

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

valid data at the state level and within participating local school districts; and

B. Expanding the target population of the survey to include not only students who attend school but also home-schooled students and youth who attend school infrequently or have dropped out of school; and

2. Review procedures used by the Office of Substance Abuse for awarding grants for youth-related drug and alcohol abuse prevention programs and services to ensure that those grants are being awarded to programs with the highest demonstrated level of effectiveness and in those areas of the State having the highest demonstrated need. The director shall report the findings of that review to the Legislative Youth Advisory Council, established in the Maine Revised Statutes, Title 3, section 168-A, in the fall of 2003.

Sec. 6. Office of Substance Abuse and Department of Education; review of survey support. The Director of the Office of Substance Abuse within the Department of Behavioral and Developmental Services shall review the office's procedures for preparing and training teachers and others who administer the Maine Youth Drug and Alcohol Use Survey in the schools to ensure that all persons administering the survey are adequately prepared to perform that task. The Director of the Office of Substance Abuse and the Commissioner of Education shall, in coordination with appropriate representatives of local school districts, develop a plan for training and coordinating the administration of the 2004 Maine Youth Drug and Alcohol Use Survey, or any successor survey, and present that plan to the Legislative Youth Advisory Council, established in the Maine Revised Statutes, Title 3, section 168-A, in the fall of 2003.

Sec. 7. Department of Education. The Commissioner of Education shall review the Project ALERT program and other similar prevention programs and prepare recommendations on the viability of those programs as options to the Drug Abuse Resistance Education, DARE, program in Maine schools. The commissioner shall include a teacher training program as part of any recommended option considered by the department. Options recommended by the commissioner must be available statewide and available through the system of learning results as an alternative to the DARE program. The commissioner shall present those recommendations to the Legislative Youth Advisory Council, established in the Maine Revised Statutes, Title 3, section 168-A, in the fall of 2003.

Sec. 8. Review of alcohol and drug use policies for student athletes. The Commissioner of Education shall review the principles and goals of

the alcohol and drug use policies for student athletes proposed in the 2002 report by the Youth Policy and Empowerment Project and discuss that report with the Legislative Youth Advisory Council established in the Maine Revised Statutes, Title 3, section 168-A during the fall of 2003. If the commissioner determines that the principles and goals in that report are appropriate for the State and are not adequately incorporated into the school curriculum, either through the system of learning results established in Title 20-A, section 6209 or through some other mechanism, the commissioner may make recommendations to the Legislative Youth Advisory Council on the appropriate mechanism for incorporating those principles and goals into the school curriculum.

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

Effective June 23, 2003.

CHAPTER 482

H.P. 367 - L.D. 475

An Act To Improve Conditions for Inmates with Mental Illness

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, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

PART A

Sec. A-1. 30-A MRSA §1651, 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 and the following enacted in its place:

§1651. Examination of jails; board of visitors

1. Examination. At the commencement of each session required by law, the county commissioners shall examine the jail in their county and take necessary precautions for the security of prisoners, for the prevention of infection and sickness and for the accommodations of the prisoners.

2. Appointment. The sheriff for each county shall appoint a board of 5 visitors for each correctional facility under the sheriff's supervision.

A. Members of the boards of visitors serve for terms of one year except that, of the initial appointments, 2 must be for terms of 3 years, 2 must be for terms of 2 years and one must be for a term of one year.

B. Members of the boards of visitors are eligible for reappointment at the expiration of their terms. The boards of visitors must be representative of a broad range of professionals, family members and citizens interested in the well-being of prisoners, including representatives of advocacy groups for human and civil rights, medical and psychiatric professionals, persons who have served in corrections settings and other interested citizens.

C. A member of the Legislature may not serve on a board of visitors.

D. The sheriffs of 2 or more counties, at their discretion, may appoint a joint board of visitors of 5 or more members.

3. Powers. Each board of visitors shall inspect the correctional facility to which it is assigned, subject to reasonable restrictions required by the sheriff to ensure the security of the jail, and make recommendations to the sheriff with respect to inmates who are mentally ill.

PART B

Sec. B-1. 34-A MRSA §3069, sub-§1, as amended by PL 1991, c. 314, §57, is further amended to read:

1. Involuntary. ~~When the chief administrative officer~~ an inmate of a correctional or detention facility believes that any person in the facility is mentally ill, ~~requires hospitalization and meets requirements for admission has been determined by a competent medical authority to require inpatient treatment for mental illness,~~ the chief administrative officer of that facility shall make application in accordance with Title 34-B, section 3863.

A. Any person with respect to whom an application and certification under Title 34-B, section 3863 are made may be admitted to either state mental health institute.

B. Except as otherwise specifically provided in this section, Title 34-B, chapter 3, subchapter IV, Article III, is applicable to the person as if the admission of the person were applied for under Title 34-B, section 3863.

C. A copy of the document by which the person is held in the facility must accompany the application for admission.

D. If the sentence being served at the time of admission has not expired or commitment has not been terminated in accordance with law at the time the person is ready for discharge from hospitalization, the person must be returned by the appropriate officers of the correctional or detention facility.

E. Admission to a hospital under this section has no effect upon a sentence then being served or a commitment then in effect. The sentence continues to run and the commitment remains in force, unless terminated in accordance with law.

PART C

Sec. C-1. 34-A MRSA §3069, sub-§4 is enacted to read:

4. Review use of seclusion and restraint with prisoners with major mental illness; report. Beginning October 1, 2003, the Department of Behavioral and Developmental Services, utilizing its medical directors and forensic psychiatrists, shall review the use of seclusion and restraint with prisoners with major mental illness in all adult correctional facilities. The department and the Department of Behavioral and Developmental Services shall agree to the design and scope of this review. This review must include, but not be limited to, a case review of the rates of and duration of such practices with prisoners with major mental illness, whether the use of seclusion and restraint is appropriate and whether there is a pattern of restraint and seclusion with any particular prisoners with major mental illness. Beginning December 30, 2004 and annually thereafter, the Department of Behavioral and Developmental Services shall issue a written report that includes its findings and recommendations for improvements determined to be necessary. That report must be forwarded to the commissioner and to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters.

Sec. C-2. Discharge planning training for state corrections officers. The Department of Corrections shall assist its correctional officers assigned to inmate discharge planning in increasing the officers' understanding of the services and supports available in the State for inmates with mental illness or substance abuse diagnoses and how to develop and implement an appropriate discharge plan. By January 30, 2004, the department shall report to the Joint Standing Committee on Criminal Justice and Public Safety regarding the development and implementation of the training.

PART D

Sec. D-1. Costs to be absorbed. The Department of Behavioral and Developmental Services shall absorb within existing resources any costs involved in the implementation of the department's responsibilities under this Act.

See title page for effective date.

CHAPTER 483**H.P. 702 - L.D. 945**

**An Act To Facilitate Communication
between Prescribers and Dispensers
of Prescription Medication**

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

Sec. 1. 22 MRSA c. 1603 is enacted to read:

CHAPTER 1603

**CONTROLLED SUBSTANCES PRESCRIPTION
MONITORING**

§7245. Legislative intent

It is the intent of the Legislature that the prescription monitoring program established pursuant to this chapter serve as a means to promote the public health and welfare and to detect and prevent substance abuse. This chapter is not intended to interfere with the legitimate medical use of controlled substances.

§7246. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Controlled substance. "Controlled substance" means a controlled substance included in schedules II, III or IV of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308.

2. Dispenser. "Dispenser" means a pharmacist who is licensed or registered under Title 32 or a licensed health care professional with authority to dispense or administer prescription drugs.

3. Fund. "Fund" means the Controlled Substances Prescription Monitoring Program Fund established in section 7247.

4. Office. "Office" means the Department of Behavioral and Developmental Services, Office of Substance Abuse.

5. Prescriber. "Prescriber" means a licensed health care professional with authority to prescribe controlled substances.

6. Prescription monitoring information. "Prescription monitoring information" means information submitted to and maintained by the program.

7. Program. "Program" means the Controlled Substances Prescription Monitoring Program established under section 7248.

**§7247. Controlled Substances Prescription
Monitoring Program Fund**

The Controlled Substances Prescription Monitoring Program Fund is established within the office to be used by the director of the office to fund or assist in funding the program. Any balance in the fund does not lapse but is carried forward to be expended for the same purposes in succeeding fiscal years. The fund must be deposited with and maintained and administered by the office. The office may accept funds into the fund from any source, public or private, including grants or contributions of money or other things of value, that it determines necessary to carry out the purposes of this chapter. Money received by the office to establish and maintain the program must be used for the expenses of administering this chapter. No General Fund appropriation may be made available for the purposes of this chapter.

**§7248. Controlled Substances Prescription
Monitoring Program**

1. Establishment of monitoring program. Contingent upon the receipt of funds pursuant to section 7247 sufficient to carry out the purposes of this chapter, the Controlled Substances Prescription Monitoring Program is established. No later than January 2, 2004, to implement the program, the office shall establish an electronic system for monitoring any controlled substance that is dispensed to a person in the State by a dispenser.

2. Contract for services. The office may contract with a vendor to establish and maintain the program pursuant to rules adopted by the office.

3. Information available. The program must rapidly provide information in an electronic format to prescribers and dispensers.