

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND EIGHTEENTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 7, 1998 to March 31, 1998**

**SECOND SPECIAL SESSION**  
**April 1, 1998 to April 9, 1998**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JUNE 30, 1998**

**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 9, 1998**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1997**

## PART C

**Sec. C-1. Comprehensive plan.** The Division of Deafness within the Bureau of Rehabilitation Services in the Department of Labor and the Telecommunications Relay Services Advisory Council, in consultation with an association representing the State's telephone companies, the Commission to Study the Funding and Distribution of Teletypewriters and Other Telecommunications Equipment for People with Disabilities and other advisory councils representing the interests of persons with disabilities, shall develop a comprehensive long-range plan to provide deaf, hard-of-hearing and speech-impaired persons and persons with disabilities direct access to specialized customer telecommunications equipment and other telecommunications equipment throughout the State. The plan must be presented to the 119th Legislature by January 15, 1999. The plan must develop recommendations for a request-for-proposal to develop statewide direct access to telephone networks for deaf, hard-of-hearing and speech-impaired persons and persons with disabilities. The request-for-proposal recommendations may address bid specifications and performance standards for the following contract provisions: public awareness and outreach programs, including a toll-free number; customer intake and connection procedures; statewide distribution and storage capacity; customer access to network services on a 24-hour-a-day basis, including equipment installation and training; and maintenance and repairs of specialized customer telecommunications equipment and other telecommunications equipment.

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

Effective April 15, 1998.

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**CHAPTER 752**

**S.P. 834 - L.D. 2232**

**An Act to Improve the Delivery and Effectiveness of State Correctional Services**

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

**Sec. 1. 4 MRSA §1606, sub-§2,** as amended by PL 1997, c. 523, §15, is further amended to read:

**2. Limitation on securities issued.** The authority may not issue securities in excess of \$60,000,000 outstanding at any one time, of which no less than \$30,000,000 must be specifically allocated to projects relating to the Judicial Branch, except for the issuance

of revenue refunding securities authorized by section 1610 and securities issued under section 1610-A. The amount of securities that may be outstanding in the name of the authority may be increased by the Legislature upon a showing by the authority that its available revenues are sufficient to support additional issuance of securities and that the issuance of securities will not materially impair the credit standing of the authority, the investment status of securities issued by the authority or the ability of the authority to fulfill its commitments to holders of securities. Nothing in this chapter may be construed to authorize the authority to issue securities to fund the construction, reconstruction, purchase or acquisition of facilities without a 2/3 vote of approval in each House of the Legislature.

**Sec. 2. 4 MRSA §1610-A** is enacted to read:

**§1610-A. Additional securities**

Notwithstanding any limitation on the amount of securities that may be issued pursuant to section 1606, subsection 2, the authority may issue additional securities in an amount not to exceed \$85,000,000 outstanding at any one time for correctional facilities.

**Sec. 3. 5 MRSA §12004-I, sub-§4-A** is enacted to read:

<u>4-A.</u>	<u>Policy</u>	<u>Not</u>	<u>34-A</u>
<u>Corrections</u>	<u>Review</u>	<u>Authorized</u>	<u>MRSA</u>
	<u>Council</u>		<u>§3002-A</u>

**Sec. 4. 5 MRSA §12004-I, sub-§15-A,** as enacted by PL 1991, c. 764, §1, is repealed.

**Sec. 5. 15 MRSA §3006,** as enacted by PL 1989, c. 925, §3, is repealed.

**Sec. 6. 15 MRSA §3103, sub-§2,** as amended by PL 1995, c. 470, §4, is further amended to read:

**2. Dispositional powers.** All of the dispositional powers of the Juvenile Court provided in section 3314 apply to a juvenile who is adjudicated to have committed a juvenile crime, except that no commitment to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility or other detention may be imposed for conduct described in subsection 1, paragraphs B and C.

**Sec. 7. 15 MRSA §3203-A, sub-§1, ¶B-1,** as amended by PL 1997, c. 24, Pt. RR, §1, is further amended to read:

B-1. When, in the judgment of a law enforcement officer, immediate secure detention is required to prevent a juvenile from imminently inflicting bodily harm on others or the juvenile, the officer may refer the juvenile for temporary,

emergency detention in a jail or other secure facility intended or primarily used for the detention of adults approved pursuant to subsection 7, paragraph A or a facility approved pursuant to subsection 7, paragraph B, prior to notifying a juvenile caseworker. Such a facility may detain the juvenile for up to 2 hours on an emergency basis, provided that the law enforcement officer immediately notifies the juvenile caseworker and requests authorization to detain the juvenile beyond the term of the temporary, emergency detention pursuant to paragraph B. The juvenile caseworker may, if continued emergency detention is required to prevent the juvenile from imminently inflicting bodily harm on others or the juvenile, authorize temporary emergency detention in that facility for an additional 4 hours. Following any temporary emergency detention, the juvenile caseworker shall order the conditional or unconditional release of a juvenile or shall effect a detention placement. ~~After December 31, 1991 and except~~ Except as otherwise provided by law, any detention beyond 6 hours must be in a placement other than a facility intended or primarily used for the detention of adults and must be authorized by a juvenile caseworker. It is the responsibility of the law enforcement officer to remain at the facility until the juvenile caseworker has released the juvenile or has authorized detention.

**Sec. 8. 15 MRSA §3203-A, sub-§2, ¶A**, as amended by PL 1989, c. 925, §5, is further amended to read:

A. When a juvenile is arrested, the law enforcement officer or the juvenile caseworker shall notify the legal custodian of the juvenile without unnecessary delay and inform the legal custodian of the juvenile's whereabouts, the name and telephone number of the juvenile caseworker who has been contacted and, if a juvenile has been placed in a secure detention facility, that a detention hearing will be held within 48 hours following this placement, excluding Saturday, Sunday and legal holidays. ~~After December 31, 1991, if the juvenile is held under subsection 7, paragraph B 1, the law enforcement officer or the juvenile caseworker shall notify the legal custodian that a detention hearing will be held within 24 hours following this placement, excluding Saturday, Sunday and legal holidays.~~

**Sec. 9. 15 MRSA §3203-A, sub-§5**, as amended by PL 1989, c. 741, §8, is further amended to read:

**5. Detention hearing.** Upon petition by a juvenile caseworker, the Juvenile Court shall review the decision to detain a juvenile within 48 hours following

the detention, excluding Saturday, Sunday and legal holidays.

A. A detention hearing ~~shall~~ must precede and ~~shall~~ be separate from a bind-over or adjudicatory hearing. Evidence presented at a detention hearing may include testimony, affidavits and other reliable hearsay evidence as permitted by the court and may be considered in making any determination in that hearing.

B. Following a detention hearing, a court shall order a juvenile's release, in accordance with subsection 4, unless it finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention provided in that subsection. The Juvenile Court shall ensure, by appropriate order, that any such continued detention is otherwise in accordance with the requirements of subsection 4.

C. No continued detention may be ordered unless the Juvenile Court ~~shall determine~~ determines that there is probable cause to believe that the juvenile has committed a juvenile crime.

**Sec. 10. 15 MRSA §3203-A, sub-§7, ¶B-1**, as amended by PL 1995, c. 647, §1, is repealed.

**Sec. 11. 15 MRSA §3203-A, sub-§7, ¶B-2**, as amended by PL 1995, c. 647, §2, is repealed.

**Sec. 12. 15 MRSA §3203-A, sub-§7, ¶B-4**, as amended by PL 1997, c. 393, Pt. B, §6 and affected by §7, is further amended to read:

B-4. ~~Notwithstanding any other provision of law, on the date that the Northern Maine Regional Juvenile Detention Facility begins operating, the~~ The State is responsible for all physically restrictive juvenile detention statewide, except that the detention provided under subsection 1 remains the responsibility of the counties. At the discretion of the sheriff, a county may assume responsibility for the detention of a juvenile for the first 48 hours, excluding Saturdays, Sundays and legal holidays. Upon mutual agreement of the Commissioner of Corrections and the sheriff and upon terms mutually agreeable to them, a juvenile may be further detained by a county. Any detention of a juvenile by a county must be in a section of a jail or other secure detention facility in compliance with paragraph A or in an approved detention facility or temporary holding resource in compliance with paragraph B. This paragraph does not apply to a juvenile who is held in an adult section of a jail pursuant to court order under paragraph C or D; section 3101, subsection 4, paragraph E-1; or section 3205, subsection 2.

**Sec. 13. 15 MRSA §3203-A, sub-§7, ¶C**, as amended by PL 1991, c. 493, §14, is further amended to read:

C. Upon the request of the Commissioner of Corrections or the commissioner's designee, a judge may approve the transfer of a juvenile, who is detained at ~~the Maine Youth Center or in another~~ a detention facility described in paragraph B and operated by the department, to any section of a jail or other secure facility that is intended for use or used primarily 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 3101, subsection 4;

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

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

(b) Presents a substantial likelihood that the juvenile will leave the detention facility; and

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

In determining whether the juvenile's behavior presents a danger to the juvenile or others, the court shall consider, among other factors:

(a) The nature of and the circumstances surrounding the offense with which the juvenile is charged, including whether the offense was committed in an aggressive, violent, premeditated or willful manner;

(b) The record and previous history of the juvenile, including the juvenile's emotional attitude and pattern of living; and

(c) If applicable, the juvenile's behavior and mental condition during any previous or current period of detention or commitment.

**Sec. 14. 15 MRSA §3205**, as amended by PL 1997, c. 24, Pt. RR, §4, is further amended to read:

**§3205. Juvenile in adult-serving jail**

**1. Generally.** ~~After December 31, 1991, a~~ Δ juvenile may not be committed to or detained in a jail or other secure detention facility intended or primarily used for the detention of adults, except when bound over as an adult or as provided in section 3203-A, subsection 1, paragraph B-1 or section 3203-A, subsection 7, paragraph ~~B-1, B-2 or~~ B-4. A juvenile who is detained in a jail or other secure detention facility intended or primarily used for the detention of adults may be detained only in a section of a facility that meets the requirements of section 3203-A, subsection 7, paragraph A, unless bound over as an adult and held in an adult section of a facility pursuant to court order.

**2. Exception.** Subsection 1 applies to any person who is considered a juvenile by virtue of section 3101, subsection 2, paragraph D except that if the person has attained the age of 18 years, any detention pursuant to section 3203-A and any commitment pursuant to section 3314, subsection 1, paragraph H may be, upon the order of a court, in an adult section of a jail or other secure detention facility intended or primarily used for the detention of adults and may extend beyond the time limits set out in section 3203-A, subsection 1, paragraph B-1 ~~and section 3203-A, subsection 7, paragraph B-1.~~

**Sec. 15. 15 MRSA §3308, sub-§7, ¶D**, as amended by PL 1997, c. 548, Pt. A, §1, is further amended to read:

D. When a juvenile who is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1 is committed to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility or placed on probation, the Department of Corrections shall provide, while the juvenile is committed to ~~the Maine Youth Center~~ or on probation, a copy of the juvenile's judgment and commitment to the Department of Human Services, to all law enforcement agencies that have jurisdiction in those areas where the juvenile may reside, work or attend school and to the superintendent of any school system in which the juvenile attends school during the period of commitment or probation. The Department of Corrections shall provide a copy of the juvenile's judgment and commitment to all licensed and registered day-care facility operators located in the municipality where the juvenile resides, works or attends school during the period of commitment or probation. Upon request, the Department of Correc-

tions shall also provide a copy of the juvenile's judgment and commitment to other entities that are involved in the care of children and are located in the municipality where the juvenile resides, works or attends school during the period of commitment or probation. The Department of Corrections may provide a copy of the juvenile's judgment and commitment to any other agency or person whom the Department of Corrections determines is appropriate to ensure public safety. Neither the failure of the Department of Corrections to perform the requirements of this paragraph nor compliance with this paragraph subjects the Department of Corrections or its employees to liability in a civil action.

**Sec. 16. 15 MRSA §3309-A, sub-§4**, as enacted by PL 1995, c. 690, §4 and affected by §7, is amended to read:

**4. Juvenile adjudicated of gross sexual assault.** After adjudication and before disposition when a juvenile is adjudicated of a juvenile crime that if committed by an adult would be gross sexual assault under Title 17-A, section 253, subsection 1, the court shall order the juvenile to undergo a diagnostic evaluation at ~~the Maine Youth Center~~ a detention facility described in section 3203-A, subsection 7, paragraph B.

**Sec. 17. 15 MRSA §3309-B**, as amended by PL 1997, c. 24, Pt. RR, §5, is further amended to read:

**§3309-B. Limitations on diagnostic evaluations in a secure detention facility**

Except as provided in section 3309-A, subsection 4, the court may not order a juvenile to undergo a diagnostic evaluation at ~~the Maine Youth Center~~ a detention facility described in section 3203-A, subsection 7, paragraph B or a secure detention facility unless the juvenile meets the requirements of section 3203-A, subsection 4, paragraphs C and D and the diagnostic evaluation is unable to take place outside the facility on either a residential or nonresidential basis.

**Sec. 18. 15 MRSA §3314, sub-§1, ¶E**, as repealed and replaced by PL 1995, c. 690, §6, is amended to read:

E. The court may require the juvenile to make restitution for any damage to the victim or other authorized claimant as compensation for economic loss upon reasonable conditions that the court determines appropriate. For the purposes of this paragraph, the definitions in Title 17-A, section 1322 and the provisions of Title 17-A, ~~section~~ sections 1324, 1328-A and 1329 apply, except that section 1329, subsection 3, paragraph A does not apply.

**Sec. 19. 15 MRSA §3314, sub-§1, ¶F**, as amended by PL 1995, c. 502, Pt. F, §5, is further amended to read:

F. The court may commit the juvenile to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility. Whenever a juvenile is committed to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders a commitment to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility, which continues to be governed by section 3313.

**Sec. 20. 15 MRSA §3314, sub-§1, ¶H**, as amended by PL 1997, c. 591, §1, is further amended to read:

H. The court may commit the juvenile to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility and order that the disposition be suspended or may commit the juvenile for a period of detention that may not exceed 30 days, with or without an underlying suspended disposition to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility, which detention may be served intermittently as the court may order and must be ordered served in a detention facility approved or operated by the Department of Corrections exclusively for juveniles. The court may order such a disposition to be served as a part of and with a period of probation, which is subject to such provisions of Title 17-A, section 1204 as the court may order and which must be administered pursuant to Title 34-A, chapter 5, subchapter IV. Revocation of probation is governed by the procedure contained in subsection 2. Any disposition under this paragraph is subject to Title 17-A, section 1253, subsection 2, but not to Title 17-A, section 1253, subsection 3-B, 4, 5 or 8. ~~Any disposition under this paragraph ordering a period of detention to be served in a county operated detention facility by a juvenile from another county is governed by section 1705.~~

**Sec. 21. 15 MRSA §3314, sub-§2**, as amended by PL 1995, c. 647, §3, is further amended to read:

**2. Suspended disposition.** The court may impose any of the dispositional alternatives provided in subsection 1, and may suspend its disposition and place the juvenile on a specified period of probation

that is subject to such provisions of Title 17-A, section 1204 as the court may order and that is administered pursuant to the provisions of Title 34-A, chapter 5, subchapter IV, except that in no case may the court impose the condition set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition of probation that a juvenile reside outside the juvenile's home in a setting satisfactory to the juvenile caseworker if the court determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home and that continuation in the juvenile's home would be contrary to the welfare of the juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

Revocation of probation is governed by the procedure contained in Title 17-A, sections 1205, 1205-A and 1206, except that Title 17-A, section 1206, subsection 7-A does not apply, provided that a disposition under subsection 1, paragraph F may be modified to a disposition under subsection 1, paragraph H. If a motion for revocation of probation is filed with the court and if the juvenile is being detained pending the court hearing, the court shall review within 5 days of the filing of the motion, excluding Saturdays, Sundays and legal holidays, the decision to detain the juvenile, if the court has not previously reviewed the decision. Following that review, the court shall order the juvenile's release unless the court finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention under section 3203-A, subsection 4, paragraph C.

**Sec. 22. 15 MRSA §3314, sub-§4**, as amended by PL 1997, c. 24, Pt. RR, §6, is further amended to read:

**4. Medical support.** Whenever the court commits a juvenile to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility or to the Department of Human Services or for a period of detention or places a juvenile on a period of probation, it shall require the parent or legal guardian to provide medical insurance for or contract to pay the full cost of any medical treatment, mental health treatment, substance abuse treatment and counseling that may be provided to the juvenile while the juvenile is committed, including while on aftercare status or on probation, unless it determines that such a requirement would create an excessive hardship on the parent or legal guardian, or other dependent of the parent or legal guardian, in which case it shall require the parent or legal guardian to pay a reasonable amount toward the cost, the amount to be determined by the court.

**Sec. 23. 15 MRSA §3314, sub-§5**, as amended by PL 1997, c. 339, §1, is further amended to read:

**5. Support orders.** Whenever the court commits a juvenile to the Department of Human Services, ~~to the Maine Youth Center~~ a Department of Corrections juvenile correctional facility or to a relative or other person, the court may order either or both parents of the juvenile to pay a reasonable amount of support for the juvenile. The order is enforceable under Title 19-A, section 2603. ~~A parent may not be required to pay support for a juvenile during any period when the juvenile resides in a county jail.~~

**Sec. 24. 15 MRSA §3315, sub-§1**, as amended by PL 1983, c. 480, Pt. B, §20, is further amended to read:

**1. Right to review.** Every disposition pursuant to section 3314, other than unconditional discharge, ~~and every disposition made pursuant to the law in effect prior to July 1, 1978 shall~~ must be reviewed not less than once in every 12 months until the juvenile is discharged. The review ~~shall~~ must be made by a representative of the Department of Corrections unless the juvenile was committed to the Department of Human Services, in which case such review ~~shall~~ must be made by a representative of the Department of Human Services. A report of the review ~~shall~~ must be made in writing to the juvenile's parents, guardian or legal custodian. A copy of the report ~~shall~~ must be forwarded to the program or programs ~~which that~~ were reviewed, and the department whose personnel made the review shall retain a copy of the report in their files. The written report ~~shall~~ must be prepared in accordance with subsection 2.

**Sec. 25. 15 MRSA §3316**, as amended by PL 1995, c. 502, Pt. F, §9, is further amended to read:

**§3316. Commitment to the Department of Corrections or the Department of Human Services**

**1. Sharing of information about a committed juvenile.**

A. When a juvenile is committed to ~~the~~ a Department of Corrections juvenile correctional facility or the Department of Human Services, the court shall transmit, with the commitment order, a copy of the petition, the order of adjudication, copies of the social study, any clinical or educational reports and other information pertinent to the care and treatment of the juvenile;

B. The Department of Corrections facility or the Department of Human Services shall provide the court with any information concerning a juvenile committed to its care ~~which that~~ the court at any time may require.

**2. Indeterminate sentence.**

A. A commitment of a juvenile to ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility pursuant to section 3314 must be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits or extends the indeterminate commitment, as long as the court does not limit the commitment to less than one year nor extend the commitment beyond a juvenile's 21st birthday and as long as an order does not result in a commitment of less than one year, unless the commitment is for an indeterminate period not to extend beyond the juvenile's 21st birthday. Nothing in this Part may be construed to prohibit the provision to a juvenile following the expiration of the juvenile's term of commitment of services voluntarily accepted by the juvenile and the juvenile's parents, guardian or legal custodian if the juvenile is not emancipated; except that these services may not be extended beyond the juvenile's 21st birthday.

B. A commitment of a juvenile to the Department of Human Services pursuant to section 3314 ~~shall~~ must be for an indeterminate period not to extend beyond the juvenile's 18th birthday unless the court expressly further limits the commitment.

**3. Provision of services.** Nothing in this chapter may prevent juveniles ~~in the custody of who are receiving services from~~ the Department of Corrections from receiving services from the Department of Human Services.

**Sec. 26. 15 MRSA §3317**, as amended by PL 1995, c. 502, Pt. F, §10, is further amended to read:

**§3317. Disposition after return to Juvenile Court**

In instances of commitment of a juvenile to the Department of Human Services or ~~the Maine Youth Center~~ a Department of Corrections juvenile correctional facility or when the juvenile is under a specified period of probation, the Commissioner of Human Services or the commissioner's designee or the Commissioner of Corrections or the commissioner's designee following the disposition may for good cause petition the Juvenile Court having original jurisdiction in the case for a judicial review of the disposition, including extension of the period of commitment or period of probation. In all cases in which a juvenile is returned to a Juvenile Court, the Juvenile Court may make any of the dispositions otherwise provided in section 3314. When reviewing a commitment to the Department of Human Services, the court shall consider efforts made by the Department of Corrections and the Department of Human Services to reunify the juvenile with the juvenile's parents or custodians, shall make a finding regarding those

efforts and shall return custody of the juvenile to a parent or legal custodian if the return of the juvenile is not contrary to the welfare of the juvenile. A petition for judicial review of a disposition committing the child to the Department of Human Services must be served on the parents at least 7 days prior to the hearing.

**Sec. 27. 15 MRSA §3319** is enacted to read:

**§3319. Designation of facility**

Immediately after the court orders detention in or commitment to a juvenile facility, the court shall notify the Commissioner of Corrections or the commissioner's designee and shall inquire as to the juvenile facility to which the juvenile will be transported. The commissioner has complete discretion to make this determination. The commissioner or the commissioner's designee shall immediately inform the court of the location of the juvenile facility to which the juvenile will be transported.

**Sec. 28. 15 MRSA §3501, sub-§7, ¶A**, as enacted by PL 1977, c. 520, §1, is amended to read:

A. A ~~child~~ juvenile taken into interim care ~~shall~~ may not be placed in a jail or other secure detention or correctional facility intended or used to detain adults accused or convicted of crimes or juveniles accused or adjudicated of juvenile crimes.

**Sec. 29. 15 MRSA §3501, sub-§7, ¶B**, as amended by PL 1993, c. 354, §12, is further amended to read:

B. Notwithstanding paragraph A, a juvenile taken into interim care may be held, if no other appropriate placement is available, in the public sections of a ~~jail or other secure juvenile correctional facility~~ described in section 3203-A, subsection 7, paragraph B if there is an adequate staff to supervise the juvenile's activities at all times, ~~including an approved detention facility operated exclusively for juveniles or in accordance with section 3203-A, subsection 7-A.~~

**Sec. 30. 17-A MRSA §1330, sub-§3** is enacted to read:

**3. Restitution; absolute.** The requirements imposed on a prisoner by this section to pay restitution and fines during incarceration apply regardless of whether the court order to pay restitution or fines constitutes a sentence or is imposed as a condition of probation, regardless of whether payment has been stayed in the court order and regardless of whether the prisoner's incarceration resulted from a revocation of probation.



**Sec. 31. 34-A MRSA §1001, sub-§6**, as repealed and replaced by PL 1995, c. 462, Pt. A, §63 and affected by §§64, 82 and 83, is amended to read:

**6. Correctional facility.** "Correctional facility" means any facility that falls under the jurisdiction of the department, but does not include ~~a county jail, holding facility, short term detention area or a detention facility~~ the Northern Maine Regional Juvenile Detention Facility or any facility for which the department is required to establish standards pursuant to section 1208 or 1208-A.

**Sec. 32. 34-A MRSA §1001, sub-§11**, as amended by PL 1997, c. 464, §7, is further amended to read:

**11. Juvenile client.** "Juvenile client" means a juvenile committed to ~~the Maine Youth Center~~ a juvenile correctional facility who is either residing at the ~~center~~ facility or is on aftercare status.

**Sec. 33. 34-A MRSA §1001, sub-§11-A**, as enacted by PL 1991, c. 314, §6, is amended to read:

**11-A. Juvenile detainee.** "Juvenile detainee" means a juvenile detained at ~~the Maine Youth Center or a detention~~ a departmental juvenile facility pending a court proceeding, pending a preliminary hearing under Title 17-A, section 1205 or pursuant to Title 15, section 3314, subsection 1, paragraph H.

**Sec. 34. 34-A MRSA §3002-A** is enacted to read:

**§3002-A. Policy review council**

The commissioner and the Commissioner of Education shall appoint a 7-member policy review council, referred to in this section as the "council," as authorized by Title 5, chapter 379.

**1. Term.** The term of office is 3 years. The initial appointments are as follows:

- A. Three members for 3 years;
- B. Two members for 2 years; and
- C. Two members for one year.

Replacements for council members who do not complete their terms of office are for the remainder of the unexpired terms.

**2. Council members.** The council members must be representative of a broad range of professionals, parents and citizens interested in the education of students confined in the department's juvenile facilities and include the parents of a current or former student. In addition, council members may include:

A. Professionals not employed by the department who serve or have served students in a corrections setting;

B. Representatives of advocacy groups for children with special needs;

C. School administrative unit administrators or special education directors; and

D. Interested citizens.

A Legislator may not serve on the council.

**3. Access to educational programs.** The council must have access to the department's educational programs for confined juveniles, but may not participate in the administration of the day-to-day operations of the programs.

**4. Duties.** The duties of the council include, but are not limited to:

A. Making annual recommendations to the Commissioner of Education and the commissioner and sending copies of the recommendations to the members of the joint standing committee of the Legislature having jurisdiction over education matters;

B. Making policy recommendations to the Commissioner of Education and the commissioner;

C. Reviewing policy development;

D. Reviewing the implementation of the policy;

E. Reviewing staff recruitment, retention, promotion and evaluation policies and procedures;

F. Holding hearings for staff, parents, students, alumni, special education directors and the general public and otherwise soliciting the opinions of individuals in those groups concerning the operation and role of the department's educational programs for confined juveniles; and

G. Conducting exit interviews with staff members terminating employment with the department's educational programs for confined juveniles.

**Sec. 35. 34-A MRSA §3201**, as amended by PL 1995, c. 502, Pt. F, §22, is further amended to read:

**§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 in the custody of

the department, as provided by law. The Maine Correctional Institution - Warren is established as a unit of the Maine State Prison.

**Sec. 36. 34-A MRSA §3802, sub-§1, ¶A,** as enacted by PL 1983, c. 459, §6, is amended to read:

A. To detain juveniles ~~prior to Juvenile Court appearances on court order that the juvenile be securely detained pending a court proceeding or pending a preliminary hearing under Title 17-A, section 1205;~~

**Sec. 37. 34-A MRSA §3802, sub-§1, ¶C,** as amended by PL 1995, c. 502, Pt. F, §27, is further amended to read:

C. To rehabilitate juveniles committed to it ~~on being adjudicated as having committed a juvenile crime under Title 15, section 3310, subsection 5 a juvenile correctional facility pursuant to Title 15, section 3314, subsection 1, paragraph F; and~~

**Sec. 38. 34-A MRSA §3809-A,** as enacted by PL 1983, c. 581, §§51 and 59, is repealed and the following enacted in its place:

**§3809-A. Commissioner's guardianship powers**

**1. Juvenile client.** The commissioner has all the power over a juvenile client that a guardian has over a ward and that a parent has over a child with regard to allowable property that the juvenile client has at the Maine Youth Center, earnings that the juvenile client receives during the juvenile client's stay at the Maine Youth Center and 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 terminates, 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.

**2. Juvenile detainee.** The commissioner has all the power over a juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary medical care. If a juvenile detainee is or becomes 18 years of age while still detained, the statutory guardianship of the commissioner over the juvenile detainee terminates, but the juvenile remains subject to the control of the commissioner, staff and rules of the center until release from the center.

**Sec. 39. 34-A MRSA §3815, sub-§4,** as enacted by PL 1991, c. 764, §2, is repealed.

**Sec. 40. 34-A MRSA §3901,** as enacted by PL 1983, c. 861, §1, is amended to read:

**§3901. Establishment**

There is established the Downeast Correctional Facility located ~~at Machiasport in Washington County~~ for the confinement and rehabilitation of persons who have been duly sentenced and committed to the Department of Corrections.

**Sec. 41. 34-A MRSA §4102, sub-§1,** as enacted by PL 1991, c. 400, is amended to read:

**1. Detention.** To detain juveniles ~~prior to juvenile court appearances when a court orders that the juvenile be securely detained pending a court proceeding or pending a preliminary hearing under Title 17-A, section 1205;~~

**Sec. 42. 34-A MRSA §4111** is enacted to read:

**§4111. Powers of commissioner**

The commissioner has all the power over a juvenile detainee that a guardian has over a ward and that a parent has over a child with regard to necessary medical care. If a juvenile detainee is or becomes 18 years of age while still detained, the statutory guardianship of the commissioner over the juvenile detainee terminates, but the juvenile remains subject to the control of the commissioner, staff and rules of the facility until release from the facility.

**Sec. 43. Change in facility name and function.** On the date that the Charleston Correctional Facility ceases operating as an adult correctional facility and begins operating as a juvenile detention facility and a juvenile correctional facility, the Northern Maine Regional Juvenile Detention Facility will be incorporated into the Charleston Correctional Facility and those facilities will be renamed the Northern Maine Juvenile Facility. On that same date, the Maine Youth Center will be renamed the Southern Maine Juvenile Facility to reflect its status as a juvenile detention facility and a juvenile correctional facility. The Department of Corrections shall prepare legislation for submission to the legislative session occurring just prior to that date to make state law consistent with the changes in name and functions of the facilities.

**Sec. 44. Maine Governmental Facilities Authority; resolution for issuance of securities.** Pursuant to the Maine Revised Statutes, Title 4, section 1606, subsection 2, the Maine Governmental Facilities Authority is authorized to issue securities in its own name in an amount up to \$85,000,000 for the purpose of paying the cost associated with the

correctional facilities construction projects located in Warren and Windham.

**Sec. 45. Allocation.** The proceeds from the sale of the securities issued by the Maine Governmental Facilities Authority pursuant to this Act must be expended as follows:

Correctional Facilities Construction	\$85,000,000
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See title page for effective date.

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## CHAPTER 753

### H.P. 40 - L.D. 65

#### An Act to Amend the Laws Regarding Reimbursement to the Counties for Community Corrections

**Mandate preamble.** This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, two thirds of all of the members elected to each House have determined it necessary to enact this measure.

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

**Whereas,** fair and efficient administration of the County Jail Prisoner Support and Community Corrections Fund to support payment of boarding state prisoners and community corrections is of great importance to the counties of this State; and

**Whereas,** it is the Legislature's intent that the transfer of funds to the counties and the Department of Corrections occur on July 1, 1998; 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:**

**Sec. 1. 34-A MRSA §1210,** as amended by PL 1997, c. 533, §1, is repealed.

**Sec. 2. 34-A MRSA §1210-A** is enacted to read:

**§1210-A. Community corrections**

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

**A. "Community corrections"** means the delivery of correctional services for juveniles or adults in the least restrictive manner that ensures the public safety by the county or for the county under contract with a public or private entity. "Community corrections" includes, but is not limited to, preventive or diversionary correctional programs, pretrial release or conditional release programs, alternative sentencing or housing programs, electronic monitoring, residential treatment and halfway house programs, community correctional centers and temporary release programs from a facility for the detention or confinement of persons convicted of crimes or adjudicated delinquents.

**2. Establishment of County Jail Prisoner Support and Community Corrections Fund.** The County Jail Prisoner Support and Community Corrections Fund is established for the purpose of providing state funding for a portion of the counties' costs of the support of prisoners detained or sentenced to county jails and for establishing and maintaining community corrections as defined in subsection 1.

**3. Distribution.** Beginning July 1, 1998 and annually thereafter, the department shall distribute the County Jail Prisoner Support and Community Corrections Fund to counties based on the percent distribution of actual funds reimbursed to counties pursuant to former section 1210 in fiscal year 1996-97. The percent distribution per county is as follows:

- A. Androscoggin: 8.5%;
- B. Aroostook: 6.6%;
- C. Cumberland: 17.6%;
- D. Franklin: 2.4%;
- E. Hancock: 3.3%;
- F. Kennebec: 6.9%;
- G. Knox: 6.4%;
- H. Lincoln: 3.7%;
- I. Oxford: 4.7%;
- J. Penobscot: 13.7%;
- K. Piscataquis: 1.3%;
- L. Sagadahoc: 2.7%;
- M. Somerset: 5.5%;