

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

SECOND SPECIAL SESSION
July 29, 2005

SECOND REGULAR SESSION
January 4, 2006 to May 24, 2006

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 28, 2005

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 23, 2006

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

Penmor Lithographers
Lewiston, Maine
2006

for the juvenile's rehabilitation, including reintegration into the school; or

Sec. 4. 34-A MRSA §1216, sub-§1, ¶G is enacted to read:

G. To any state agency engaged in statistical analysis for the purpose of improving the delivery of services to persons who are or might become mutual clients if:

(1) The plan for the statistical analysis is first submitted to and approved by the commissioner; and

(2) The disclosure is approved by the commissioner.

The commissioner and the state agency requesting the information shall preserve the anonymity of the persons receiving services from the department and may not disseminate data that refer to any person by name or number or that in any other way might lead to a person's identification.

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

Effective March 13, 2006.

CHAPTER 488

H.P. 1326 - L.D. 1886

An Act To Amend the Laws Pertaining to the Department of Corrections

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

Whereas, upon discovering that the Department of Corrections is in violation of state law by operating a commissary for the sale of food to clients and employees in correctional facilities and by providing meals to facility employees who eat such meals in the scope of their employment, the Legislature wishes to immediately remedy the violation; and

Whereas, the Legislature recognizes the necessity to authorize an exception to the general prohibition to the Department of Corrections because of its unique working environment; 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 preserva-

tion of the public peace, health and safety; now, therefore,

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

Sec. 1. 15 MRSA §3203-A, sub-§11, as enacted by PL 2003, c. 180, §6, is amended to read:

11. Review of order. Upon petition by a juvenile community corrections officer or an attorney for the State or a juvenile and after notice and upon a showing of changed circumstances or upon the discovery of new and significant information, the Juvenile Court may review an order for detention, conditional release or unconditional release and may enter a new order in accordance with this section.

Sec. 2. 15 MRSA §3402, sub-§1, ¶D, as amended by PL 1989, c. 502, Pt. A, §45, is further amended to read:

D. A detention order entered pursuant to section 3203-A, subsection 5 or any refusal to alter ~~an~~ a detention order for changed circumstances entered upon petition of the juvenile pursuant to section 3203-A, subsection ~~5~~ 11, for abuse of discretion, provided that the appeal ~~shall~~ must be handled expeditiously.

Sec. 3. 17-A MRSA §1175, first ¶, as amended by PL 2003, c. 186, §1, is further amended to read:

Upon complying with subsection 1, a victim of a crime of murder or stalking or of a Class A, Class B or Class C crime for which the defendant is committed to the Department of Corrections or to a county jail, or is placed in institutional confinement under Title 15, section 103 after having been found not criminally responsible by reason of mental disease or defect, or is placed in institutional confinement under Title 15, section 101-B after having been found incompetent to stand trial, must receive notice of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon discharge under Title 15, section 104-A and must receive notice of any conditional release of the defendant from institutional confinement, including probation, supervised release for sex offenders, parole, furlough, work release, intensive supervision, supervised community confinement, home release monitoring or similar program or release under Title 15, section 104-A.

Sec. 4. 17-A MRSA §1175, sub-§3, ¶B, as enacted by PL 1995, c. 680, §5, is amended to read:

B. The nature of the release authorized, whether it is a conditional release, including probation, supervised release for sex offenders, parole, fur-

lough, work release, intensive supervision, supervised community confinement, home release monitoring or a similar program or release under Title 15, section 104-A, or an unconditional release and discharge upon the expiration of a sentence or upon discharge under Title 15, section 104-A;

Sec. 5. 17-A MRSA §1204, sub-§1-C, as amended by PL 2001, c. 439, Pt. OOO, §3, is further amended to read:

1-C. The court shall attach as a condition of probation that the ~~convicted sex offender~~ 10-year registrant, as defined under Title 34-A, section 11203, subsection 5, or the ~~convicted sexually violent predator~~ lifetime registrant, as defined under Title 34-A, section 11203, subsection 8, satisfy all responsibilities set forth in Title 34-A, chapter 15, the Sex Offender Registration and Notification Act of 1999.

Sec. 6. 17-A MRSA §1258, as amended by PL 2001, c. 458, §1, is further amended to read:

§1258. Notification of commitments to the Department of Corrections

At the time of sentencing, the sheriff shall notify the Commissioner of Corrections or the commissioner's designee that a person has been committed to the Department of Corrections and shall inquire as to the correctional facility to which the sentenced person must be delivered by the sheriff or the sheriff's deputies. The commissioner or the commissioner's designee has complete discretion to determine the initial place of confinement. In making this determination, the commissioner or the commissioner's designee shall review all relevant information, including any available mental health information. The commissioner or the commissioner's designee shall immediately inform the sheriff ~~and the court~~ of the location of the correctional facility to which the sentenced person must be transported.

Sec. 7. 25 MRSA §2001-A, sub-§2, ¶D, as enacted by PL 2003, c. 452, Pt. N, §2 and affected by Pt. X, §2, is amended to read:

D. Law enforcement officers ~~and~~ corrections officers and corrections supervisors as permitted in writing by their employer;

Sec. 8. 25 MRSA §2002, sub-§1-B is enacted to read:

1-B. Corrections supervisor. "Correction supervisor" has the same meaning as set forth in Title 17-A, section 2, subsection 5-B.

Sec. 9. 34-A MRSA §1206, sub-§3, as enacted by PL 1983, c. 459, §6, is repealed.

Sec. 10. 34-A MRSA §3002, sub-§4, as enacted by PL 2005, c. 216, §1, is amended to read:

4. Volunteer activities. Volunteer activities of a member of a board of visitors may be ~~prescribed~~ proscribed by departmental policies regarding volunteer activities generally.

Sec. 11. 34-A MRSA §3012 is enacted to read:

§3012. Food and food supplies

1. Operation of commissary. Notwithstanding Title 5, section 8-C, the chief administrative officer of a correctional facility or detention facility may, subject to the approval of the commissioner, permit the operation of a commissary for the sale of food and food supplies to persons residing in the facility and to facility employees.

2. Provision of meals to employees. Notwithstanding Title 5, section 8-C, the chief administrative officer of a correctional facility or detention facility may, subject to the approval of the commissioner, purchase meals for or otherwise provide meals without charge to any facility employee who eats such meals within the scope of employment and in so doing serves a function of employment.

Sec. 12. 34-A MRSA §4103, as enacted by PL 1991, c. 400 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

§4103. Superintendent

1. Chief administrative officer. The chief administrative officer of the Mountain View Youth Development Center is called the ~~director~~ superintendent and is responsible to the commissioner.

2. Duties. In addition to other duties set out in this Title, the ~~director~~ superintendent has the following duties.

A. The ~~director~~ superintendent shall exercise supervision over the employees, grounds, buildings and equipment at the Mountain View Youth Development Center.

B. The ~~director~~ superintendent shall supervise and control the juvenile detainees at the Mountain View Youth Development Center in accordance with department rules.

3. Powers. In addition to the powers granted in this Title, the ~~director~~ superintendent may appoint one assistant ~~director~~ superintendent, subject to the Civil Service Law. The assistant ~~director~~ superintendent has the powers, duties, obligations and liabilities of the ~~director~~ superintendent when the ~~director~~ superinten-

dent is absent or unable to perform the ~~director's~~ superintendent's duties.

Sec. 13. 34-A MRSA §4106, as enacted by PL 1991, c. 400 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

§4106. Powers of employees

Employees of the Mountain View Youth Development Center have the same power as sheriffs in their respective counties to search for and apprehend escapees from the facility, when authorized to do so by the ~~director~~ superintendent.

Sec. 14. 34-A MRSA §4108, sub-§2, ¶A, as enacted by PL 1991, c. 400 is amended to read:

A. Placement under observation must first be approved by the ~~director~~ superintendent.

Sec. 15. 34-A MRSA §4108, sub-§2, ¶D, as enacted by PL 1991, c. 400 is amended to read:

D. When placement under observation exceeds 12 hours, the ~~director~~ superintendent shall direct the facility physician or a member of the facility medical staff to visit the juvenile immediately and at least once in each succeeding 24-hour period the juvenile remains under observation to examine the juvenile's state of health.

(1) The ~~director~~ superintendent shall give full consideration to recommendations of the physician or medical staff member concerning the juvenile's dietary needs and the conditions of the juvenile's confinement required to maintain the juvenile's health. If the recommendations of the physician or medical staff member are not carried out, the ~~director~~ superintendent shall immediately convey the reasons and circumstances for this decision to the commissioner for review and final disposition.

(2) Placement under observation must be discontinued if the ~~director~~ superintendent, on the advice of the physician, determines that placement under observation is harmful to the mental or physical health of the juvenile, except that placement under observation may be continued if the behavior of the juvenile presents a high likelihood of imminent physical harm to that juvenile or others and there is no less restrictive setting in which that juvenile's safety or that of others can be ensured. If placement under observation is continued, the physician or a member of the medical staff shall visit the juvenile at least once every 12 hours.

Sec. 16. 34-A MRSA §4108, sub-§2, ¶E, as enacted by PL 1991, c. 400 is amended to read:

E. When placement under observation exceeds 24 hours, the ~~director~~ superintendent shall direct appropriate facility staff to develop a plan for the further care of the juvenile. The plan must be revised as needed to meet the changing needs of the juvenile.

Sec. 17. 34-A MRSA §4108, sub-§2, ¶G, as enacted by PL 1991, c. 400 is amended to read:

G. If the recommendations of the physician or medical staff member regarding the juvenile's dietary or other health needs while under observation are not carried out, the ~~director~~ superintendent shall send a written justification to the commissioner.

Sec. 18. 34-A MRSA §4114, as enacted by PL 1999, c. 583, §45 and amended by PL 2001, c. 439, Pt. G, §8, is further amended to read:

§4114. Discharge

1. Duty. The ~~director~~ superintendent shall cause a juvenile client to be discharged from the Mountain View Youth Development Center when the client becomes 21 years of age or otherwise reaches the end of the period of the Juvenile Court's commitment.

2. Power. The ~~director~~ superintendent may cause a juvenile client to be discharged from the Mountain View Youth Development Center when the ~~director~~ superintendent determines that discharge is in the best interest of the client or that the client has benefited optimally from the services and facilities of the Mountain View Youth Development Center.

Sec. 19. 34-A MRSA §5402, sub-§2, ¶A, as amended by PL 1995, c. 502, Pt. F, §34, is further amended to read:

A. ~~Promulgate~~ Adopt and enforce rules for field probation and parole officers, juvenile ~~easeworkers~~ community corrections officers, parole officers in correctional facilities and Intensive Supervision Program officers;

Sec. 20. 34-A MRSA §5402, sub-§2, ¶B, as amended by PL 1995, c. 502, Pt. F, §34, is further amended to read:

B. Appoint, subject to the Civil Service Law, regional correctional administrators, field probation and parole officers, juvenile ~~easeworkers~~ community corrections officers, Intensive Supervision Program officers and such other employees as may be required to carry out adequate supervision of all probationers, parolees from the

correctional facilities, persons on intensive supervision and other persons placed under the supervision of an employee listed in this paragraph;

Sec. 21. 34-A MRSA §5402, sub-§2, ¶K, as amended by PL 1989, c. 417, §1, is further amended to read:

K. Provide instruction and training courses for probation and parole officers, for Intensive Supervision Program officers and for juvenile ~~caseworkers~~ community corrections officers;

Sec. 22. 34-A MRSA §5404, sub-§1, as amended by PL 1989, c. 127, §14, is further amended to read:

1. Investigation. Investigate any criminal case or matter concerning probation, supervised release for sex offenders, parole or intensive supervision referred to the officer for investigation and report the result of the investigation;

Sec. 23. 34-A MRSA §5404, sub-§2, ¶A, as amended by PL 1995, c. 502, Pt. F, §37, is further amended to read:

A. Arrest ~~and return~~ violators of probation or supervised release for sex offenders and parole violators and return parole violators upon request of the commissioner;

Sec. 24. 34-A MRSA §5404, sub-§2, ¶C, as amended by PL 2005, c. 389, §5, is further amended to read:

C. If the officer has probable cause to believe that a person under the supervision of the department has violated a condition of that person's probation ~~or supervised release for sex offenders~~, parole or intensive supervision, the officer may arrest that person;

Sec. 25. 34-A MRSA §5404, sub-§3, ¶A, as amended by PL 2005, c. 265, §22, is further amended to read:

A. Supervise the probation, supervised release for sex offenders, parole or intensive supervision of each person placed under the officer's supervision to ensure that departmental resources are directed to the management of persons with a high risk of reoffending;

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

Effective March 13, 2006.

CHAPTER 489

H.P. 1305 - L.D. 1865

An Act To Clarify the Time Period in Which Municipalities Must File Notices of Intent with the State for Purposes of Issuing Building Permits

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

Sec. 1. 5 MRSA §1742-B, as amended by PL 2001, c. 615, §1, is further amended to read:

§1742-B. Municipal building ordinances

The Department of Administrative and Financial Services, Bureau of General Services, referred to as "the bureau" in this section, shall provide written notification to the municipal manager or, in the absence of a manager, the first selectman of a state construction project or public improvement within the boundaries of that municipality as soon as practicable after beginning the schematic design process. If a municipality intends to review and issue building permits on state construction projects and public improvements, the municipality must file a notice of intent with the ~~Department of Administration, Bureau of Public Improvements~~ bureau no later than 45 days following receipt of notification by the bureau of the state construction project or public improvement. Once the required notice is filed, the projects and improvements to state-owned or leased buildings must comply with municipal ordinances governing the construction and alteration of buildings, provided that the municipal building code standards are as stringent as, or more stringent than, the code for state buildings. Prior to requesting bids, the bureau shall obtain or it shall require the project designer to obtain municipal approval of the project plans and specifications. Contractors and subcontractors shall obtain all necessary municipal building permits and the project must be subject to municipal inspections.

Fees may be ~~assessed~~ assessed for any permit obtained for any state construction project or public improvements to state-owned buildings.

If a proposed public improvement is for new construction only and is not reviewed by a municipality, the state agency responsible for the new construction shall provide public notice of the project in the same manner as is required for notice of similar projects by ordinance of the municipality. Public notice under this paragraph must be provided as soon as development of the schematic design for the project is complete.

For purposes of this section, "schematic design" means the phase of the project or public improvement