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STATE OF MAINE

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§11226-A. Canadian big game hunter; guide required

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Big game" means bear, deer and moose.

B. "Family member" means a parent, spouse, daughter or son or a grandchild who is less than 18 years of age.

2. Prohibition. An alien resident of the Canadian province of New Brunswick or Quebec may not hunt big game or wild turkey without being accompanied by a person who holds a valid guide license pursuant to chapter 927 authorizing that person to act as a hunting guide unless that alien:

A. Owns or leases land in the State;

B. Is current on property taxes assessed for the land owned in the State;

C. Keeps property owned or leased in the State open for hunting by the public; and

D. While hunting big game or wild turkey, possesses written authorization from the commissioner to hunt big game without a guide.

An alien who resides in the Canadian province of New Brunswick or Quebec and who wishes to hunt big game or wild turkey without a guide must, at the time of application for a hunting license or permit to hunt big game or wild turkey, provide documentation to the commissioner that that person meets the requirements of this subsection. Upon determining that the applicant meets the criteria in this subsection and the applicant is not otherwise ineligible to hold a license or permit under this Part, the commissioner shall issue written authorization to hunt big game or wild turkey without a guide to the alien and that alien's family members who hold a valid license to hunt big game or wild turkey in the State.

3. Penalty. The following penalties apply to violations of this section.

A. A person who violates subsection 2 commits a civil violation for which a fine of not less than $100 or more than $500 may be adjudged.

B. A person who violates subsection 2 after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

Sec. 3. 12 MRSA §11302, sub-§2, ¶A, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

A. The total number of clients with a resident Maine guide may not be more than ~~3~~ 5 in order to satisfy the requirements of this subsection.

See title page for effective date.

CHAPTER 391

H.P. 844 - L.D. 1224

An Act Regarding the Operation of County Jails and the State Board of Corrections

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

Sec. 1. 17-A MRSA §1175, first ¶, as amended by PL 2005, c. 527, §14, 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 or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is committed to the custody of the Commissioner of Health and Human Services either under Title 15, section 103 after having been found not criminally responsible by reason of insanity or 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 release from commitment under Title 15, section 101-B 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, administrative release or release under Title 15, section 104-A.

Sec. 2. 30-A MRSA §708, 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:

§708. Alternative fiscal year

The county commissioners of a county may adopt a July 1st to June 30th fiscal year. A county may raise one or 2 taxes during a single valuation, if the taxes raised are based on appropriations made for ~~a~~ one or more county fiscal ~~year that does not exceed~~ years none of which exceeds 18 months. A county fiscal year may extend beyond the end of the current tax year. The county commissioners, when changing the county's fiscal year, may for transition purposes, adopt one or more fiscal years not longer than 18 months each.

Sec. 3. 30-A MRSA §924, sub-§3, as amended by PL 2001, c. 349, §6, is further amended to read:

3. Other uses; working capital. After compliance with subsection 2, the county commissioners may use any remaining unencumbered surplus funds to fund a county charter commission, as provided in section 1322, subsection 4, or to establish or fund a capital reserve account under section 921, including a corrections services capital reserve account, as provided in section 5801. If not used for these purposes, any remaining surplus funds may not be expended but must be retained as working capital for the use and benefit of the county except that correctional unencumbered surplus may not lapse to the county's non-correctional fund balance but must be carried forward as the county or regional jail authority correctional services fund balance. Correctional services funds may be expended only for corrections services.

Sec. 4. 30-A MRSA §932, sub-§3, as enacted by PL 2007, c. 653, Pt. A, §13, is amended to read:

3. Change of fiscal year. ~~County~~ In addition to and without limiting subsections 1 and 2, the county commissioners in a county that is changing from a January to December fiscal year to a July to June fiscal year pursuant to section 708 are authorized to borrow money for the purpose of a transitional budget by issuing bonds or notes in anticipation of taxes. ~~The~~ A tax anticipation note issued pursuant to this subsection covers the 6-month period of January 1st to June 30th prior to the first year of a fiscal year beginning on July 1st. County commissioners may borrow pursuant to this subsection an amount that does not exceed the taxes anticipated from the transitional budgets, and the period of borrowing may not exceed 5 years. County commissioners may issue a tax anticipation note pursuant to this subsection only once a year.

Prior to February 15th of the transitional budget year, the municipal officers of each municipality in the county shall notify the county clerk in writing of the manner in which the municipality intends to pay its portion of the transitional county budget for the period of January 1st to June 30th. At the time of notification, the municipal officers shall indicate whether the municipality intends to pay its full share of the January 1st to June 30th transitional budget by December 31st of that year in accordance with section 706 or whether the municipality intends to pay its share of the transitional budget in equal payments ~~over 2, 3, 4 or 5 years~~ by December 31st of the 2nd, 3rd, 4th or 5th year after the calendar year in which the transition year occurs, ending no later than ~~5 years~~ December 31st of the 5th year after the calendar year in which the transition year occurs. In accordance with the payment schedule indicated in its notification, a municipality not paying its full portion of the transitional budget in that year shall make payments for the transitional budget to the county at the time the municipality makes its payment to the county for the current year. Each municipality is responsible to the county for the municipality's share of the January 1st to June 30th transitional budget and any interest incurred by the county for borrowing on behalf of the municipality in anticipation of deferred payment of taxes as provided in this subsection.

Sec. 5. 30-A MRSA §1659, as amended by PL 2005, c. 68, §1, is repealed.

Sec. 6. 30-A MRSA §1659-A is enacted to read:

§1659-A. Community confinement monitoring program

The sheriff of each county shall establish a program to permit certain inmates to serve a portion of their sentence of imprisonment in community confinement monitored by the county or a contract agency or another county or its contract agency. The county may contract only with a community confinement monitoring agency approved by the State Board of Corrections.

1. Petition. A sheriff, upon written request from an inmate eligible for participation in a community confinement monitoring program and recommended by the jail administrator, may assign the inmate to participate in a community confinement monitoring program. At the time of granting this privilege, the sheriff shall determine whether the inmate is responsible for the cost of participating in the program based on the inmate's ability to pay.

2. Eligibility. Inmates are eligible to participate in a community confinement monitoring program if:

A. The inmate's residence is located within the State and in a location that does not in any way restrict the adequate monitoring of the inmate;

B. The inmate has been sentenced to the county jail;

C. The inmate is not serving a sentence for a sex offense or a sexually violent offense as defined under Title 34-A, section 11203;

D. The inmate has a verified security classification level of "medium" or "minimum" and scores "moderate" or "less" on a validated risk assessment tool as defined by the State Board of Corrections;

E. The inmate serves a minimum of 1/3 of the term of imprisonment, or, in the case of a split sentence, a minimum of 1/3 of the unsuspended portion, prior to participating in a community confinement monitoring program. In calculating the amount of time served, good time or deductions earned under Title 17-A, section 1253 and time reductions earned for charitable or public works projects under section 1606 must be counted; and

F. The inmate agrees to abide by the conditions of release pursuant to this section and any additional conditions imposed by the sheriff or jail administrator.

3. Participation requirements. The following requirements of this subsection apply to inmates participating in a community confinement monitoring program.

A. Each inmate assigned to community confinement pursuant to this section shall participate in a structured program of work, education or treatment. Participation in a community confinement monitoring program may not be solely for the purpose of living at home.

B. At a minimum, the inmate shall report in person at least once per week to a community confinement monitor, even if being electronically monitored.

C. The jail administrator, or a designee, shall restrict in advance any travel or movement limiting the inmate's travel to specific times and places directly related to approved employment, formal education, job search, public service work, treatment or other specific purposes.

D. The inmate shall agree to searches of the inmate's person, residence, electronic monitoring equipment, vehicle, papers and effects and any property under the inmate's control, without a warrant and without probable cause, for items prohibited by law or by condition of participation in the program or otherwise subject to seizure or inspection upon the request of the jail administrator, a community confinement monitor or any law enforcement officer without prior notice. The sheriff or jail administrator may prohibit the inmate from residing with anyone who does not consent to a search or inspection of the residence to the extent necessary to search or inspect the inmate's person, residence, electronic equipment, papers and effects.

E. The inmate may not use alcohol or illegal drugs or other illegal substances and may not abuse alcohol or abuse any other legal substance.

F. The inmate shall submit to urinalysis, breath testing or other chemical tests without probable cause at the request of the jail administrator or a community confinement monitor.

G. If stopped or arrested by a law enforcement officer, the inmate shall notify that officer of the inmate's participation in a community confinement monitoring program. Within one hour of having been stopped or arrested, the inmate shall notify the jail administrator or a community confinement monitor.

H. The inmate may not violate state or federal criminal law or any conditions of the inmate's release.

I. As a condition of participation of an inmate in a community confinement monitoring program, the sheriff may, based upon an inmate's ability to pay, require the inmate to pay a fee including an electronic monitoring fee, if applicable, a substance testing fee, if applicable, or both. The fee charged may include the costs associated with a community confinement program for people who do not have the financial resources to pay the fees.

J. The inmate shall sign a statement verifying that the inmate understands and agrees to all of the conditions of release and participation in a community confinement monitoring program.

4. Termination of the privilege. The sheriff, jail administrator or a community confinement monitor may terminate an inmate's participation in a community confinement monitoring program at any time and return the inmate to the custody of the county jail for any violation of the conditions of the inmate's release or upon the loss of an appropriate residence on the part of the inmate.

5. Violations; penalties. The following penalties apply to violations of this section.

A. An inmate who willfully violates a condition of release commits a Class D crime.

B. An inmate who leaves or fails to return within 12 hours to that inmate's residence or other designated area in which that inmate is monitored is guilty of escape under Title 17-A, section 755. A sentence received for this crime or for escape is subject to the requirements of Title 17-A, section 1256, subsection 1.

6. Minimum standards supervision of inmates in the community confinement monitoring program. The State Board of Corrections shall establish minimum policy standards for the monitoring of inmates in the community confinement monitoring program.

7. Program funding. Funds collected pursuant to this section must be forwarded to an account designated by the State Board of Corrections for the purpose of supporting pretrial, diversion or reentry activities. Community confinement monitoring program funds must be accounted for by the county through the normal budget process.

8. Terminally ill or incapacitated inmate. The sheriff may grant the privilege of participation in a community confinement monitoring program to an inmate who does not meet the requirements of subsection 2, paragraphs C and E if the jail's treating physician has determined that the inmate has a terminal or severely incapacitating medical condition and that care

outside the jail is medically appropriate. Except as set out in this subsection, the inmate shall live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or facility that is a licensed hospice program pursuant to Title 22, section 8622 approved by the sheriff. As approved by the sheriff, the inmate may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services and, subject to approval by the sheriff, may live at home while receiving these services. The sheriff may exempt an inmate participating in community confinement monitoring pursuant to this subsection from any requirements under subsection 3 that the sheriff determines to be inapplicable. The inmate shall provide any information pertaining to the inmate's medical condition or care that is requested by the sheriff at any time while the inmate is in the community confinement monitoring program. If the sheriff determines that the inmate has failed to fully comply with a request, or if at any time the jail's treating physician determines that the inmate does not have a terminal or severely incapacitating medical condition or that care outside the jail is not medically appropriate, the sheriff shall terminate the inmate's participation in the community confinement monitoring program. Except as set out in this subsection, all other provisions of this section apply to community confinement monitoring pursuant to this subsection.

9. Effective date. This section is effective January 1, 2010.

Sec. 7. 30-A MRSA §1660, sub-§2, as amended by PL 2001, c. 659, Pt. F, §2, is further amended to read:

2. Information on releases. The report required in this section must include the following information for each county corrections facility about releases of inmates from the facility pursuant to sections 1605, 1606 and ~~1659~~ 1659-A and former section 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~~

(3-A) Participation in a community confinement 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~~

(3-A) Participation in a community confinement 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.

Sec. 8. 34-A MRSA §1001, sub-§9, as enacted by PL 1983, c. 459, §6, is repealed and the following enacted in its place:

9. Holding facility. "Holding facility" means a facility or part of a building used for the detention of adult pretrial detainees prior to arraignment, release or transfer to another facility or authority for periods of up to 48 hours. "Holding facility" also means a county jail or part of a jail used for the detention of adult inmates, whether detained pending a trial or other court proceeding or sentenced for periods of up to 72 hours excluding Saturday, Sunday and legal holidays and excluding days during which the inmate is at court.

Sec. 9. 34-A MRSA §1404, sub-§7 is enacted to read:

7. Budget review. The commissioner shall provide the board with its adult correctional and adult probation services biennial and supplemental budget proposals in a timely fashion.

Sec. 10. 34-A MRSA §1405, sub-§2, ¶E, as enacted by PL 2007, c. 653, Pt. A, §29, is amended to read:

E. The person becomes eligible for furloughs, work or other release programs, participation in

public works and charitable projects ~~and~~, home-release monitoring and community confinement monitoring programs as authorized by Title 30-A, sections 1556, 1605, 1606 and ~~1659~~ 1659-A and Title 30-A, former section 1659 for a person sentenced to imprisonment in a county jail or work or other release programs, furloughs and supervised community confinement for a person sentenced to a correctional facility as authorized by sections 3033, 3035 and 3036-A, whichever is applicable, and may apply pursuant to the rules governing the sending facility.

Sec. 11. 34-A MRSA §1803, sub-§1, ¶B, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

B. Develop reinvestment strategies within the unified correctional system to improve services and reduce recidivism; ~~and~~

Sec. 12. 34-A MRSA §1803, sub-§1, ¶C, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

C. Establish boarding rates for the unified correctional system, except boarding rates for federal inmates~~.~~; and

Sec. 13. 34-A MRSA §1803, sub-§1, ¶D is enacted to read:

D. Review department biennial and supplemental budget proposals affecting adult correctional and adult probation services and submit recommendations regarding these budget proposals to the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs.

Sec. 14. 34-A MRSA §1803, sub-§4, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

4. Certificate of need. The board shall review and may approve any future public or private construction projects. The board shall establish a certificate of need process used for the review and approval of any future public or private capital correctional construction projects. A public or private correctional construction project may not be undertaken unless the board issues a certificate of need in support of that project. The board shall adopt rules governing the procedures relating to the certificate of need process and financing alternatives. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 15. 34-A MRSA §1805, sub-§3, ¶B, as enacted by PL 2007, c. 653, Pt. A, §30, is amended to read:

B. Any net county assessment revenue in excess of county jail expenditures in counties where changes in jail operations pursuant to board directives under section 1803 have reduced jail expenses. Any net revenue in excess of county or regional jail expenditures resulting from efficiencies generated by the independent actions of a county or regional jail remains with the county's or regional jail authority's correctional services fund balance;

Sec. 16. 34-A MRSA §3036-A, sub-§10, as amended by PL 2005, c. 68, §2, is further amended to read:

10. Terminally ill or incapacitated prisoner. With the consent of the prisoner, the commissioner may permit a prisoner committed to the department to be transferred from a correctional facility to supervised community confinement without meeting the requirements of subsection 2, paragraphs B and C if the ~~facility's treating physician~~ department's director of medical care has determined that the prisoner ~~is terminally ill~~ has a terminal or severely incapacitating medical condition and that care outside ~~the~~ a correctional facility ~~for the remainder of the prisoner's illness~~ is medically appropriate. Except as set out in this subsection, the prisoner shall live in a hospital or other appropriate care facility, such as a nursing facility, residential care facility or a facility that is a licensed hospice program pursuant to Title 22, section 8622, approved by the commissioner. As approved by the commissioner, the prisoner may receive hospice services from an entity licensed pursuant to Title 22, chapter 1681, subchapter 1 or other care services provided by an entity approved by the commissioner and, subject to approval by the commissioner, may live at home while receiving these ~~hospice~~ services. The commissioner may exempt a prisoner transferred to supervised community confinement pursuant to this subsection from any mandatory condition under subsection 3 that the commissioner determines to be inapplicable. The prisoner shall provide any information pertaining to the prisoner's medical condition or care that is requested by the commissioner at any time while the prisoner is on supervised community confinement. If the commissioner determines that the prisoner has failed to fully comply with a request or if at any time the department's director of medical care determines that the prisoner does not have a terminal or severely incapacitating medical condition or that care outside a correctional facility is not medically appropriate, the commissioner shall revoke the transfer to supervised community confinement.

Sec. 17. 34-A MRSA §3036-A, sub-§11 is enacted to read:

11. Revocation of transfer. The commissioner may revoke a transfer to supervised community con-

finement at any time for any reason in the commissioner's discretion.

Sec. 18. 34-A MRSA §3261, sub-§4, as amended by PL 1999, c. 583, §21, is further amended to read:

4. Duties of the warden. The warden shall:

A. File the ~~warrant and~~ record, as provided by Title 15, section 1707~~, with the warden's return on the warrant~~ in the warden's office~~; and~~.

~~B. Cause a copy of the warrant of commitment to be filed in the office of the clerk of court from which it was issued.~~

Sec. 19. 34-A MRSA §3407, sub-§4, as amended by PL 1999, c. 583, §26, is further amended to read:

4. Duties of the superintendent. The superintendent shall:

A. File the ~~warrant and~~ record, as provided by Title 15, section 1707~~, with the superintendent's return on the warrant~~ in the superintendent's office~~; and~~.

~~B. Cause a copy of the warrant of commitment to be filed in the office of the clerk of court from which it was issued.~~

See title page for effective date.

CHAPTER 392

H.P. 671 - L.D. 969

An Act To Amend the Laws Governing the Maine Children's Growth Council

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

Whereas, Congress enacted legislation reauthorizing the Head Start program in 2007; and

Whereas, the membership of the Maine Children's Growth Council must be amended in order to meet federal requirements; 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. 5 MRSA §24001, sub-§3, as enacted by PL 2007, c. 683, Pt. A, §2, is amended to read:

3. Membership. The council consists of ~~27~~ the members listed in this subsection who must have a strong interest in early childhood and early care and education and must be influential in their communities:

A. Two members of the Senate, one from each of the 2 political parties having the greatest number of members in the Senate, appointed by the President of the Senate;

B. Two members of the House of Representatives, one from each of the 2 political parties having the greatest number of members in the House, appointed by the Speaker of the House;

C. The Governor or the Governor's designee and the Attorney General or the Attorney General's designee;

D. Three parents, at least one of whom has a young child, one each appointed by the Governor, the President of the Senate and the Speaker of the House;

E. Two persons with experience in public funding and philanthropy, appointed by the President of the Senate;

F. One person representing child abuse and neglect prevention, appointed by the Speaker of the House;

G. One person representing postsecondary education, appointed by the Governor;

H. Eight persons representing statewide, membership or constituent organizations that advance the well-being of young children and their families, nominated by their organizations and appointed by the Governor, of whom:

(1) Three must represent statewide organizations or associations involved in early care and education programs, child care centers, Head Start programs, family child care providers, resource development centers, programs for school-age children, child development services, physicians and child advocacy;

(2) One must represent a law enforcement organization involved with children;

(3) One must represent an organization that works on community organization and mobilization;

(4) One must represent public health;

(5) One must represent the Maine Economic Growth Council; and

(6) One must represent a labor organization~~.~~;