

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

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NON-EMERGENCY LAWS IS
SEPTEMBER 21, 2001

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
2001

Sec. 5. Transition. The members of the Kennebec County Advisory Budget Committee who are elected officials continue to hold office as members of the Kennebec County Budget Committee established in this Act for the remainder of the term to which they were appointed. Following completion of their terms, vacancies are filled as provided in the Maine Revised Statutes, Title 30-A, section 862.

See title page for effective date.

CHAPTER 171

H.P. 264 - L.D. 313

An Act Regarding Prisoner Participation in Public Work Projects or Improvements to Charitable Organizations' Property

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

Sec. 1. 30-A MRSA §1605, sub-§2, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is repealed.

Sec. 2. 30-A MRSA §1605, sub-§2-A is enacted to read:

2-A. Grant of privilege. The granting of a privilege described in subsection 1 is governed by the following:

A. Prior to 90 days after the adjournment of the First Regular Session of the 121st Legislature, the sheriff may grant a privilege described in subsection 1; and

B. Beginning 90 days after the adjournment of the First Regular Session of the 121st Legislature, unless the court expressly grants a privilege described in subsection 1, the prisoner is sentenced to ordinary confinement. The court may grant a privilege at the time of sentence or commitment or thereafter.

Sec. 3. 30-A MRSA §1605, sub-§3, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

3. Wages, self-employment income; collection. If a prisoner is employed for wages or salary, the sheriff shall collect the wages or salary or require the prisoner to turn over the wages or salary in full when received. If the prisoner is self-employed, the self-employment income ~~shall must~~ be turned over to the sheriff ~~as may be ordered by the court.~~ The sheriff

shall deposit the income in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. The wages or salaries are not subject to trustee process in the hands of either the employer or the sheriff, and the self-employment income is not subject to trustee process in the hands of the sheriff during the prisoner's term and ~~shall may~~ be disbursed only as provided in this section; but for tax purposes they are income of the prisoner.

This subsection is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 4. 30-A MRSA §1605, sub-§3-A is enacted to read:

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

This subsection takes effect 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 5. 30-A MRSA §1605, sub-§5, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, is further amended to read:

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

- A. The board of the prisoners;
- B. Necessary travel expenses to and from work and other incidental expenses of the prisoners;
- C. Support of the prisoners' dependents, if any;
- D. Payments, either in full or ratably, of restitution, and of the prisoners' obligations, acknowledged in writing, in accordance with Title 17-A, chapter 54, or ~~which that~~ have been reduced to judgment; and

E. The balance, if any, to the prisoners upon their release.

This subsection is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 6. 30-A MRSA §1605, sub-§5-A is enacted to read:

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

A. The board of the prisoners;

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

C. Support of the prisoners' dependents, if any;

D. Payments, either in full or ratably, of restitution, and of the prisoners' obligations, acknowledged in writing, in accordance with Title 17-A, chapter 54, or that have been reduced to judgment; and

E. The balance, if any, to the prisoners upon their release.

This subsection takes effect 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 7. 30-A MRSA §1605, sub-§§6 and 7, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6, c. 9, §2 and c. 104, Pt. C, §§8 and 10, are further amended to read:

6. Restitution disbursements. Notwithstanding subsection 5 and subsection 5-A, the wages or salaries of employed prisoners, employment income of self-employed prisoners or income from any other source ~~shall~~ **must** be disbursed by the sheriff in accordance with any restitution authorized by section 1562. These disbursements may not be authorized until any disbursements required by subsection 5, paragraphs A to D have been made.

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

This subsection is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 8. 30-A MRSA §1605, sub-§7-A is enacted to read:

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

This subsection takes effect 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 9. 30-A MRSA §1606, as amended by PL 1997, c. 54, §2, is further amended to read:

§1606. Prisoner participation in public works projects

1. Participation in public works projects authorized. The sheriff in charge of a county jail may permit certain inmates of that jail to participate in public works-related projects ~~and or in the~~ improvement of property owned by charitable organizations if the public works project or the property of the charitable organization is in the county where the jail is located. The sheriff may request payment from charitable organizations for the transportation of the prisoners and for the transportation and per diem compensation for any guards who accompany the prisoners. For the purposes of this section, "charitable organization" means any nonprofit organization organized or incorporated in this State or having a principal place of business in this State that is exempt from federal income taxation under the United States Internal Revenue Code of 1986, Section 501(a), because the nonprofit organization is described in the United States Internal Revenue Code of 1986, Section 501(c)(3). ~~Before an inmate is permitted to participate in this type of project, the judge or justice who originally sentenced the inmate to the county jail must sign an approval to the inmate's participation.~~

1-A. Court approval. Before an inmate is permitted to participate in a public works-related project pursuant to subsection 1, the judge or justice who originally sentenced the inmate to the county jail must sign an approval to the inmate's participation.

This subsection takes effect 90 days after the adjournment of the First Regular Session of the 121st Legislature.

2. Sentence prorated. Inmates participating in a public works-related project or an improvement of property owned by a charitable organization under this section ~~must~~ **may** have their sentences to the jail prorated at the rate of up to one day removed from the sentences for every 16 hours of participation in the

project, except that inmates committed to the custody of the sheriff for nonpayment of fines under Title 17-A, section 1304 must have their sentences prorated at the rate of \$5 removed from the fines for every one hour of participation in the project.

3. Participation not deemed employment.

Participation in this type of project may not be deemed employment under section 1605, subsections 3 to 8.

Sec. 10. 30-A MRSA §1659, first ¶, as amended by PL 1999, c. 247, §1, is further amended to read:

The sheriff of each county may establish and maintain a home-release monitoring program to permit certain inmates, ~~approved by the court in which they were sentenced,~~ to be released and monitored electronically or by intensive supervision by the county and to live at their residences as a portion of the term of incarceration.

Sec. 11. 30-A MRSA §1659, sub-§1, as amended by PL 1999, c. 247, §2, is further amended to read:

1. Petition. A sheriff, upon written request from an inmate eligible for participation in a home-release monitoring program and recommended by the jail administrator, may ~~petition the court in which the inmate was sentenced for authorization to~~ electronically monitor or intensively supervise and to release the inmate to participate in a home-release monitoring program established in that county. ~~Unless the court expressly grants the privilege of home release, the inmate is sentenced to ordinary confinement. Prior to releasing an inmate for participation in a home-release monitoring program, the sheriff shall provide to the court in which the inmate was sentenced notice of the release. The court in which the inmate was sentenced may withdraw the privilege of home release at any time by order entered with or without notice of hearing. Prior to issuing an order withdrawing the privilege, the court must provide an opportunity for the sheriff to provide comment. At the time of granting this the privilege, the court sheriff shall determine whether the inmate is responsible for the cost of participating in the home-release program based on the inmate's ability to pay.~~

This subsection is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 12. 30-A MRSA §1659, sub-§1-A is enacted to read:

1-A. Petition. A sheriff, upon written request from an inmate eligible for participation in a home-release monitoring program and recommended by the jail administrator, may petition the court in which the

inmate was sentenced for authorization to electronically monitor or intensively supervise and to release the inmate to participate in a home-release monitoring program established in that county. Unless the court expressly grants the privilege of home release, the inmate is sentenced to ordinary confinement. The court in which the inmate was sentenced may withdraw the privilege of home release at any time by order entered with or without notice of hearing. Prior to issuing an order withdrawing the privilege, the court must provide an opportunity for the sheriff to provide comment. At the time of granting the privilege, the court shall determine whether the inmate is responsible for the cost of participating in the home-release program based on the inmate's ability to pay.

This subsection takes effect 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 13. 30-A MRSA §1659, sub-§3, ¶I, as amended by PL 1999, c. 247, §6, is further amended to read:

I. As a condition of participation of an inmate in a home-release program, the ~~court~~ sheriff shall require the inmate to pay a fee, as determined by the ~~court~~ sheriff, including an electronic monitoring fee, if applicable, a substance testing fee or both, unless the ~~court~~ sheriff determines that the inmate does not have the financial resources to pay these fees. The fee charged may include the costs associated with a home-release program for people who do not have the financial resources to pay the fees.

This paragraph is repealed 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 14. 30-A MRSA §1659, sub-§3, ¶I-1 is enacted to read:

I-1. As a condition of participation of an inmate in a home-release program, the court shall require the inmate to pay a fee, as determined by the court, including an electronic monitoring fee, if applicable, a substance testing fee or both, unless the court determines that the inmate does not have the financial resources to pay these fees. The fee charged may include the costs associated with a home-release program for people who do not have the financial resources to pay the fees.

This paragraph takes effect 90 days after the adjournment of the First Regular Session of the 121st Legislature.

Sec. 15. 30-A MRSA §1660 is enacted to read:

§1660. Report

1. Annual report. Annually by January 15th, beginning in 2003, the Commissioner of Corrections shall submit a report in accordance with this section to the joint standing committee of the Legislature having jurisdiction over criminal justice matters.

2. Contents. The report must include the following information for each county corrections facility about releases of inmates from the facility pursuant to sections 1605, 1606 and 1659 during the prior calendar year:

A. The total number of inmates who were granted the privilege of release;

B. The number of inmates that were granted the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

- (1) Employment;
- (2) Participation in public works-related projects;
- (3) Participation in a home-release monitoring program; and
- (4) All other purposes;

C. The number of inmates who requested and were denied the privilege of release for each of the following purposes and the nature of the crimes committed by those inmates:

- (1) Employment;
- (2) Participation in public works-related projects;
- (3) Participation in a home-release monitoring program; and
- (4) All other purposes;

D. With respect to each inmate who was granted the privilege of release and who subsequently had the privilege revoked:

- (1) The total number of such inmates;
- (2) The purpose for which the release was granted;
- (3) The entity that revoked the privilege;
- (4) The reasons for the revocation; and
- (5) Whether the revocation was appealed and the result of that appeal; and

E. Any other information that the Commissioner of Corrections believes appropriate to accurately inform the Legislature about sheriffs' handling of release decisions.

See title page for effective date.

CHAPTER 172

H.P. 1226 - L.D. 1673

An Act to Restructure the Kennebec County Advisory Budget Committee

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

Sec. 1. 30-A MRSA §862, sub-§1, as amended by PL 1991, c. 533, §3 and affected by §10, is repealed and the following enacted in its place:

1. Municipal representatives. Prior to September 15th each year, municipal officers within each commissioner district shall caucus and elect members from that district for terms as provided in paragraph A. There must be 3 members from each commissioner district, 2 of whom are municipal officers and one of whom may be a municipal official who is not a municipal officer as defined in section 2001. No more than one member may represent the same municipality at one time.

A. Members serve for 3-year terms, except that initially each district caucus selects one member for a one-year term, one member for a 2-year term and one member for a 3-year term. If a budget committee member ceases to be a municipal officer or official during the term of membership, that member shall resign the membership and the next district caucus shall elect a qualified municipal officer or official to fill the membership for the remainder of the unexpired term.

See title page for effective date.

CHAPTER 173

H.P. 879 - L.D. 1171

An Act to Authorize the Maine Indian Tribal-State Commission to Organize Assemblies of State and Tribal Leaders

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