

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the Maine State Apprenticeship and Training Council and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour approved program and a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may write the journeyman's examination after completion of the 576 hours of instruction, if application is made within one year of the completion of the instruction.

Sec. 2. 32 MRSA §1202, sub-§1, ¶D, as enacted by PL 1987, c. 395, Pt. B, §7, is amended to read:

D. For a journeyman-in-training electricians' license, a person must be a graduate of an accredited Maine vocational-technical institute or Department of Corrections vocational-electrical program, receive a passing grade on the journeyman examination and complete 2,000 hours of experience. This provision shall be reviewed by the joint standing committee of the Legislature having jurisdiction over business legislation by March 1, 1991, and, unless continued by law, shall terminate at this time.

See title page for effective date.

CHAPTER 126

H.P. 109 - L.D. 146

An Act to Provide Greater Power to the Maine District Court in Emancipation Proceedings

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

Sec. 1. 15 MRSA §3506-A, sub-§2-A is enacted to read:

2-A. Mediation. Upon the filing of a petition and prior to a hearing under this section, the court may refer the parties to mediation. Any agreement reached by the parties through mediation on any issues shall be stated in writing, signed by the parties and presented to the court for approval as a court order.

Sec. 2. 15 MRSA §3506-A, sub-§7 is enacted to read:

7. Public proceeding; exception. Notwithstanding section 3307, subsection 2, paragraph B, the court shall not exclude the public unless the minor or the minor's parent or parents, guardian or custodian, requests that the public be

excluded and the minor or the minor's parent or parents, guardian or custodian, does not object. If the public is excluded, only the parties, their attorneys, court officers and witnesses may be present.

See title page for effective date.

CHAPTER 127

S.P. 145 - L.D. 265

An Act to Clarify and Make Changes to the Statute Governing the Operation of the Department of Corrections

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

Sec. 1. 34-A MRSA §1210, sub-§4, ¶D, as enacted by PL 1985, c. 821, §18, is amended to read:

D. By ~~August 1st~~ and February 1st of each calendar year, the county shall provide, in a format provided by the Department of Corrections, a copy of actual expenditures for the support of prisoners for the previous ~~12 months~~ calendar year. The Department of Audit shall establish, in consultation with the counties and the Department of Corrections, a uniform system of accounting for the support of prisoners for the counties pursuant to its authority in Title 5, section 243 and consistent with the requirements of this section. No county may be reimbursed after July 1, 1987, until it has implemented the uniform accounting system for the expenditure for support of prisoners.

Sec. 2. 34-A MRSA §1210, sub-§5, as amended by PL 1987, c. 335, §§1, 2, is further amended to read:

5. Adjustment to the reimbursement. Beginning July 1, 1987, the Commissioner of Corrections shall, ~~semiannually~~, set annually the reimbursement for each county to include all actual costs for the support of prisoners. The actual cost for the support of prisoners shall be calculated on the basis of the previous ~~12 months~~ calendar year, for each county, by dividing costs for prisoner support by the total number of days prisoners are detained in that county and prisoners committed to that county serve. Support of prisoners shall include the following line items:

A. Personal Services;

B. Contractual Services:

(1) Professional fees and services:

(a) Medical, dental and psychological;

- (b) In-house correctional programs and community correctional programs as defined in this section;
- (c) Board of prisoners; and
- (d) Insurances;
- (2) Prisoner transportation:
 - (a) Gas and oil; and
 - (b) Auto repairs;
- (3) Utilities:
 - (a) Electricity;
 - (b) Gas;
 - (c) Sewage and water;
 - (d) Telephone; and
 - (e) Rubbish removal;
- (4) Rentals;
- (5) Repairs and maintenance;
- (6) General operating expenses:
 - (a) Postage; and
 - (b) Printing; and
- (7) Other:
 - (a) Staff training and education;
- C. Commodities:
 - (1) Food;
 - (2) Fuel; and
 - (3) Supplies:
 - (a) Cleaning;
 - (b) Institutional; and
 - (c) Office;
- D. Capital expenditures to the extent that it reflects the actual increase in jail population resulting from net gain of prisoners under Title 17-A, section 1203, subsection 1 and section 1252, subsection 1, as amended:

- (1) Equipment:
 - (a) Furniture and fixtures; and

- (2) Buildings; and
- E. Capital expenditures, replacement:

- (1) Equipment:
 - (a) Furniture and fixtures; and
 - (b) Vehicles.

Sec. 3. 34-A MRSA §1403, sub-§8, as enacted by PL 1985, c. 67, §1, is repealed and the following enacted in its place:

8. Receipt of United States prisoners or adjudicated juveniles. The commissioner's power to accept United States prisoners or adjudicated juveniles is as follows.

A. The commissioner may receive in any correctional facility prisoners detained by the United States or convicted of an offense against the United States and committed for a term of imprisonment to the custody of the Attorney General of the United States if:

(1) The Attorney General of the United States designates a Maine correctional facility as the place of confinement for the prisoner; and

(2) The commissioner approves and agrees to accept and keep the prisoner in a Maine correctional facility.

B. The commissioner may receive in any juvenile facility juveniles detained by the United States or adjudicated of an offense against the United States and committed for a term of institutionalization to the custody of the Attorney General of the United States if:

(1) The Attorney General of the United States designates a Maine juvenile facility as the place of confinement for the juvenile; and

(2) The commissioner approves and agrees to accept and keep the juvenile in a Maine juvenile facility.

C. The commissioner may contract with the Attorney General of the United States or officer designated by the Congress for the care, custody, subsistence, education, treatment and training of any prisoner or juvenile accepted under this section. All sums paid pursuant to contracts authorized by this section shall accrue to the General Fund.

Sec. 4. 34-A MRSA §1403, sub-§9, as amended by PL 1987, c. 589, is further amended to read:

9. Industries programs. The commissioner may establish vocational-training, work and industries programs including those permitted under a certification issued by the

United States Department of Justice under the United States Code, Title 18, Section 1761.

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

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

C. All goods manufactured at a correctional facility for sale shall be distinctly labeled or branded with the words "Manufactured at a Maine State Correctional Facility", except those goods produced under a program certified by the United States Department of Justice pursuant to the Prison Industries Enhancement Act, Public Law 96-157, Section 827 (1979) under the United States Code, Title 18, Section 1761.

D. All revenues from direct sales of goods and services produced by prisoners at correctional facilities and all amounts received from a private sector industry participating with the Department of Corrections in an industries program certified by the United States Department of Justice under the United States Code, Title 18, Section 1761, in consideration of lease of industry space, provision of utilities, trash removal and other services provided to the private industry which are related to the use of industry space at correctional facilities shall be deposited into the department Industries Accounts, which shall not lapse.

E. Funds from these industries accounts may be used to pay for materials, supplies, equipment ~~and~~, salaries ~~for~~ and other costs of establishing and operating vocational training, work and industrial programs. For industries programs certified by the United States Department of Justice under the United States Code, Title 18, Section 1761, mandatory contributions to the Crime Victim Assistance Program shall be made from these industries accounts and transferred to the control of the Department of Human Services to be used exclusively for the Crime Victim Assistance Program.

F. The commissioner shall, in consultation with the State Apprenticeship and Training Council, develop policies concerning job displacement and safety and policies to develop opportunities in the prison industries programs.

Sec. 5. 34-A MRSA §3031, sub-§5, as enacted by PL 1983, c. 459, §6, is amended to read:

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

Sec. 6. 34-A MRSA § 3032, sub-§3, ¶D, as amended by PL 1983, c. 581, §§17, 59, is further 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~~ immediately and, at least once in each succeeding 24-hour period of confinement, to examine the person's state of health. When no physician or medical staff member is available within the facility to visit as required by this paragraph, a staff person who has received in-service training appropriate for the duties required by this section from a licensed health professional shall visit in lieu of the visit by the physician or medical staff member the person in confinement. The staff person making the visit shall immediately contact the physician or medical staff member on call if there is reasonable cause to believe the action is necessary.

(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~~ that person's 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 immediately convey the reasons and circumstances for this decision to the commissioner for ~~his~~ review and final disposition.

Sec. 7. 34-A MRSA §3033, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

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~~ the commissioner considers expedient to ~~insure~~ ensure the proper care and treatment of the prisoners while so employed and to ensure their safekeeping and return.

Sec. 8. 34-A MRSA §3033, sub-§2, as amended by PL 1987, c. 370, §7, is further amended to read:

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 Maine Emergency Management Agency, to fight fires or provide assistance during or after a civil disaster.

Sec. 9. 34-A MRSA §3033, sub-§4, as enacted by PL 1983, c. 459, §6, is amended to read:

4. **Prohibited act.** A person is guilty of escape under Title 17-A, section 755, if ~~he~~ that person is a prisoner and 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 or other security restraints surrounding a correctional facility or otherwise off the grounds of an assigned location.

Sec. 10. 34-A MRSA §3038-A, as enacted by PL 1983, c. 459, §6, is amended to read:

§3038-A. Care of children of committed offenders

1. **Commitment of child.** If ~~any male~~ a committed offender, at the time of his commitment to the Maine State Prison or the Maine Correctional Center custody of the Department of Corrections, is the father parent of and has under his is providing exclusive care for any child ~~which~~ who might otherwise be left without proper care or guardianship, the judge committing ~~him~~ that offender shall cause ~~his~~ the 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.

Sec. 11. 34-A MRSA §3604, sub-§1, as enacted by PL 1983, c. 459, §6, is amended to read:

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~~ approved by the Commissioner of Corrections.

Sec. 12. 34-A MRSA §5402, sub-§3, ¶¶C and D, as enacted by PL 1983, c. 459, §6, are amended to read:

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; and

Sec. 13. 34-A MRSA §5402, sub-§3, ¶E is enacted to read:

E. With the approval of the commissioner, delegate the responsibility to warn persons interfering with a probationer, parolee or a prisoner on intensive supervision to a district supervisor.

Sec. 14. 34-A MRSA §5404, as amended by PL 1987, c. 315, §2, is further amended to read:

§5404. Probation and parole officers and intensive supervision program officers

In addition to duties prescribed by the director and by the court having jurisdiction, a probation and parole or intensive supervision program officer shall:

1. **Investigation.** Investigate any criminal case or matter concerning probation ~~or~~ parole or intensive supervision referred to ~~him~~ the officer 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;

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

C. If the officer has probable cause to believe that a person under the supervision of the Division of Probation and Parole has violated a condition of ~~his~~ that person's probation or parole or intensive supervision, ~~he~~ the officer may arrest that person.

3. **Supervision.** Supervise persons as follows:

A. Supervise the probation ~~or~~ parole or intensive supervision of each person placed under ~~his~~ the officer's 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~~ the officer's supervision and use suitable methods to encourage ~~him~~ the person to improve ~~his~~ that person's conduct and condition; ~~and~~.

~~D. With the approval of the commissioner, delegate his responsibility to warn persons interfering with a probationer or parolee to a district supervisor.~~

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.

See title page for effective date.

CHAPTER 128

H.P. 243 - L.D. 355

An Act to Allow School Districts to Waive Up to 5 Days of Kindergarten for Screening

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, screening of incoming kindergarten students is an essential activity for schools in order to identify special needs and other at-risk students and to permit the development of an appropriate curriculum for all students; and

Whereas, many schools would find it beneficial to conduct screening activities for incoming kindergarten students during the remainder of the current school year; and

Whereas, without enactment of this emergency legislation, the process for screening kindergarten students cannot be employed for next year's incoming kindergarten students; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

20-A MRSA §4801, sub-§1, ¶D is enacted to read:

D. A school administrative unit, operating under a plan approved by the commissioner, may provide for the use of up to 5 of the 175 instructional days required by this section to be used for screening incoming first year students for the purpose of identifying exceptional students and students at risk of school failure as required by state or federal law.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective May 12, 1989.

CHAPTER 129

H.P. 350 - L.D. 469

An Act Regarding the Consignment or Rental of Diseased Horses

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

17 MRSA §1012, as enacted by PL 1987, c. 383, §4, is amended to read:

§1012. Unlawful sale, consignment or rental of diseased horses

1. **Unlawful sale, consignment or rental of diseased horses.** A person is guilty of unlawful sale, consignment or rental of diseased horses if ~~he~~ that person receives, offers for sale or sells at private sale or public auction, consigns or rents any horse which, by reason of debility, disease or lameness or for other cause could not be worked in the State without violating the laws against cruelty to animals.

2. **Penalty.** Unlawful sale, consignment or rental of diseased horses is a Class E crime.

3. **Violation.** Any licensed auctioneer violating this section may be punished by loss of license in addition to other penalties provided by law.

4. **Exception.** This section shall not be construed to prohibit the sale to or the purchase of horses by humane societies.

See title page for effective date.

CHAPTER 130

H.P. 363 - L.D. 494

An Act to Provide a Sales Tax Exemption for Sales to Providers of Certain Support Systems for Single-parent Families

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

36 MRSA §1760, sub-§65 is enacted to read:

65. Incorporated nonprofit providers of certain support systems for single-parent families. Sales to incorporated nonprofit organizations engaged primarily in pro-