, to units of general local government and to private not-for-profit organizations for the development of more effective education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

E. When the group directs that a grant be made to a department or agency of State Government, the department shall send to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs:

(1) A copy of the approved grant application;

(2) Information on the expected length of programs to be funded by the grant; and

(3) Information on restrictions or limitations placed on the grant application.

F. The department may accept funds from the Federal Government, from any political subdivision of the State, or from any individual, foundation or corporation and may expend those funds for purposes consistent with this section.

5. Funds not to lapse. Funds appropriated to carry out the purpose of this section shall not lapse, but shall carry from year to year.

Sec. 11. 34-A MRSA §1402, sub-§6, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 12. 34-A MRSA §1403, sub-§6 is enacted to read:

6. Acceptance or conveyance of donated personal property. The commissioner may accept donations of personal property to be used at a correctional facility. If, at a later date, the donated property ceases to be useful to the correctional facility, the

commissioner may sell the property and use the proceeds for the benefit of the correctional facility to which the property was originally donated.

Sec. 13. 34-A MRSA §3002, sub-§1, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

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

Sec. 14. 34-A MRSA §3003, sub-§1, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

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 documents, other than those pertaining to information obtained by the department for the purpose of evaluating a committed offender's ability to participate in a community-based program or from informants in a correctional facility for the purpose of determining whether prison rules have been violated, may be disclosed:

A. To any person, if the person receiving services, his legal guardian, if any, or, if he is a minor, his parent or legal guardian, gives his informed written consent to the disclosure of the documents referred to in subsection 1 after being given the opportunity to review the documents sought to be disclosed;

B. To any state agency if necessary to carry out the statutory functions of that agency; and

C. If ordered by a court of record, subject to any limitation in the Maine Rules of Evidence, Rule 503.

Sec. 15. 34-A MRSA §3006, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 16. 34-A MRSA §3031, sub-§2, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

2. Medical care. Adequate professional medical care, not including medical treatment requested by the prisoner which the correctional facility's treating physician deems unnecessary;

Sec. 17. 34-A MRSA §3032, sub-§3, ¶D, as enacted by PL 1983, c. 459, §6, is amended to read:

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 immediately convey the reasons and circumstances for this decision to the commissioner for his review and final disposition.

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

Sec. 18. 34-A MRSA §3033, sub-§3, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

3. Charitable property improvement. The commissioner may authorize the use of able-bodied prisoners to provide assistance in the improvement of property

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

Sec. 19. 34-A MRSA §3034, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 20. 34-A MRSA §3035, sub-§1, ¶D is enacted to read:

D. Transportation to work release job sites shall be arranged by the commissioner.

(1) Prisoners participating in the work release program shall be assessed an equitable share of the cost of the transportation.

(2) Funds received from prisoners for work release transportation shall be placed in the General Fund.

Sec. 21. 34-A MRSA §3039, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

§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 Maine law or by a policy of the department, the money shall be deposited in that correctional facility's committed offenders' account.

1. Accounts. The chief administrative officer shall promulgate rules for use of the committed offenders' account. These rules shall include a provision allowing an inmate to remove his money from the committed offenders' account and place it in any type of investment outside the correctional facility that he chooses. The chief administrative officer shall keep a record of all money in the committed offenders' account and shall be responsible for safe-

keeping of the money while the committed offender is in the custody of the department and for the delivery of that money to the committed offender upon his discharge.

2. Interest. Any interest accruing as a result of the deposit of that money in the committed offenders' account may, after first being used to defray expenses of the account, be expended by the chief administrative officer of the correctional facility for the general welfare of all inmates at that facility.

3. Use. During his commitment, any committed offender may use his money in the committed offenders' account by authorizing the warden to disburse the money in accordance with the rules governing the committed offenders' account.

Sec. 22. 34-A MRSA §3040-A is enacted to read:

§3040-A. Property of deceased committed offenders

Property remaining in a correctional facility as a result of a committed offender's death is governed as follows.

1. Payment. Except as provided in paragraph D, if any committed offender under the control of the department dies, leaving on deposit in the committed offenders' account at a correctional facility an amount not exceeding \$1,000, and no personal representative of his estate is appointed, the chief administrative officer may pay the balance of his account to the surviving spouse or next of kin in accordance with the Probate Code, Title 18-A, sections 2-101 to 2-114, to the funeral director having any bill outstanding for the burial of the decedent or to other preferred creditor or creditors who may appear to be entitled thereto, and shall deliver personal property in his custody to the surviving spouse or next of kin in accordance with the Probate Code, Title 18-A, sections 2-101 to 2-114.

2. Time of payment. Payments or delivery pursuant to subsection 1 shall not be made until 60 days have elapsed following the date of death of the committed offender.

3. Liability of payment. For any payment or delivery made pursuant to subsections 1 and 2, the chief administrative officer or his designee acting under this section may not be held liable to the decedent's personal representative thereafter appointed, or to his heirs, successors or assigns.

4. Alternative payment. Notwithstanding subsection 1, upon presentation of an affidavit under Title 18-A, section 3-1201, the chief administrative officer shall pay the balance of any deposit in the committed offenders' account at a correctional facility and deliver his personal property to the committed offender's successor under Title 18-A, sections 3-1201 and 3-1202. The payments under this paragraph shall take precedence over payments under subsection 1 to the extent of the balance of the deposits in the committed offenders' account and the personal property remaining in the custody of the chief administrative officer at the time the affidavit is presented.

Sec. 23. 34-A MRSA §3041, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 24. 34-A MRSA §3044, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

§3044. Escapees; fugitives; apprehension

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

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.

2. Fugitives. When there is reasonable cause to believe that a person charged with a crime 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 crime 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 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.

Sec. 25. 34-A MRSA §§3046 and 3047 are enacted to read:

§3046. Funeral and deathbed visits

At the discretion of and under conditions prescribed by the commissioner, a committed offender may attend the funeral of his spouse, or his natural or adoptive mother, father, son, daughter, grandfather or grandmother, grandchild, brother or sister, or may be permitted deathbed visits 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 to the commissioner by the attending physician.

2. Costs. The prisoner, if able, shall pay the cost of transportation and the per diem compensation of the accompanying officers if the officers are required by the commissioner.

§3047. Discharge or parole

When any committed offender is paroled or discharged, the commissioner:

1. Clothing. Shall insure that the offender is provided with decent clothing;

2. Money. May give the offender no more than \$50, except that the commissioner may not give money to a committed offender who:

A. Has, within the 6 months prior to the date of his parole or discharge, transferred from his correctional facilities' account to any person more than \$500, excluding any money transferred for the support of his dependents; or

B. Has, on the date of his parole or discharge, more than \$500 in personal assets.

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

A. If the committed offender's home is within the State, transportation shall be furnished to his home;

B. If the committed offender has secured employment within the State, transportation shall be furnished to the place of employment;

C. If the committed offender's home is outside the State, or if the committed offender has secured employment outside the State, transportation shall be furnished to the place on the Maine border nearest the place of employment; or

D. If the committed offender requests a reasonable place nearer the place of incarceration than any of the foregoing, transportation shall be furnished to that place; or

4. Extreme circumstances. May, in extreme circumstances, if the committed offender's home is outside the State, or if the committed offender has secured employment outside the State, furnish transportation to the committed offender's home or place of employment.

Sec. 26. 34-A MRSA §3061, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

§3061. Transfer to correctional facilities

1. Juveniles; exception. The commissioner may transfer any committed offender from one correctional facility or program, including prerelease centers, work release centers, halfway houses or specialized treatment facilities, to another, provided that no juvenile may be transferred to another facility or program for adult offenders.

2. Applicable rules. Any person transferred under this section shall be subject to the general rules of the 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.

Sec. 27. 34-A MRSA §3062, sub-§1, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

1. Requirements. The commissioner may transfer any committed offender to a federal penal or correctional institution if the United States Bureau of Prisons accepts the commissioner's application for transfer of the committed offender.

Sec. 28. 34-A MRSA §3063, as enacted by PL 1983,

c. 459, §6, is repealed and the following enacted in its place:

§3063. Transfer to jails

1. Requirements. The commissioner may authorize the transfer of committed offenders to any county jail.

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 commissioner agree upon.

3. Return to a correctional facility. When the commissioner determines that the committed offender should be returned to a correctional facility, he shall transfer the committed offender back to such a facility.

4. Applicable rules. Any person transferred under this section shall be subject to the general rules of the jail to which he is transferred, except that:

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

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

C. Committed offenders are entitled to have the time served in jail under this section deducted from their sentences; and

D. A prisoner transferred pursuant to this section remains eligible for programs authorized by section 3035 and may apply pursuant to the rules governing the correctional facility from which he was transferred.

Sec. 29. 34-A MRSA §§3064, 3065, 3066, 3067 and 3068, as enacted by PL 1983, c. 459, §6, are repealed.

Sec. 30. 34-A MRSA §3071, sub-§1, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 31. 34-A MRSA §3231, sub-§2, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

2. Residence. The warden, unless directed otherwise by the commissioner, shall reside con-

stantly within the prison. Notwithstanding Title 5, section 8-B, the warden shall not pay any charge for the housing facilities.

Sec. 32. 34-A MRSA §3231, sub-§3, ¶E, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

E. The warden shall constantly keep on hand a suitable and sufficient supply of arms, ammunition, tear gas and other security and riot control items.

Sec. 33. 34-A MRSA §3231, sub-§3, ¶K, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

K. The warden shall receive and take care of any allowable property that a prisoner has with him at the time he enters the prison, keep an account of the prisoner's money and give the prisoner the opportunity to remove all his property upon discharge.

Sec. 34. 34-A MRSA §3231, sub-§3, ¶L, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

L. Upon consultation with 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 the situation requires, until the warden, in consultation with the hospital medical staff, determines that the prisoner may leave the hospital without injury to his health.

If the recommendations of the hospital medical staff are not carried out, the warden shall immediately convey the reasons and circumstances for this decision to the commissioner for his review and final disposition.

Sec. 35. 34-A MRSA §3231, sub-§3, ¶N, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 36. 34-A MRSA §3231, sub-§4, ¶D, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 37. 34-A MRSA §3231, sub-§5, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 38. 34-A MRSA §3261, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

§3261. Delivery of committed offenders to the prison

When a committed offender, convicted and sentenced to the Department of Corrections, is to be transported to the prison from any county:

1. Duties of commissioner. The commissioner 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 between the hours of 8 a.m. and 4 p.m. on any day, unless prior arrangements for an alternative time have been made with the warden, 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.

Sec. 39. 34-A MRSA §§3267 and 3268, as enacted by PL 1983, c. 459, §6, are repealed.

Sec. 40. 34-A MRSA §3401, sub-§§1, 2 and 3, as

enacted by PL 1983, c. 459, §6, are repealed and the following enacted in their place:

1. Men. Men who have been duly sentenced and committed to the custody of the department;

2. Women. Women who have been duly sentenced and committed to the custody of the custody of the department;

3. Adult pretrial detainees. Adult, pretrial detainees who have been committed to the custody of the department; and

4. Juvenile pretrial detainees. Juveniles who have been found appropriate for detention in an adult facility pursuant to Title 15, section 3203, subsection 7, paragraph B.

Sec. 41. 34-A MRSA §3403, sub-§3 is enacted to read:

3. Industries program. The superintendent may establish a vocational training and industries program.

A. The program may make services and goods available for purchase by state agencies or the public.

B. The superintendent may authorize any person or business entity purchasing goods manufactured at the center to resell those articles if that person or entity requests in writing authority from the superintendent at the time the initial purchase is made.

C. All goods manufactured at the center for sale shall be distinctly labeled or branded with the words "Manufactured at the Maine Correctional Center."

D. All revenues from sales of goods and services produced by prisoners at the Maine Correctional Center shall be deposited into the Maine Correctional Center Industries Account.

E. Funds from this industries account shall be used only to pay for materials, supplies, equipment and staff salaries for this vocational training and industries program. Funds shall not be used to pay inmates for their work. This paragraph shall be reviewed by the joint standing committee having jurisdiction over audit and program review during the First Regular Session of the 112th Legislature.

Sec. 42. 34-A MRSA §3405, sub-§1, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

1. Powers. Employees of the center:

A. 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; and

B. May carry weapons and other security equipment when authorized by the superintendent inside and outside the center in connection with their assigned duties or training.

Sec. 43. 34-A MRSA §3407 is enacted to read:

§3407. Delivery of convicted offenders to the center

When a person is convicted and sentenced to the department and is to be transported to the center from any county:

1. Duties of commissioner. The commissioner shall immediately notify the superintendent 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 center, using a sufficient number of his appointed deputies when necessary; and

B. Deliver the convict to the officer in charge of the center between the hours of 8 a.m. and 4 p.m., unless prior arrangements are made and approved by the superintendent, 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 center pursuant to 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 superintendent. The superintendent 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.

Sec. 44. 34-A MRSA §3601, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

§3601. Establishment

There is established the Charleston Correctional Facility located at Charleston for the confinement and rehabilitation of persons who have been duly convicted and sentenced to the Department of Corrections.

Sec. 45. 34-A MRSA §3804, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 46. 34-A MRSA §3804-A is enacted to read:
§3804-A. Superintendent's appointment powers

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

1. Assistant superintendent. 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.

2. Designee. 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 subsection 1.

Sec. 47. 34-A MRSA §3805, sub-§2, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

2. Limitations. No person may be committed to the center who is blind or who is a proper subject for any state institution administered by the Depart-

ment of Mental Health and Mental Retardation.

Sec. 48. 34-A MRSA §3807, sub-§2, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

2. Reversion. Upon discharge or placement on after-care status 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.

Sec. 49. 34-A MRSA §3808, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 50. 34-A MRSA §3809, sub-§2, ¶E, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

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 consideration 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. If the recommendations of the physician or medical staff member are not carried out, the superintendent shall immediately convey the reasons and circumstances for this decision to the commissioner for his review and final disposition.

(2) Use of seclusion shall be discontinued if the superintendent, upon advice of a physician, determines that seclusion is harmful to the mental or physical health of the juvenile client. Seclusion may be continued if the behavior of the juvenile client presents a high likelihood of physical harm to himself or others and there is no less restrictive setting in which the juvenile's safety or that of others may be ensured.

Sec. 51. 34-A MRSA §3809-A is enacted to read:
§3809-A. Commissioner's guardianship powers

The commissioner has all the power which a

guardian has over his ward and which a parent has over his child as to person, allowable property which the juvenile client has at the Maine Youth Center, earnings which the juvenile client receives during his stay at the Maine Youth Center and for the rehabilitation of every juvenile client. If a juvenile client is or becomes 18 years of age while still under commitment, the statutory guardianship of the commissioner over the juvenile client shall terminate, but the juvenile client remains subject to the control of the commissioner, staff and rules of the center until the expiration of the period of commitment or until discharge from the center.

Sec. 52. 34-A MRSA §3810, as enacted by PL 1983, c. 459, §6, is amended to read:

§3810. Entrustment

1. Commissioner's powers. During a juvenile client's commitment to the center, the superintendent commissioner 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 commissioner requires, the person or agency to whom the juvenile client is entrusted shall report to the superintendent commissioner:

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 commissioner shall provide aftercare and entrustment services to juvenile clients.

4. Cancellation. If the superintendent commis-

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

Sec. 53. 34-A MRSA §3811, first ¶, as enacted by PL 1983, c. 459, §6, is amended to read:

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 commissioner, or by a law enforcement officer, at the request of the superintendent commissioner, 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:

Sec. 54. 34-A MRSA §5205, as enacted by PL 1983, c. 459, §6, is amended to read:

§5205. Expenses

The members of the board shall be paid \$25 \$50 per day and necessary expenses for each day actually spent in the work of the board.

Sec. 55. 34-A MRSA §9636 is enacted to read:

§9636. Hearing

Any prisoner for whom a written request for temporary custody has been received pursuant to Article IV, is entitled to a hearing in the Superior Court prior to his delivery in accordance with Article V. The hearing shall be limited to the issue of whether there are reasonable grounds to believe the prisoner is in fact the person charged in the indictment, information or complaint of the demanding state.

Sec. 56. 34-B MRSA §5204 is enacted to read:

§5204. Services for juveniles committed to the Maine Youth Center

1. Bureau authority. The bureau may provide consultation services to any mentally retarded juvenile committed to the Maine Youth Center if those services are requested by the Commissioner of the Department of Corrections. Consultation services may include participation by appropriate bureau professionals on the Clinical Services Committee of the

Maine Youth Center in order to assist in the design of individual treatment plans to provide habilitation, education and skill training to mentally retarded juveniles in residence at the Maine Youth Center.

2. Support services. Whenever a program has been designed for a mentally retarded juvenile by the Clinical Services Committee and the Clinical Services Committee has included participation by the bureau professionals, the bureau shall provide, insofar as possible, support services to implement that program.

3. Case management. The bureau may provide case management services to mentally retarded juveniles who are released from the Maine Youth Center.

Sec. 57. Mentally retarded offenders. As a result of the new classification process, the Department of Corrections will be reviewing the rehabilitation and treatment needs of all committed offenders, and expects that there may be special needs of mentally retarded offenders.

It is the intent of the Legislature that the department evaluate the needs of these inmates, in consultation with the Department of Mental Health and Mental Retardation. If the Department of Corrections, after study, determines that a program is necessary to meet these needs, it shall submit the necessary legislation, together with any required funding recommendations, to the Legislature for its approval.

Sec. 58. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act.

	<u>1983-84</u>	<u>1984-85</u>
<u>CORRECTIONS, DEPARTMENT OF</u>		
All Other	\$4,275	\$8,550

Sec. 59. Effective date. This Act takes effect January 16, 1984.

Effective January 16, 1984.

CHAPTER 582

H.P. 1271 - L.D. 1685

AN ACT to Stabilize Maine Potato Prices.