

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

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SECOND REGULAR SESSION

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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
1992

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

5, sections 12004-I and 12004-J and any other advisory boards and commissions not listed in those sections whose responsibilities are comparable to the listed boards and commissions. The Secretary of State, in consultation with the Secretary of the Senate and the Clerk of the House of Representatives, shall group the repeal provisions for the advisory boards and commissions into separate pieces of legislation so as to allow review of each piece of legislation by the appropriate joint standing committee of the Legislature.

In considering legislation submitted by the Secretary of State under this Act, on direction of the Legislative Council, each joint standing committee of the Legislature shall consider the following questions in evaluating the advisory boards contained in that legislation:

A. Is the area of an agency's responsibility sufficiently important or controversial to require a formal advisory function through a statutorily created board as a matter of good government?

B. Is the independence of such an advisory board of sufficient importance to warrant the provision of independent staff to the board?

C. Is the board required by federal law?

D. If the board was intended as a source of expertise or public input during the start-up of a new program and the program is implemented, is the board still necessary?

E. Is it likely that an agency will obtain adequate public input and access to special expertise through other channels, thus obviating the need for the board? The flexibility of an informal group must be balanced with the possibility that agencies being advised may be disinclined or otherwise less likely to heed dissenting opinions coming from an informal group.

F. Does the board undertake actions or have responsibilities that duplicate those of an agency or that violate sound management principles?

G. Can one board assume the responsibilities and authority of one or more other boards that are duplicate or overlap its own?

H. Can qualified board members be recruited on a regular basis?

I. Is the board's level of activity sufficient to fulfill its purposes? Frequency and length of meetings and level of member attendance must be considered.

J. Is the compensation policy established under the Maine Revised Statutes, Title 5, section 12003-A, subsection 2 being appropriately applied?

K. Should the board in question be formally established to ensure the procedural safeguards of the State's freedom of access laws regarding notice and public access to meetings and documents?

The joint standing committees shall obtain and review all reports issued by the joint standing committee of the Legislature having jurisdiction over audit and program review matters issued during the past 5 years that address the advisory boards under review and shall forward a copy of their findings and recommendations to the Legislative Council.

Emergency clause. In view of the emergency cited in the preamble, except as otherwise indicated this Act takes effect when approved.

Effective April 9, 1992.

CHAPTER 845

S.P. 916 - L.D. 2353

An Act to Establish a Supervised Community Confinement Program for Certain Prisoners of the Department of Corrections

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

Sec. 1. 17-A MRSA §755, sub-§1-B is enacted to read:

1-B. A person is guilty of escape from supervised community confinement granted pursuant to Title 34-A, section 3036-A if without official permission that person intentionally fails to appear for work or school or for a meeting with that person's supervising officer or who intentionally fails to return to the correctional facility from which transfer was made upon the direction of the Commissioner of Corrections or who otherwise intentionally violates a curfew, residence, time or travel restriction.

Sec. 2. 17-A MRSA §755, sub-§3-A, as amended by PL 1985, c. 821, §2, is further amended to read:

3-A. Prosecution for escape or attempted escape from any institution included in subsection 3 ~~shall~~ must be in the county in which the institution is located. Prosecution for escape or attempted escape of a person who has been transferred from one institution to another ~~shall~~ must be in the county in which the institution the person was either transferred from or transferred to is located. Prosecution for an escape or attempted escape for failure to return to official custody following temporary leave granted for a specific purpose or a limited period ~~shall~~ must be in the county in which the institution from which the leave was granted is located or in any county to which

leave was granted. Prosecution for escape or attempted escape from intensive supervision shall must be in the county in which the escape or attempted escape occurred. Prosecution for escape or attempted escape from supervised community confinement must be in the county in which the institution from which the transfer to supervised community confinement was granted is located or in any county to which the transfer to supervised community confinement was granted. ~~In~~ Notwithstanding other provisions of this section, in all cases of escape, prosecution may be in the county or division in which the person who has escaped was apprehended.

Sec. 3. 17-A MRSA §1264, sub-§2, ¶D, as enacted by PL 1985, c. 821, §5, is amended to read:

D. That the prisoner not possess or use illegal drugs or other substances, and not abuse alcohol or any other legal substance;

Sec. 4. 34-A MRSA §3036-A is enacted to read:

§3036-A. Supervised community confinement program

1. Establishment. The commissioner may adopt rules establishing and governing a supervised community confinement program for certain prisoners committed to the department.

2. Participation. With the consent of the prisoner the commissioner may permit any prisoner committed to the department to be transferred from a correctional facility to supervised community confinement subject to the following restrictions.

A. A transfer to supervised community confinement may only be granted subject to rules adopted by the commissioner.

B. A prisoner may not be transferred to supervised community confinement until the prisoner has served at least 2/3 of the term of imprisonment imposed or, in the case of a split sentence, at least 2/3 of the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

C. A prisoner may not be transferred to supervised community confinement unless the prisoner has no more than one year remaining on the term of imprisonment or, in the case of a split sentence, on the unsuspended portion, after consideration of any deductions that the prisoner has received and retained under Title 17-A, section 1253.

D. A prisoner may not be transferred to supervised community confinement if the prisoner has a security classification level higher than minimum.

3. Mandatory conditions for supervised community confinement. Prisoners transferred to supervised

community confinement are subject to the following mandatory conditions.

A. The prisoner must be involved in a program of work or education that is approved by the commissioner together with any treatment program that the commissioner might require.

B. The prisoner must live in a residence that is approved by the commissioner.

C. The prisoner must be subject to a curfew set by the commissioner during which time the prisoner must be at the approved residence.

D. The prisoner must be subject to travel or movement restrictions set by the commissioner limiting the prisoner's travel to times and places directly related to approved employment, education, treatment or such other specific purposes as are approved in advance by the commissioner.

E. The prisoner must be subject to searches of the prisoner's person, residence, papers and effects without a warrant and without probable cause, for items prohibited by law or by the conditions of supervised community confinement or otherwise subject to seizure, upon the request of the commissioner. The commissioner may prohibit the prisoner from residing with anyone who does not consent to a search of the residence to the extent necessary to search the prisoner's person, residence, papers and effects.

F. The prisoner may not possess or use illegal drugs or other illegal substances, may not possess or use alcohol and may not abuse any other legal substance.

G. The prisoner must submit to urinalysis, breath testing or other chemical tests without probable cause at the request of the commissioner.

H. The prisoner must notify any law enforcement officer, if stopped, of the prisoner's status as a prisoner on supervised community confinement and notify the commissioner within 8 hours of any such contact with any law enforcement officer.

I. The prisoner may not violate state or federal criminal law.

J. When required by the commissioner and to the extent that the commissioner determines that the prisoner has the financial resources, the prisoner must pay part or all of the costs of the prisoner's participation in the supervised community confinement program.

4. Additional conditions. In addition to the mandatory conditions, the conditions of supervised com-

munity confinement that may be imposed on a prisoner at any time include:

A. Any condition that may be imposed as a condition of probation pursuant to Title 17-A, section 1204; and

B. Any condition that would be appropriate for the prisoner and the supervised community confinement program. The conditions imposed may be as stringent or restrictive as, but not more stringent or restrictive than, those that may be constitutionally imposed if the prisoner were actually housed at a maximum security institution.

5. Copy of rules. Copies of rules must be provided to prisoners as follows.

A. The commissioner shall provide to any prisoner permitted to participate in the supervised community confinement program under this section a copy of the rules applicable to the program.

B. The prisoner shall attest to the receipt of the copy of the rules.

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

A. A person 18 years of age or older is guilty of interference with supervised community confinement if that person intentionally or knowingly obstructs, intimidates or otherwise abets any prisoner participating in the supervised community confinement program under this section and intentionally contributes or causes the prisoner to violate any term of supervised community confinement program participation, after having been warned by the commissioner to end the offending activity.

B. Interference with supervised community confinement is a Class D crime.

7. Investigation of compliance. The commissioner, at any time and in any manner the commissioner determines appropriate, may investigate compliance with the conditions imposed. The means of investigation may include, but are not limited to, the following:

A. Personal contact with the prisoner at the prisoner's residence, place of employment or any other place;

B. Direct inquiry of the prisoner's employer, school or any other person or entity;

C. Criminal, court and police agency investigations; and

D. Credit and other financial inquiries.

8. Funding. Funds generated pursuant to this section must be deposited into the Supervised Community Confinement Account established by the department, which may not lapse. Funds from this account must be used to pay for the costs of the supervised community confinement program.

Sec. 5. 34-A MRSA §3061, sub-§1, as amended by PL 1991, c. 314, §53, is further amended to read:

1. Transfer. The commissioner may transfer any client from one correctional or detention facility or program, including prerelease centers, work release centers, halfway houses, supervised community confinement or specialized treatment facilities, to another, except that no juvenile may be transferred to another facility or program for adult offenders.

Sec. 6. 34-A MRSA §5404, sub-§2, ¶B, as amended by PL 1987, c. 315, §2, is further amended to read:

B. Arrest and return to a correctional facility persons released from the correctional facility under section 3035 or transferred from the facility under section 3036-A; and

Sec. 7. 34-A MRSA §5404, sub-§3, ¶B, as amended by PL 1989, c. 127, §14, is further amended to read:

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 supervise persons transferred to supervised community confinement under section 3036-A if the commissioner directs; and

Sec. 8. Costs not funded. Notwithstanding the Maine Revised Statutes, Title 30-A, section 5684, any requirements of this Act that result in additional costs to local or county government are not state mandates subject to that section and the State is not required to fund those costs.

See title page for effective date.

CHAPTER 846

H.P. 1716 - L.D. 2401

An Act Concerning Technical Changes to the Tax Laws

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